

Agricultural Workers Minimum Wage Committee Meeting
December 11, 2023, 1:00 – 4:00 p.m.
SafetyWorks! Room, Department of Labor, 45 Commerce Drive, 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
- Discussed multiple proposed options for implementing a minimum wage for agricultural workers
- Shared option preferences with one another
- Provided an opportunity for public input
- Completed our work together!

What	When
Opening Remarks – McBrady, Fortman Review of Working Agreements and Agenda Review - Saffeir	1:00 - 1:10
Overview of Options Matrix - Macri	1:10 – 1:25
Discussion of Minimum Wage Implementation Options	1:25 – 2:30
Break	2:30 – 2:40
Option Preferences If you could only choose one option, which would it be? Are there others you could live with?	2:40 – 3:20
Public Input	3:20 – 3:40
Final Steps – Fortman, McBrady Feedback on Committee Process - Saffeir Closing Remarks – Fortman, McBrady	3:40 – 4:00

Agricultural Workers Minimum Wage Committee Membership

Committee Co-Chairs

- Commissioner Laura Fortman, Maine Department of Labor
- Deputy Commissioner Nancy McBrady, Maine Department of Agriculture, Conservation and Forestry

Committee Membership

1. The Speaker of the House of Representatives or her designee
 - Speaker Talbot Ross
 - Thom Harnett (alternate)
2. The President of the Senate or his designee
 - Senate President Jackson
 - Sen. Tipping (alternate)
3. A representative of the Maine Farm Bureau
 - Penelope Jordan
4. A representative of the Maine Potato Board
 - Jeannie Tapley
5. A representative of the Wild Blueberry Commission
 - Eric Venturini
6. A representative of the Maine Dairy Industry
 - Heath Miller
7. A representative of the Maine Organic Farmers and Gardeners Association
 - Heather Spalding
8. A representative of the Passamaquoddy Wild Blueberry Co.
 - Darren Paul
 - J.D. Newell (alternate)
 - Holli Francis (alternate)
9. A representative of the Maine AFL-CIO
 - Matt Schlobohm
10. A representative of the Pine Tree Legal Assistance Farm Worker Unit
 - Mike Guare
11. A representative of the Maine Center for Economic Policy
 - Arthur Phillips
12. A representative of a statewide organization dedicated to supporting farmworkers and immigrants Downeast
 - Juana Rodriguez, Mano en Mano
 - Sean Douglas, Mano en Mano (alternate)
13. A representative of a statewide land trust dedicated to protecting farmland and supporting farmers
 - Shelley Megquier, Maine Farmland Trust

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 131st 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 131st 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

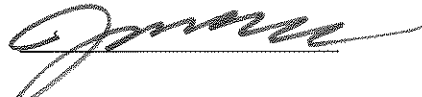
The Committee shall submit a summary of its assessment process, findings, and any corresponding recommendations to the Governor on or before December 1, 2023, after which the authority of this Executive Order shall dissolve.

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 Worker Minimum Wage Committee – DRAFT Recommendation Options

Components	Option 1 – LD 398 as Passed	Option 2 – LD 398 but Different Location	Option 3* – Piece Rate Cultural Exemption	Option 4* – Piece Rate Cultural Exemption <u>and</u> Youth Rate	Option 5* – Higher Minimum Wage
Location within Title 26 (under MDOL)	Subchapter 3	Subchapter 2-B (New)	<i>*Either</i> Subchapter 3 or 2-B (New)	<i>*Either</i> Subchapter 3 or 2-B (New)	<i>*Either</i> Subchapter 3 or 2-B (New)
Limits on Mandatory Overtime	Included	Included	Included	Included	Included
Rest Breaks	Included	Included	Included	Included	Included
Recordkeeping	Included	Included	Included	Included	Included
Piece Rate Exemption	Not Included	Not Included	Included <ul style="list-style-type: none"> • Cultural exemption only applicable to tribal communities. • Available only to the wild blueberry industry. • Exempt from state minimum wage (federal minimum wage applies). Potential Criteria: <ul style="list-style-type: none"> • Employer must attest to meeting cultural requirements (tribal ownership or control of company, tradition of tribal participation in activities, cultural/community component to work)? • Employee must voluntarily agree and may revoke agreement at any time? 	Included: <ul style="list-style-type: none"> • Piece Rate Cultural Exemption as explained in Option 3. 	Not included
Youth Rate	Not Included	Not Included	Not Included	Included: <ul style="list-style-type: none"> • Youth Rate is paired with work permit and hours requirements. • Applies only to ages 12-13 • RATE: 80/85% of MW, rounded to the nearest \$.05? 	Not included
Wage Rate	State minimum wage	State minimum wage	State minimum wage for all workers except employees qualifying for cultural exemption.	State minimum wage for all workers except exempt youth and employees qualifying for cultural exemption.	Higher minimum wage for agricultural workers (potentially Adverse Effect Wage Rate).

