

**Agricultural Workers Minimum Wage Committee Meeting**  
**November 27, 2023, 1:00 – 4:00 p.m.**

**Deering Building Room 101, Blossom Lane, Augusta**

Zoom Link: <https://mainestate.zoom.us/j/86802231722>

Website: <https://www.maine.gov/labor/mwaw/>

**Desired Outcomes** - By the end of this meeting, we will have:

- Reminded ourselves of the Working Agreements guiding the Committee’s work and grounded Committee discussion on direct relevance to the Governor’s Executive Order
- Further developed possible approaches to implement a minimum wage for agricultural workers
- Clarified the relative importance of various provisions associated with implementing a minimum wage
- Provided an opportunity for public input

What	When
Opening Remarks – McBrady, Fortman Review of Working Agreements and Agenda Review - Saffeir	1:00 - 1:10
Discussion on Minimum Wage Implementation Approaches – All, Macri, Moyer-Lee	1:10 – 2:30
Discussion of Relative Importance of Associated Provisions	2:30 – 3:00
Public Input	3:00 – 3:15
Next Steps  Final meeting: Dec. 11, 1-4 pm, SafetyWorks! room, Dept of Labor, 45 Commerce Drive, Augusta	3:15 – 3:30

# **Agricultural Workers Minimum Wage Committee**

## **Working Agreements**

The *Committee to Develop and Implement a Minimum Wage Bill for Agricultural Workers* established by Executive Order 1 23/24 is an advisory committee. Discussions and deliberations will be conducted in accordance with the Working Agreements determined by the co-Chairs in consultation with the members of the Committee. In accordance with those Working Agreements, Committee members will strive to achieve a common understanding of the subjects and outcomes of the Committee's work, including the resulting final summary of its assessment process, findings, and any corresponding recommendations to the Governor. The Committee's work will be guided by an aspiration to achieve consensus. Decisions regarding the final summary, findings, and recommendations will be made by the co-Chairs with input from Committee members and will be submitted to the Governor by the co-Chairs on behalf of the Committee.

- Meetings will start and end on time.
- When meetings are held in person, Committee members will make every effort to attend in person to maximize learning, communication, and collaboration.
- Cameras will remain on during virtual meetings to facilitate communication and understanding.
- Meeting materials will be shared in advance of meetings with sufficient time for review.
- Come prepared, having read meeting materials and completed assignments.
- Be present and engaged.
- Strive for equal airtime, enabling all to participate fully.
- Listen with curiosity and an openness to learning and understanding.
- Adopt a creative problem-solving orientation.
- Name the tension, kindly.
- Humor is welcome.



Office of  
The Governor

No. 1 FY 23/24  
DATE July 23, 2023

**AN ORDER ESTABLISHING A COMMITTEE TO DEVELOP AND IMPLEMENT A  
MINIMUM WAGE BILL FOR AGRICULTURAL WORKERS**

**WHEREAS**, Maine's agriculture sector fuels our economy, contributing more than \$3.6 billion in economic impact, employing over 27,000 people, and supporting approximately 1.3 million acres of farmland; and

**WHEREAS**, Maine's agricultural workers, including farmers and farm workers, are the foundation for a vibrant food system that ensures the availability of high-quality farm products year-round; and

**WHEREAS**, all those who make their living in the agricultural sector deserve fair wages for their labor; and

**WHEREAS**, L.D. 398, *An Act To Make Agricultural Workers and Other Related Workers Employees Under Wage and Hour Laws*, was passed by the 131<sup>st</sup> Legislature; however, due to concerns about its potential scope, terminology, and potential unintended consequences, the bill was vetoed;

**WHEREAS**, legislation implementing a minimum wage bill for agricultural workers should be enacted with a clear understanding of the resulting impacts on State or Federal labor, employment, and other relevant laws;

**NOW, THEREFORE**, I, Janet T. Mills, Governor of the State of Maine, pursuant to Me. Const. Art V, Pt. 1, §§ 1 & 12, do hereby Order as follows:

**I. ESTABLISHMENT AND PURPOSE**

The Committee to Develop and Implement a Minimum Wage Bill for Agricultural Workers is hereby established. The purpose of the Committee is to develop legislation for introduction in the second session of the 131<sup>st</sup> Legislature that will implement a minimum wage for agricultural workers, identify

the impacts the bill will have through other laws interconnected with Federal and State wage and hour laws, and ensure the full range of impacts are thoroughly understood by both agricultural employers and their workers.

