

1 JOINT HEARING BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON AGRICULTURE
3 AND
4 STANDING COMMITTEE ON LABOR
5 -----

6 PUBLIC HEARING:

7 TO HEAR PUBLIC TESTIMONY ON
8 THE PROPOSED FARMWORKERS FAIR LABOR PRACTICES ACT
9 -----

10 Little Theater
11 SUNY Morrisville
12 Student Activities Center
13 80 Eaton Street
14 Morrisville, New York

15 Date: April 25, 2019
16 Time: 11:00 a.m.

17 PRESIDING:

18 Senator Jen Metzger
19 Chair, Senate Standing Committee on Agriculture

20 Senator Jessica Ramos
21 Chair, Senate Standing Committee on Labor

22 CO-SPONSOR:

23 Senator Rachel May
24 Chair, Rural Resources Committee

25 ALSO PRESENT:

Senator Velmanette Montgomery

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1 SENATOR METZGER: Are we ready?

2 If you could take your seats, we're going to
3 get started.

4 We have -- I'm very happy that we have a long
5 list speakers today.

6 So my name is Jen Metzger. I am the Senate
7 Chair of the Agriculture Committee.

8 I want to welcome you on behalf of the
9 Agriculture Committee, and also on behalf of the
10 Labor Committee, we're holding joint hearings.

11 I just want to mention that the -- our -- the
12 Chair of the Labor Committee, Jessica Ramos, is --
13 got delayed. She got stuck in traffic on the
14 thruway, there was some kind of accident. So she'll
15 be joining us later. She is the sponsor of this
16 bill.

17 And I want to thank Rachel May, my colleague,
18 who chairs the Rural Resources Committee for
19 being -- for being a co-host of this -- of this
20 first hearing.

21 It -- this is one of the several hearings
22 that we'll be holding on the Farmworker (sic) Fair
23 Laborers (sic) Practices Act.

24 It is, in my view, vital to receive direct
25 input from farmers, farmworkers, and the public

1 about this important legislation.

2 These are the first hearings on this subject
3 in nearly a decade, and the first held outside of
4 Albany.

5 Tomorrow we'll be holding a second hearing in
6 Suffolk County, and on May 2nd we'll be holding a
7 third hearing in Sullivan County.

8 As Chair of the Agriculture -- Senate
9 Agriculture Committee, and the representative of
10 many farmers and farmworkers in Ulster, Orange,
11 Delaware, and Sullivan counties, I recognize that
12 this proposed legislation will greatly impact
13 farming in New York.

14 The purpose of these public hearings is to
15 hear from farmers and farmworkers alike as we weigh
16 this legislation, and learn directly from you about
17 the realities of small and family-owned farm
18 operations in New York, and listen to the concerns
19 and needs of all those who will be affected by the
20 proposed legislation.

21 New York has deep roots in farming. It
22 represents \$4.2 billion of our economy, and is an
23 integral part of our rural heritage and culture.

24 In contrast to agriculture in other parts of
25 the country, most of New York's farms are small and

1 midsized and family-owned. Over half of the farms
2 in our state are under 100 acres.

3 Today our farms are a pivotal engine of the
4 state's economy, and vital to the well-being of our
5 rural communities and the state's long-term food
6 security, yet many of New York's small and midsize
7 farms are struggling, and despite the popular local
8 food movement, increasing numbers of people in rural
9 and urban communities are experiencing foods'
10 insecurity.

11 We have to work collaboratively to find
12 solutions that sustain our system of farming and our
13 long-term food security.

14 I want to thank all of you for being here.

15 I know this is actually a very hard time of
16 year for farmers and farmworkers alike to come to a
17 hearing, to get off of the farm, and we're really
18 appreciative of that.