PIECE-RATE EXEMPTIONS FROM MINIMUM WAGE COVERAGE FOR FARM WORKERS IN THE UNITED STATES

I. Federal Law

The Fair Labor Standards Act (29 U.S.C. §§201 *et seq.*) (FLSA) contains 2 piece-rate exemptions from minimum wage coverage for farm workers.

A) THE EXEMPTION FOR LOCAL, SEASONAL WORKERS

At 29 U.S.C. §213(a)(6)(C), FLSA exempts from minimum wage coverage “any employee employed in agriculture ... if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year”.

B) THE EXEMPTION FOR CHILDREN WORKING WITH PARENTS

At 29 U.S.C. §213(a)(6)(D), FLSA exempts from minimum wage coverage “any employee employed in agriculture ... if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm”.

No other farm workers are exempted from minimum wage coverage under FLSA because they are paid on a piece-rate basis.

I. State Laws

A) STATES IN WHICH FLSA APPLIES BY DEFAULT

1. Five States have no state minimum wage law. These States are Alabama, Louisiana, Mississippi, South Carolina and Tennessee.¹

2. In 16 States, there is a state minimum wage law but farm workers are completely excluded. These States are Alaska, Delaware, Georgia, Indiana, Kansas, Kentucky, Maine, Nebraska, New Hampshire, North Carolina, Oklahoma, Pennsylvania, Vermont, Virginia, West Virginia and Wyoming.²

Thus, in these 21 States, in the absence of a state minimum wage for farm workers the federal minimum wage applies and the only piece-rate exemptions from minimum wage

coverage for farm workers are the two exemptions in FLSA described above.

B) STATES WHICH ADOPT THE FLSA PIECE RATE EXEMPTIONS

In 12 States, farm workers are covered by the state minimum wage law but those States adopt the FLSA piece-rate exemptions. There are no other piece-rate exemptions from minimum wage coverage for farm workers in these 12 States. These States are Arkansas, Florida, Hawaii, Idaho, Illinois, Iowa, Maryland, Missouri, New Mexico, Ohio, Texas and Wisconsin.³

C) STATES WHICH ADOPT ONE OF THE FLSA PIECE RATE EXEMPTIONS

Two States, New York and Washington, have adopted only one of the FLSA piece-rate exemptions. There are no other piece-rate exemptions from minimum wage coverage for farm workers in New York or Washington.

Specifically, New York has adopted a slightly modified version of the exemption for children working with parents: in New York, “a minor under seventeen years of age employed as a hand harvest worker on the same farm as his parent or guardian and who is paid on a piece-rate basis at the same piece rate as employees seventeen years of age or over” is exempted from the state minimum wage law; New York Statutes, Labor Law §671(2).

Washington has adopted the exemption for local, seasonal workers; Code of Washington §49.46.010(3)(a).

D) STATES WHICH HAVE NO PIECE-RATE EXEMPTIONS

In 13 States, there are no piece-rate exemptions from minimum wage coverage for farm workers at all. These States are Arizona, California, Colorado, Connecticut, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, North Dakota, Rhode Island and South Dakota.⁴

E) STATES WHICH HAVE ADDITIONAL PIECE-RATE EXEMPTIONS FOR SMALL EMPLOYERS

In two States, Oregon and Utah, there are additional piece-rate exemptions limited to small employers.

Specifically, in Oregon a worker who “is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment and is employed by an employer who did not, during any calendar quarter during the preceding year, use more than 500 piece-rate-work-days⁵ of agricultural labor” is exempt from minimum wage coverage under state law; Oregon Revised Statutes, Title 51 §653.020(1)(a). As explained in detail in Footnote 5, the effect of the 500 piece-rate-work-day limitation is that only piece-rate workers employed by small employers are exempt from minimum wage coverage under Oregon

state law

Oregon has also adopted the two FLSA piece-rate exemptions; Oregon Revised Statutes, Title 51 §§653.020(1)(c) and (d).