The Committee shall:

- A. Identify what State or Federal labor laws and regulations may apply to seasonal and full-time farm workers if deemed employees for the purpose of minimum wage payment, including but not limited to unemployment requirements, independent contractor status, recordkeeping, piecework compensation, overtime maximum limitations, wage calculation and housing, and other relevant employment-related criteria;
- B. Review terminology in State law and regulation related to agricultural labor and agricultural workers and its application, if any, related to minimum wage legislation;
- C. Identify other topical issues of concern related to minimum wage and agricultural employment that can be readily analyzed as necessary;
- D. Gather data, to the extent practicable, on wages and benefits currently paid to agricultural workers, including migrant workers; and
- E. Identify any guidance from the Department of Labor necessary to assist employers regarding a proposed minimum wage bill.

## **II. Membership**

The Co-Chairs of the Committee shall be the Commissioner of Department of Agriculture, Conservation and Forestry and the Commissioner of Department of Labor, or their designees. The Attorney General is requested to provide legal assistance to the Committee, within available resources. The following are invited to be on the Committee:

1. The Speaker of the House of Representatives or her designee;
2. The President of the Senate or his designee;
3. A representative of the Maine Farm Bureau;
4. A representative of the Maine Potato Board;
5. A representative of the Wild Blueberry Commission;
6. A representative of the Maine Dairy Industry;
7. A representative of the Maine Organic Farm Gardeners Association;
8. A representative of the Passamaquoddy Wild Blueberry Co.;
9. A representative of the Maine AFL-CIO;
10. A representative of the Pine Tree Legal Assistance Farm Worker Unit;
11. A representative of the Maine Center for Economic Policy;
12. A representative of an statewide organization dedicated to supporting farmworkers and immigrants Downeast; and
13. A representative of a statewide land trust dedicated to protecting farmland and supporting farmers.

### **III. Proceedings**

The Departments shall co-chair, set the agenda for, and schedule the Committee meetings. The Committee may conduct its work in part by using subcommittees to be established at the discretion of the co-chairs. The Committee shall meet as often as necessary to complete its duties. The Committee shall seek feedback from interested parties in a manner that accommodates time constraints and seasonal considerations affecting individuals' ability to participate.

To the extent practicable, all meetings shall be open to the public and held in locations determined to by the Committee, or will be held virtually, but the proceedings of the Committee are not otherwise "public proceedings" within the meaning of 1 M.R.S. § 402(2)(F). The Department of Agriculture, Conservation and Forestry and the Department of Labor shall staff the Committee as resources permit.

### **IV. Recommendations**

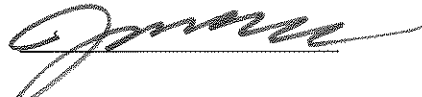
The Committee shall submit a summary of its assessment process, findings, and any corresponding recommendations to the Governor on or before December 1, 2023, after which the authority of this Executive Order shall dissolve.

### **V. Compensation**

Members of the Committee shall serve without compensation.

### **VI. Effective Date**

The Effective Date of this Order is July 25, 2023.

  
Janet T. Mills, Governor

**Agricultural Workers Minimum Wage Committee  
Farm Employer Subcommittee Summary  
November 13, 2023**

## **Key Themes Surfaced at Three Listening Sessions**

### *Producers are paying at least the State minimum wage.*

- The limited pool of skilled workers requires that employers pay minimum wage.
- Many pay well above the minimum wage.
- Some provide housing and transportation.
- Many employers mentioned that they pay bonuses.

### *General support for legislation for an agricultural minimum wage. However, many speakers stressed concern about making ag workers “Employees” under current law.*

- Legislation needs to be thoughtful and nuanced, recognizing the key differences and attributes of agriculture.
  - Agriculture is very dynamic. Not a one-size-fits-all industry that belongs in 26 MRS chapter 7, sub-chapter 3.
    - Weather dependent; different crops/products; different scales; live animals, perishability; impacts of seasonality varies geographically.