19 And I want to turn it over to my colleague
20 Senator May.

21 Thank you very much.

22 SENATOR MAY: Thank you.

23 Greetings, everyone.

24 I'm Senator Rachel May, and I represent
25 the 53rd Senate District, which includes

1 Madison County.

2 So welcome to my district if you have come
3 from far away.

4 I also represent much of Onondaga County,
5 including most of the city of Syracuse, and part of
6 Oneida County.

7 I concur with Senator Metzger that it's very
8 important that we hear from many voices, and
9 I advocated strongly that we have a hearing in this
10 region of the state, because I know, especially this
11 time of year, for farmers to travel much farther
12 would be very difficult.

13 And so I am -- I welcome all of you here.

14 I also want to welcome some of the other
15 elected officials who are here.

16 We have Assemblyman Brian Miller here,
17 Assemblyman John Salka, and Assemblyman Al Stirpe.

18 And we have representatives from
19 Senator Antonacci's office, and
20 Senator Robert Jackson's office, and also
21 Senator Magnarelli's -- I mean,
22 Assemblyman Magnarelli's office.

23 We are also expecting, in addition to
24 Senator Ramos, Senator Velmanette Montgomery coming
25 up from, Queens --

1 Is that...

2 -- anyway, Manhattan -- or -- or,
3 New York City.

4 And we -- she also said she would be a little
5 bit late.

6 But one of the things that I have made a
7 priority, is to make sure that we bring people from
8 the city -- some of the Senators from the city up
9 here to see and hear what the issues are in upstate,
10 because it is so important that we in the Senate
11 Majority are actively representing the entire state.

12 And so I'm excited to have all of these
13 Senators here today, and also all of you.

14 And I especially want to thank our host here,
15 SUNY Morrisville, which has graciously allowed to us
16 use this beautiful theater.

17 I want to introduce the president of
18 SUNY Morrisville who began his term in 2015.

19 Prior to that he served as the college's
20 provost, dean of the College of School of Business,
21 and interim dean of the Norwich Campus in the School
22 of Agriculture and Natural Resources.

23 He earned his Ph.D. in labor economics,
24 collective bargaining, and econometrics from the
25 SUNY College of Industrial Labor Relations at

1 Cornell University, and he holds a master's degree
2 from Cornell and a bachelor's degree from the
3 University of Massachusetts.

4 Please welcome, David Rogers.

5 [Applause.]

6 PRES. DAVID ROGERS: Thanks.

7 Thank you, Senator.

8 Whenever I hear that introduction, I somehow
9 feel a lot older than I feel.

10 But, anyway, thank you, Senator Metzger and
11 Senator May.

12 Your leadership for this event is
13 unquestioned, and I very much appreciate your
14 choosing SUNY Morrisville as the location for this
15 conversation.

16 Let me just say, in a very brief commercial,
17 you may or may not know, Morrisville was founded
18 over 100 years ago, in 1908, as an agricultural
19 institution, a farmers' college.

20 And men and women came here to learn a wide
21 variety of skills attendant to increasing farm
22 production throughout New York State.

23 The college was founded, largely, in response
24 to rising food prices, unsafe food systems, and it
25 was an effort to bring technology, largely learn

1 from Cornell research, to the practitioners, the
2 farmers and the workers, in the agriculture
3 industry.

4 So I think it's incredibly appropriate that
5 you have assembled here, and we're thrilled that you
6 have.

7 I think it's fair to say that, in the last
8 100-plus years, Morrisville's learned something
9 about learning and research in agriculture, and
10 often it starts at a most basic level with direct
11 acquisition of information, and that often starts
12 with a conversation face-to-face, much like we're
13 doing here.

14 So, for all elected officials in the
15 audience, and everyone who is in attendance, and
16 especially for the Senators, I appreciate your
17 courage in investing in this direct research method.

18 It's tried-and-true and it's very
19 successful.

20 So, thank you again for being here at
21 Morrisville. We're thrilled that we can continue to
22 offer this forum in which you can engage in
23 important discussions.

24 So thank you again, Senators, and thank you,
25 everyone.

1 I am going to head back and do things that
2 college presidents do, like go to a college council
3 meeting that I'm in the middle of.