In Utah, a worker “employed in agriculture if the employe ... is employed as a harvest laborer and is paid on a piece rate basis in an operation that has been and is generally recognized by custom as having been paid on a piece rate basis in the region of employment” is exempt from minimum wage coverage under state law; Utah Code §34-40-104(1)(i)(ii).

However, Utah also exempts any worker entitled to the minimum wage under FLSA; Utah Code §34-40-104(1)(a). In other words, only FLSA-exempt workers are covered under Utah’s state minimum wage law, which means that the 500-day man-day exemption in FLSA applies. Thus, only piece-rate workers employed by small employers are exempt from minimum wage coverage under Utah state law; see Footnote 5.

II. Summary

The two exemptions for piece-rate farm workers provided in FLSA, and only those exemptions, apply in 33 of the 50 States either by default or by specific adoption.

Another 2 States have adopted only one of those exemptions or its equivalent.

Of the remaining 15 States, 13 have no piece-rate exemptions at all.

Only 2 States have enacted any broader exemptions which apply to piece-rate workers, and those exemptions are specifically limited to small employers.

In sum, if Maine enacts a piece-rate exemption which applies to all farm workers, or even to all farm workers in specific crops such as blueberries or broccoli, we will be the first and only state in the country to do so. We would be enacting a law which categorically excludes more farm workers from minimum wage protections than any other existing law in the nation.

Prepared for Consideration by the Committee to Develop
and Implement a Minimum Wage Bill for Agricultural Workers
by
Michael Guare, Committee Member

FOOTNOTES

- Footnote 1: See United States Department of Labor, State Minimum Wage Laws, Updated 9/30/23 at <https://www.dol.gov/agencies/whd/minimum-wage/state>
- Footnote 2: Alaska: Alaska Statutes §23.10.055(a)(1)
- Delaware: Delaware Code, Title 19 §901(3)(a)
- Georgia: Georgia Code §34-4-3(b)(4)
- Indiana: Indiana Code §22-2-2-3, Definition of Employee, Subsection (m)
- Kansas: Kansas Statutes §44-1202(e)(1)
- Kentucky: Kentucky Revised Statutes, Title XXVII §337.010(2)(a)(1)
- Maine: Maine Revised Statutes, Title 26 §663(3)(A)
- Nebraska: Nebraska Revised Statutes §48-1202(3)(a)
- New Hampshire: New Hampshire Revised Statutes, Title XXIII §279:1(V)
- North Carolina: North Carolina General Statutes §95-25.14(a)(2)
- Oklahoma: Oklahoma Statutes, Title 40 §197.4(e)(1)
- Pennsylvania: Pennsylvania Statutes, Title 43 §333.105(a)(1)
- Vermont: Vermont Statutes, Title 21 §383(1)(A)
- Virginia: Virginia Code §40.1-28.9(A)(1)
- West Virginia: West Virginia Code §21-5c-1-(f)(11)
- Wyoming: Wyoming Statutes §27-4-201(a)(iv)(A)
- Footnote 3: Arkansas: Arkansas Code §§11-4-203(3)(H) and (3)(I)
- Florida: Florida Constitution, Article X §24(b)
Florida Statutes, Title XXXI §448.110(3)
- Hawaii: Hawaii Revised Statutes, Division 1, Title 21 §387-1, Definition of Employee, Subsection (m)
- Idaho: Idaho Code §44-1504(7)

Illinois: Illinois Compiled Statutes, Chapter 820 §105/3(d)(2)

Iowa: Iowa Code, Title III, Subtitle 2 §§91D(1)(b) and (2)(a)

Maryland: Maryland Code, Labor and Employment §§3-403(9), (12), (13) and (14)

Missouri: Missouri Revised Statutes §290.507

New Mexico: New Mexico Statutes §§50-4-21(C)(8) and (9)

Ohio: Ohio Constitution, Article II §34a
Ohio Revised Code Title XLI §4111.02

Texas: Texas Labor Code, Title 2, Subtitle C §62.151

Wisconsin: Wisconsin Statutes §104.01(b)(3)

Footnote 4: Arizona: Arizona Revised Statutes §23-362

California: California Labor Code §§1171, 1182.11 and 1182.12

Colorado: Colorado Revised Statutes §§8-3-104(1), 8-6-101.5 and 8-13.5-201

Connecticut: Connecticut General Statutes §§31-58(d), 31-58(e) and 31-60(a)