### *Piece rate exemption requested*

- Support for creating a piece rate exemption to the minimum wage in the wild blueberry industry (piece rate also utilized in broccoli).
- Piece rate is an incentive that helps during the short harvest window.
- Farmers adjust piece rate based on crop load (higher per unit for lower yielding fields/years, and lower per unit for heavy yielding fields/years) to ensure good money for good effort.
- Hard to monitor/track fieldwork consistently (and would require more staff).
- Suggestion for a cultural exemption to allow for piece rate not subject to minimum wage.
  - Would allow for employment of individuals who choose to work primarily for the social/cultural experience but are not working enough to earn the minimum wage.

### *Youth wage requested*

- Many producers urged a lower youth minimum wage rate to allow farms to give young, less-productive workers opportunities to learn the business and to foster their development and responsibility. Requiring the standard minimum wage will result in fewer youth employment opportunities.
- Many producers described how middle- and high-school rakers had positive developmental experiences. Parents told farmers that they learned a sense of responsibility and the value of work – even if they only raked a few boxes a day.

### *Concerns about future overtime legislation*

- Although minimum wage was the focus of the listening sessions, most producers also stressed their concerns that overtime would be required next.
  - Concern that situating ag employees within the Employee definition might allow the overtime requirement to be imposed more easily.
- Producers need the flexibility to work long hours when necessary (weather, crop load, unpredictability. Rainy 2023 illustrates this.). Maine is not a year-round agricultural state like California or Florida.

- Producers will tend to limit hours to 40/week: workers will earn less; Maine jobs will be less attractive; ultimately have fewer workers in ag. This will also result in some farms scaling back production.
- Many in ag (dairy, wild blueberries, potatoes) are price takers and not price makers (e.g., dairy is subject to commodity pricing established at the federal level). Cannot raise prices to cover additional costs. Inputs continue to rise in price, and margins get tighter.
- Some producers are paying OT; one challenged the concept that OT was impossible or that worker requirements couldn't be accommodated.

Questioning the cause for this proposal – what is the problem we are trying to solve?

- Farmers are paying the minimum wage.
- Many farmers spoke about high worker retention rates year after year. Why would they come back if it's not working for them?
- Agriculture is business. If the numbers don't work, farms fail.

Larger issues at play beyond minimum wage that impact the long-term sustainability and viability of agriculture in Maine/US.

- US consumers fundamentally don't value the true cost of food.
- Farmers often pay workers first or more than themselves. Often work off-farm (or a family member works off-farm) to make income.
- Other policy/societal support needed to increase farm sustainability and profitability.

**Subcommittee Members:**

Holli Francis, Passamaquoddy Wild Blueberry Co.  
 Penny Jordan, Maine Farm Bureau  
 Nancy McBrady, Department of Agriculture, Conservation and Forestry  
 Heath Miller, Maine Dairy Industry Association  
 Jeannie Tapley, Maine Potato Board  
 Eric Venturini, Wild Blueberry Commission

**Three listening sessions (in person and online):**

11/1/23 – University of Maine Machias: 8 speakers  
 11/6/23 – Maine Potato Board, Presque Isle: 7 speakers  
 11/8/23 – Dept. of Agriculture, Conservation and Forestry, Augusta: 16 speakers

# Farmworker Subcommittee Report

## Methods of Input

- 6 farm visits with a total of 56 participating workers
- 1 event in partnership with an organization – spoke to around 15 current or former workers
- 1 meeting speaking directly to two workers
- Survey filled out by 59 workers
- 73 workers spoken to in total
- Considerable overlap between verbal and survey input; total workers reached probably around 80-90

## Views on Extending Minimum Wage to Farmworkers

- Overwhelming support in favor
  - Over 98% of survey responses were in favor (one single dissent)
  - Universal support from workers spoken to

## Views on Whether Minimum Wage Should be Different for Farmworkers

- Small majority of survey respondents support different minimum wage for farmworkers; everyone who said how it should be different indicated it should be higher than for other workers
- Near universal support among workers spoken to for a higher minimum wage for farmworkers
- Key reasons for higher minimum wage:
  - Hard physical labor
  - The importance of agriculture to society
  - To compensate for lack of benefits and rights

## Current Wages

- Nearly all the workers spoken to stated they are currently earning above state minimum wage



- The median hourly wage for those who provided their wage on the survey was \$17.00 per hour

### **Key Quotes from the Survey**

*"[Farmworkers] do the hardest work. Without them there is no food on the table."*

*"Yes, [minimum wage] will highly help me and my family. Just travelling back home consumes much of our salary."*

*"Farmworkers should be treated like any other worker - they work hard, long days to feed the need."*