4 Since I'm not exactly a direct farmer, I will
5 not speak today. But I will let you know that
6 I have a keen interest in agriculture, because
7 almost all of our graduates, in one way or another,
8 have -- in the School of Agriculture, have become
9 leaders, including -- small commercial -- including
10 two ag commissioners.

11 So thank you again for being here, and I'll
12 leave you to the great work that you're about to
13 begin.

14 Thanks.

15 [Applause.]

16 SENATOR MAY: So before we begin, I want to
17 mention a few ground rules here.

18 We know that this topic can elicit passions,
19 and we expect to hear a lot of different
20 perspectives here today.

21 We are asking everyone to keep your comments
22 respectful and your responses respectful because
23 this is about dialogue.

24 We also ask you to use the time that you have
25 to state your positions, and any recommendations you

1 have to make the proposed legislation better.

2 There are going to be four minutes for each
3 speaker, and we have a timer here, and someone in
4 the front row who will hold up a sign when there's
5 one minute to go.

6 And we're going to have the people testifying
7 sit over here.

8 In the interest of time, because we have so
9 many people, it would be good if two or three people
10 would come forward at a time, and just sit and wait
11 their turn, because, otherwise, we'll spend a lot of
12 time in transition between the speakers.

13 And you can -- there's a stairway over there
14 on that side that you can come up.

15 We also are accepting written testimony
16 through May 3rd.

17 So if you are here and are not on the program
18 to speak, we -- you can submit your written
19 testimony. So, please see one of our staff members
20 and they will tell you how to do that.

21 (Off-the-record discussion.)

22 SENATOR MAY: Right.

23 So we have received written statements from
24 everybody who is testifying today.

25 We highly recommend that you not read it

1 word-for-word, but that you summarize or tell us
2 what you're thinking.

3 It's much easier to listen to that, because
4 this is going to be a long hearing, and it also
5 gives you the opportunity to really get eye contact
6 with us and, you know, say what's on your mind.

7 You should also know that this hearing is
8 being live-streamed.

9 We have wonderful staff here from the
10 New York State Senate who are streaming this. And
11 it will be recorded for the Senate record, so you
12 can find it online.

13 I also want to say we have Ari Mir-Pontier
14 here from Senator Metzger's office, who will be
15 doing translation to and from Spanish for anyone who
16 needs it.

17 So, for now, my biggest request is that you
18 silence your cell phones, and let's move to our
19 first witnesses.

20 Michael McMahon, please come forward.

21 And Elizabeth Henderson, I understand is not
22 here.

23 So, Yusuf Harper, if Yusuf Harper is here,
24 and Crispin Hernandez and Rebecca Fuentes, could
25 come up here, please.

1 Thank you.

2 MICHAEL McMAHON: New York State Senate
3 Chairs Ramos and May -- Metzger and May, thank you
4 for this opportunity to testify before you today.

5 Every farm in New York State may potentially
6 be greatly impacted by the proposed Farmworker (sic)
7 Fair Labor Practices Act.

8 E-Z Acres, LLC, is an 800-cow, 2200-acre
9 family-owned farm in Cortland County.

10 We've been in business for 33 years, my
11 father before me in the same location since 1956.

12 As employers of 11 full-time agricultural
13 workers, we've looked carefully at this legislation,
14 and from the perspective of employers who respect
15 and value our hard-working employees, we concur with
16 the following aspects of this legislation:

17 That no employee should work more than a
18 six-day week. The body and soul need a day of rest.
19 This has always been our farm's policy;

20 That paid vacation, paid sick days, and paid
21 personal days for full-time workers are a must.
22 We've provided this to all of our workers for over
23 20 years;

24 That all workers be covered by
25 workmen's (sic) comp and unemployment insurance.

1 In fact, all dairy farms that meet the
2 State's payroll threshold for comp and unemployment
3 are already providing these benefits;

4 The disability insurance is an affordable
5 benefit that we are willing to provide;

6 That all workers, regardless of their country
7 of origin, be allowed to hold a New York State
8 driver license. This would benefit both workers and
9 their employers who often dedicate considerable time
10 to transporting employees to stores, banks, and
11 doctors' appointments;

12 That housing, when it is provided, should
13 meet certain standards of quality and be open to
14 inspection by a third-party agency;

15 That we do not oppose the right to collective
16 bargaining, with some stipulations.

17 However, in the matter of time and a half,
18 overtime on a 40-hour workweek and beyond an 8-hour
19 day, this provision has the potential to cause great
20 harm to an already suffering farm economy.