Massachusetts: Massachusetts General Laws, Chapter 151 §§2 and 2A

Michigan: Michigan Compiled Laws §§408.932, 933 and 934

Minnesota: Minnesota Statutes §177.23, Subdivision 7(1) to (4)

Montana: Montana Code §§39-3-406(1)(h) and (i)

Nevada: Nevada Revised Statutes, Title 53 §§608.010, 608.011, 608.012, 608.250 and 608.255

New Jersey: New Jersey Statutes §§34:11-56a1(g), 56a1(h), 56a1(i) and 56a4(d)

North Dakota: North Dakota Century Code §34-06-01

Rhode Island: Rhode Island General Laws §28-12-2

South Dakota: South Dakota Codified Laws §§60-11-3, 5 and 8

Footnote 5: One of the non-piece-rate exemptions from minimum wage coverage in FLSA is the “500 man-day” exemption; see 29 U.S.C. §213(a)(6)(A). This provision exempts from minimum wage coverage any farm worker whose employer did not use more than 500 man-days of labor during any calendar quarter of the preceding year. Five hundred man-days of labor during a quarter (13 weeks) is equivalent to approximately 7½ workers working 5 days per week. However, the nature of farm labor often requires more than 5 days a week of work. If the work-week is 6 days, that is equivalent to approximately 6½ workers. If the work-week is 7 days, that is equivalent to only approximately 5½ workers. In other words, this exemption from minimum wage coverage only applies to workers whose employers employ, at the most, 7 or 8 workers (and in many cases, fewer).

A “man-day” is any day during which a worker does agricultural labor for at least one hour; 29 U.S.C. §203(u). Similarly, the Oregon statute defines a “piece-rate-work-day” as any day during which a worker performs piece-rate agricultural labor for at least one hour; see Oregon Revised Statutes, Title 51 §653.022.

Thus, in Oregon, the piece-rate exemption applies only to workers employed by small employers, employers who do not employ more than 7 or 8 workers at the most.

Dear Committee members,

Please find below testimonies submitted on behalf of two Maine farmworkers. They wish to be identified only by the first names they provide in the testimonies: Rocael and Herbert. If the committee wishes to be in further contact with either of them, please reach out and Migrant Justice can help to connect.

Sincerely,

Will Lambek
Migrant Justice
www.migrantjustice.net

Hello everyone, my name is Herbert and I am a dairy worker here in the state of Maine. Today I write to you about the importance and necessity of a law to guarantee a better wage for farmworkers in Maine.

To begin, it's important to understand that the immigrant community that works in Maine is a community that is giving it our all to do the best work we can on these farms. We work in the cold, sometimes in the rain; we are always working, even on holidays; we are responsible for these farms. Oftentimes we have to work 12-14 hours per day because that's what the job requires, but also because the wages are so low, you have to work that many hours in order to make enough money for you and your family.

Before you realize, you've spent years working and you're still working, doing the same job, for the same wages. Over time, our bodies wear down, we start feeling pain. And when you're no longer able to work, there's nobody to help you!

The work we do is dangerous, tiring, and it's not compensated fairly. We leave our families, we sacrifice our health and our energy. For what? To receive a wage barely enough to cover the cost of a gallon of milk? It shouldn't be like this, but the reality is that nobody is forcing the bosses to do the right thing. We can't leave it up to the good will of the bosses to pay us a better wage, because many won't do it on their own accord. If there's not a law requiring them to pay and penalizing those who don't, nothing will change.

We need laws that have enforcement mechanisms to ensure that the farms comply. If a minimum wage law is passed, you need to be sure that it will be followed. We need monitoring of the farms, people that will speak with the workers so that the law exists not just on paper but in reality.

If this law is passed, we won't have to work so many hours to support our families; we won't have to spend our whole lives in the parlor milking cows; we will be able to enjoy the fruits of our hard labor, to return to our families while we are still young.

Every year, the cost of living goes up. Every year it's more expensive to pay for school supplies for my children, food for my family, and transportation. Yet our wages remain the same. This doesn't add up; it's not fair.

Farms have enough money to be able to make these changes, to ensure that workers are receiving the minimum wage. There just needs to be a law requiring them to pay. There are small farms with few cows that are already paying more than the minimum wage. They provide good housing and good conditions. There are also large farms where the conditions and wages are terrible. Why? Why would a small farm be able to make these changes but not a large one?