*"piece[rate] can work for some farms, but employers should supplement if not meeting min. wage"*

*"Having a minimum wage is more ethical than allowing farmworkers to be exploited."*

*"I am paid more because the farm I work for believe in our value as an integral part to the success of their farm."*

*"I think a higher min. wage can attract more workers to an industry that typically struggles with finding help."*

*"farm work can exist in a world where people are paid a living wage"*

Rich Lee

Tender Soles Farm

Richmond, ME

I can sympathize with those farms that participate in larger commodity priced structures in that they are price takers. All farms and industries are feeling the pain of rising prices for fuel, fertilizer, transportation, materials, and housing. It is important to recognize that a lot of our current economy is propped up by subsidized fossil fuels which give the illusion that it is simple, easy, and efficient to be trucking food long and people long distances on a daily basis. A century ago, it was a luxury to travel a few towns over for a visit when travelling by animal power. I'm under no illusion that we will continue to do so at the current rate of climate change, the climbing expense of mining fossil fuels, and the environmental disruptions and subsequent unpredictable harvests we are experiencing. These are all obstacles to the viability of farms in Maine and elsewhere.

I don't have any particular answers, but I hesitate to oppose minimum wage and overtime laws because you may be a price taker. By making the choice to oppose these farmworker protections, we are absolving ourselves of fixing the larger issue of choosing to participate in systems that put us in economically vulnerable positions. I (maybe naively) believe that if blueberry producers collectively bargained with those corporations that they are taking prices from; not unlike unions collectively acting to fight for better wages and benefits, those companies would have to listen. Maine is uniquely positioned as one of the few places to be able to grow blueberries nationally to be able to make a stand in this way.

I don't believe it is fair to ag workers, who carry out the difficult work we do in all types of weather, to be squeezed out of a fair living wage. It is the people who do the harvesting, management, and processing of agricultural products who are the foundation of any agricultural business. Without farm workers, the work simply wouldn't get done. I've heard throughout these sessions that most farmers are paying minimum hourly wage or above that whether at a set hourly rate, or piece work. We pay our workers a minimum of \$15/hr and most hourly workers get paid \$16-\$17/hr depending on experience. I've read the information on the PDF regarding different scenarios of piece work on different farms. I'm curious what the average is rather than particular scenarios.

I'd like to stress that whatever it is we pay, the minimum wage and the associated overtime pay that we hopefully are also addressing for farm workers should represent the minimum one needs to be paid in order to maintain a decent standard of living in the place they live. I think it does make sense for a minor to get paid less since their cost of living is less assuming

they live with family; we do pay high school students less than an adult worker. Paying a competitive wage that one can raise a family on is a goal we particularly have. We aren't there yet, but our long term vision is that if we want to have someone help manage our farm and make it more productive, we will likely need to achieve this in one way or another. We view wages as one way to show our employees that they are valuable and foundational to our farm business. We will also hopefully retain them by paying more because the longer they work here, the more valuable they are as a worker and again we would like to reflect that in the wages they receive. At the end of the year, we as farm owners retain the value of the farm. Farmworkers walk away at the end of the year only with cash. There is a degree of uncertainty of future income that makes me feel better about pushing for farmworkers rights and not simply a way of accomplishing work. They are humans who deserve dignity and the opportunity for a stable standard of living in the place they work.

We have had a hard time finding good, skilled employees on our organic vegetable farm. A common refrain from the people we did hire this year is that housing is a major obstacle; they had a hard time finding housing in Richmond that they could afford. We have some on-farm housing available, but not enough for all the people we need to be working here. I have read that ideally a household should not be paying more than 30% of their income towards housing. For one employee we paid this year at \$17/hr at roughly 45 hrs per week, she was averaging about \$3000 a month. She had to commute 45 minutes one way from Portland from a seasonal sublet apartment because the cheapest decent housing she could find in Richmond was about \$1000/month. This is only one concrete example, but I think is indicative of what might be a fairer wage. We pay as much as we can to make things work for our employees. Our payroll this year is going to be at least double what we can actually pay ourselves from the farm. Without them we would not have had as successful a year as we have had. We think that a mandatory minimum wage for workers and overtime, which we are planning on implementing next year, will ensure that all workers can have a livable wage in Maine.

Kate Del Vecchio  
(she/ her/ hers)  
& Richard Lee  
(he/ him/ his)

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