21 The dairy industry has endured five years of
22 extreme financial duress.

23 If this law is enacted, Farm Credit East, a
24 major ag lender, has calculated that farms like mine
25 will see FarmNet income completely wiped out.

1 It will cost our farm a minimum of an
2 additional 95,000 in the first year, and a payroll
3 budget that is already strained by the increasing
4 New York State minimum wage.

5 Our workers are averaging over \$39,000 per
6 year, plus housing and utilities.

7 We're already at a disadvantage with our
8 neighboring states who operate in the same northeast
9 milkshed, whose minimum wages are from 23 to
10 35 percent below New York's.

11 Our businesses cut costs everywhere we
12 possibly can. I have no idea how we'll shoulder
13 this burden. As dairy farmers, we cannot pass along
14 this expense.

15 Our only option would be to limit our workers
16 to 40 hours, and facing decreased earnings, they
17 have said they will leave.

18 FarmNet estimates that the overtime
19 requirement will lead to a loss of 20 to 25 percent
20 of New York's family farms in the first year alone.

21 As the chairman of the Cortland County
22 Industrial Agency, I can tell with you all certainty
23 that the exodus of farms would have a devastating
24 effect on our rural economy.

25 Equipment dealers, mechanics, welders,

1 electricians, feed stores, veterinaries, diners,
2 clothing, and grocery stores who provide goods and
3 services to farms and their employees will also
4 lose.

5 My son is the sixth-generation McMahon to
6 produce milk in Cortland County, and I'm asking you
7 not to make him the last generation.

8 Thank you for this opportunity.

9 SENATOR MAY: Thank you.

10 Do you want to ask?

11 SENATOR METZGER: Yes.

12 If I could just ask one question.

13 First of all, I just want to express my
14 appreciation for your comments, and for highlighting
15 the aspects of the bill that you support, as well as
16 those aspects that are problematic.

17 I just -- for you, I just wanted to ask if
18 you had an alternative recommendation on the
19 provision of overtime.

20 MICHAEL McMAHON: I think 60 hours would be
21 much more reasonable.

22 My Latino workers will not work for us if we
23 can't guarantee them 62 to 65 hours a week. They
24 will not work for us.

25 SENATOR METZGER: And what percentage do they

1 make up of your farmworkers?

2 MICHAEL McMAHON: They -- I have eight Latino
3 workers, and -- besides the four owners, because we
4 brought in two junior partners, my son and another
5 unrelated young man.

6 So we all provide labor, but the actual
7 employees, there are eight Latinos and two local
8 workers.

9 SENATOR METZGER: Thank you.

10 SENATOR MAY: I also have a question about,
11 just the economics of it.

12 So if workers were to make overtime, would
13 you expect them to be more productive and to be able
14 to work fewer hours than you have them working now,
15 or is the number of hours just the number of hours
16 that needs to be worked?

17 MICHAEL McMAHON: Senator, it's a struggle to
18 get them to keep their hours to that.

19 They would work 80 if I would allow it.

20 We just don't allow it on our farm.

21 But I don't know that we would see any
22 increased efficiencies by it. They're going to make
23 more money and they would be happy.

24 So, I don't know how else to answer that.

25 SENATOR MAY: Well, I'm more thinking, if

1 they're going to make more money for overtime, then,
2 you know, working 80 hours now would be -- would net
3 them, roughly, the same of working 60 hours with
4 overtime pay.