This shows us that we can't leave it up to the farm owners. We have been working here for years, we cannot keep waiting. That is why I support this bill, so that workers milking cows here in Maine have the dignity we deserve.

Hello my name is Rocael and I am a farmworker on a dairy farm here in the state of Maine. I want to share my testimony, or my experience, of the reality that we face as dairy workers. I want to say why it's important that we have the right to receive dignified wages.

I would like to start by saying that there are many problems in general on dairy farms, ranging from salaries to health and safety issues, but I am pleased that you are thinking about taking steps to ensure respect for our dignity and humanity.

We put our lives at risk every day working on dairies. We have to work with large animals that can kick or ram us. At any moment we could be hit and injured. We are exposed to chemicals when we prepare the cow foot baths, clean with chlorine and harsh cleaners, and more.

Beyond these risks, we labor very long hours so that you can have dairy products on your table. There are workers pulling 12-14 hour shifts. Yesterday, November 22nd, on Thanksgiving Day, I worked 18 hours.

All of these things are common across the dairy industry. It's important that you understand what we are facing.

I make these comments about the risks to our health because when something happens on the farm – if you are injured, if you have an accident, or if you fall ill – oftentimes you have to pay the medical expenses out of pocket. Because our wages are so low, sometimes we decide not to go to the doctor or to the hospital because we don't have the funds. Sometimes you won't be paid to take time off to recover. And if you spend the little amount that you are earning, then your family will suffer.

If the state ensures that we will have the right to guaranteed minimum wage, it will mean that workers won't have to choose between our health and our families' well-being.

The reason that we work so much is because we have to make enough money for our families. If we had a higher wage, a greater income, we wouldn't have to work 18 hours a day. I could work fewer hours, spend more time with my family, and still be able to support those who

depend on my income. A higher wage would mean I wouldn't have to spend my whole life in this country to make a decent living.

We do the work of veterinarians, the same skilled labor as doctors who specialize in cow care. There are people who go to university to do this work, but we do it for low wages, without recognition or proper compensation for such specialized work.

As workers, we are responsible for the job we do and we do it well. Our labor should be compensated fairly because it's not easy to milk cows in the cold, when you're tired, all to receive such a low wage. Every year costs go up and life gets more expensive. We see the farm owners buy better cars and tractors for their farms. But what do we get? Do the workers get higher wages? Better protections?

That's why it would be helpful to have a law to guarantee that we receive the state minimum wage in Maine. It's necessary that this state recognize us, our humanity, and our contributions to this country. Without migrants, these farms could not exist.

I hope that this helps you to think about the needs that we have as workers in Maine. It's time for fair wages and recognition that we are part of this essential industry.

Jenni Tilton-Flood
728 River Road
Clinton, ME 04927

To the Maine Agricultural Worker Minimum Wage Committee:

As a member of the public who attended many of the meetings, listening sessions and has taken advantage of the opportunity to provide public comment and has provided testimony to the Labour and Housing Committee in the past on this topic I realize that I have neglected to provide my comments in writing. I wish to rectify this now.

For those who do not wish to read more let me cut to the chase:

Minimum wage on Maine dairy farms and year round farms, regardless of size and number of employees, should be required by law. Dairy farms and other year round agricultural employers, regardless of size and number of employees, should be required to keep accurate records and provide employees with a pay statement, offer voluntary 30 minute breaks to employees after 6 hours of work, and NOT REQUIRE employees to work more than 160 hours in any consecutive 2 week period (except for during times of emergencies declared by the Governor, essential public services, public health and safety...)

For context as to from where and whom this comment is coming and as an introduction, I am part of our family farm, Flood Brothers, LLC in Clinton, Maine. The farm is operated and owned by a 3 generation family that represents 23 family members, 8 households (5 of which are solely dependent upon dairy farming as its income). Our family farm is home to 3,400 animals, 1,700 of which we milk everyday and produce 17,000 gallons of milk which finds its way onto our neighbours' tables within 24-48 hours after it leaves the farm. As a part of Maine agriculture our farm provides more than just an economic impact for our State-we are an integral part of the food system providing fresh, high quality food and truly impacting the triple bottom line of sustainability. Minimum wage is an important opportunity to further invest in the sustainability of Maine Agriculture and the equity and justice of our food system.