5 And I'm wondering, would they -- if they were
6 working fewer hours, would you expect them to be
7 more productive?

8 Like, you wouldn't need that many more hours
9 of their time to accomplish the work that you need
10 to do.

11 MICHAEL McMAHON: The schedules are pretty
12 rigid.

13 I mean, when we milk cows three times a day,
14 it's pretty rigid.

15 They -- as an owner, you know, I'm 67. I'm
16 still working 70, 75 hours a week.

17 But, regardless of that, I don't -- I'm not
18 sure -- I just -- there's this many hours of work
19 that have to be done.

20 SENATOR MAY: Okay, that was really the
21 question.

22 Thank you.

23 MICHAEL McMAHON: Yeah, yeah.

24 SENATOR MAY: Thank you.

25 MICHAEL McMAHON: Thank you.

1 YUSUF HARPER: Thank you for this
2 opportunity.

3 I agree almost totally with the preceding
4 speaker. I am not in dairy, however.

5 My name is Yusuf Harper.

6 I'm an organic farmer from Chenango County.

7 I have three to five H2A workers, primarily
8 from Guatemala.

9 If this bill is passed it's going to harm my
10 workers.

11 It would be great if I could pay them
12 stockbroker salary. I'd love to do it. They work
13 harder, and many times they're just as smart.

14 Why can't I do that; why can't I pay them
15 time and a half after 40 hours?

16 It's called "margin."

17 I have no ability to increase my prices 20 to
18 25 percent that it would take to cover costs without
19 loss of sales.

20 This bill does nothing to block my
21 competitors from Pennsylvania, New Jersey,
22 California, Mexico, Chile, Canada, from selling in
23 the market, and who will be able to undercut my
24 prices because of lower labor costs.

25 If this bill passes, it will be much more

1 cost-effective for me to -- to -- even with -- even
2 with the increased costs of housing and
3 transportation, it will be much more easy for me to
4 cap -- to hire more workers, cap their hours, okay,
5 than to pay the time and a half.

6 But my costs will be substantially higher
7 under any of those circumstances.

8 And with this, my workers, who seek to
9 maximize their seasonal earnings, will be, in fact,
10 earning less. That's not what they want.

11 We work in a -- on a seasonal basis.

12 We work by sunlight, okay, unlike -- unlike
13 our dairy farmers who work a 24-hour schedule.

14 We're restricted by sunlight.

15 So there's a maximum amount of time that they
16 can earn the amount of money they need and want to
17 earn.

18 So, my overall costs go up, my revenue goes
19 down, and each worker earns less.

20 Is there anyone in business that thinks this
21 is a winning strategy?

22 Doesn't sound like it to me.

23 It's a curious bill, in that it doesn't
24 mandate that the farmer earn a minimum wage for over
25 40 hours a week.

1 It's also curious that it doesn't have any
2 mandates about tariffs on produce and other farm
3 items that come into the state from outside.

4 So what this bill, in fact, does is:

5 It puts my farm at risk of survival because
6 I will have increased costs without the ability to
7 pass on those costs to customers;

8 It puts my workers at risk because, if
9 I don't have a farm, I don't need farmworkers, and
10 then they don't have an income;

11 It actually reduces the amount my farmworkers
12 can earn to take back home.

13 In the long run, it promotes using less labor
14 by using more machinery, which doesn't require
15 complex paperwork, yearly angst over bureaucracy and
16 delays, and no overtime.

17 In an attempt to do good, this bill, if
18 passed, will be anti-farmer, anti-farm community, as
19 we just heard, and, importantly, anti-farmworker.

20 It is one more way of saying New York doesn't
21 like agriculture, doesn't want viable farms, and
22 doesn't want healthy small communities.

23 It appears that the people -- to the people
24 of agriculture in New York that what is wanted is
25 widget-makers with widget-workers, possibly robots,

1 in widget-villes, and widget-food produced in other
2 places.