On our farm we employ, on average, 38 people a week. (3 of whom are family members receiving a paycheck based upon the same scale and rate of their coworkers, 4 additional family members not included in the number of employees but are daily participants in the operation, work and management of the farm and are not on the weekly payroll). Our wage paid is currently at the Maine state minimum or higher, depending upon role and length of employment, (through the years our average wage has been more than twice than the Maine minimum) and has applied to all employees, regardless as to whether they are students or adults, full time or part time. At the height of our crop season our payroll can increase to almost 52 employees, many of those additional employees are retirees or high school students and they are also paid the Maine minimum or above.

For our full time employees (and around 99% of our employees are full time) we offer, above their hourly wage:

Health Insurance

Cost sharing of health insurance for the employee's family members HSA(Health Savings Account)

Sick Pay

Vacation Pay

Flexibility in scheduling

Bonuses

For many of our employees we offer:

Housing(both reimbursement as well as a few homes we have ended up purchasing)

Utilities

Heating fuel

Most of our employees receive all or 98-99% of the above benefits. (Housing and utilities being the two items not uniform across the board)

Our workforce is diverse and includes men, women, foreign born employees and those born in US. We measure our job retention, for all employees, in years and decades, not months; we have multiple generations of families working with us; we

have seen the retirement of employees that have outlasted our own family members lifetimes; we have seen romances begin and new families start on the farm (we've seen some of the more not so fairy tale romances too-but, that's life); and most importantly we have seen the dream of home ownership and the building of dream homes right here in Maine by employees and co-workers happen. I firmly believe that it is due, in part, to the benefits we are able to provide the folks who work so hard to help us care for our animals and land and produce high quality, fresh, local milk. We compete with other industries for skilled and dedicated work force...multiple mills, school districts, health care, retail, and municipal and State jobs. We compete against industries that are able to recoup their investments and inputs out of the marketplace. As a dairy farm we are unable to do so, however that is no justification for a failure to provide the basic tenets of employment as listed above regarding minimum wage. In a perfect world we should be able to meet all the other needs and rights of labour and workforce but this world is not perfect and it would be, at this point, detrimental to not only our sector but also to those who are members of the workforce, to meet all those other requirements provided to employees outside of ag as it would specifically result in a reduction of the benefits and additional compensation we currently provide that are not typical or even part and parcel of other industries. (In other words it would be more out of pocket expenses to employees).

We may be an outlier but that is beside the point. What is more imperative is that the Maine dairy industry should be firmly, solidly, and on record as being in support of the minimum wage on our dairy farms and for year round farm employment, regardless of size and number of employees as well as the accompanying record keeping, voluntary breaks and limits to more than 160 hours required overtime in two week periods.

More importantly our legislators, farmer and farm worker organizations, processors, retailers, and the Governor's office should be actively engaged in dismantling the barriers and legal confines that enable marginalization of ag workers, especially those who are foreign born and come to the US and to Maine to work. The President of the United States has the tools necessary to provide workforce authorization for those ensuring our local, regional, and national food systems are secured and productive through their skilled and dedicated labour, both currently and in the future by means of work permits

via expand **parole**, Temporary Protected Status (TPS) and Deferred Enforced Departure (DED). We need to ensure that those working in ag, *all of those working in ag*, are safe, secure and protected not just on a farm but where they live, pay taxes, invest their money, worship, contribute to their communities and raise their families-including the next generation of Americans. Providing these securities and rights would level the playing field and the growing fields far more equitably and justly than by trying to do so solely in a Subchapter of labour law.

I also think it is important to note that historically, when we have come to a point to take ownership of the impact of systemic rules and inadequacies that are rooted in racism and lack of equity, justice, and dignity that rule making and policy making has found it necessary to mark out territory that is separate, as opposed to simply trying to repair the wrongs of wording and exemptions. We cannot own the intent of many of these rules and requirements but we *can* be intentional in designing and building something better. I think the committee and interested parties should be mindful of this when it comes to the idea of additional sections, or subchapters...less thinking of them as carve outs and exemptions and more thinking of them as new foundations built on better ground.

As always, I welcome any of you to visit our family farm or to ask questions. Thank you for your time and work on this matter and for reading my comments. My apologies for not providing written documentation at an earlier time to record our support for a better and more just dairy community in Maine.

Sincerely and with Gratitude,

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