3 On behalf of my workers and my community,
4 whom I care deeply about, don't pass this bill.

5 Thank you.

6 SENATOR MAY: So you mentioned, though, that
7 you do support some aspects of the bill.

8 Is it just the overtime?

9 YUSUF HARPER: Just like the previous farmer,
10 we do all of those things that he does as well.

11 If there has to be a limit -- my workers are
12 just like his. They want to maximize their hours.
13 They don't want to minimize their hours.

14 If there has to be a minimum, 60 is much
15 closer than 40.

16 SENATOR MAY: Okay. And just because you
17 mentioned it, have you ever calculated your own
18 hourly take-home pay?

19 YUSUF HARPER: I'm a retired physician.

20 When I started this farm, okay, you know what
21 physician's hours are. I would stop my practice and
22 I would go to work on the farm.

23 There would be many hours -- many days when
24 we would be packing trucks at 12:00 to 2:00 in the
25 morning so that I could go to work the next day.

1 That's farming, that's how you get farms
2 started.

3 SENATOR MAY: Okay. Thank you.

4 SENATOR METZGER: Thank you.

5 (Crispin Hernandez testifies in Spanish,
6 and translated to English by Ari Mir-Pontier.)

7 CRISPIN HERNANDEZ: Hello.

8 My name is Crispin Hernandez.

9 Right?

10 This is my co-worker Rebecca.

11 So I'm a member of the Workers Center of
12 Central New York, a membership-based organization
13 located in Syracuse.

14 REBECCA FUENTES: Sorry.

15 And he is also a plaintiff in a lawsuit
16 against the State of New York, along with the Worker
17 Justice Center and Workers Center of Central
18 New York, to win the protective right to organize.

19 (Crispin Hernandez continues to
20 testify in Spanish, now translated to
21 English by Rebecca Fuentes.)

22 CRISPIN HERNANDEZ: I'm here representing the
23 interests of farmworkers, members of the Workers
24 Center, and other workers in New York.

25 I'm also here representing workers who are

1 not able to be here because of the long hours that
2 they work, and that they would like to be here also.

3 I was a farmworker for three years, and
4 I worked at a dairy farm called Marks Farm, one of
5 the biggest farms in the north of the -- in the
6 North Country.

7 When I started working there, I was making --
8 started work, making \$7.25 an hour, 12-hour days,
9 6 days a week.

10 I had an accident at the farm when a cow step
11 on my hand.

12 I asked for help to the owner, and the son --
13 the daughter of the owner, and they didn't help me,
14 they didn't take me to the doctor or hospital.

15 In March of 2015, the son of the owner --
16 the -- no, the son-in-law of the owner fire one of
17 my co-workers in a violent manner in front of my --
18 an unjust manner in front of my co-workers.

19 This happened in front of many workers who
20 couldn't do anything or say anything because they
21 were afraid.

22 I helped to organize a rally against this, to
23 protest what has happened to my co-worker.

24 Then I was demoted because -- as an
25 interrelation tactic.

1 Then I asked for help to form a committee so
2 that I could help my other co-workers.

3 One evening I was with my co-workers after
4 work, at a meeting, and the owner -- the son of the
5 owner came over to interrupt, and he called the
6 local police and the state police, and they
7 intimidated me and the co-workers and the
8 organizers.

9 We resisted intimidation, and we decided that
10 we were going to meet again the next week.

11 The next week only two workers showed up,
12 myself and another worker, because we -- they were
13 afraid because of the intimidation with the police.

14 SENATOR MAY: We need to speed this up, so if
15 you --

16 REBECCA FUENTES: Yeah, it is hard when you
17 are interpreting --

18 SENATOR MAY: I know, I totally understand.

19 REBECCA FUENTES: -- so I think that should
20 have been taken into account.

21 SENATOR MAY: It is, but I -- just to be as
22 quick as possible.

23 REBECCA FUENTES: Right, but it's probably
24 not very fair.

25 (Inaudible audience comment.)

1 SENATOR MAY: Right.

2 REBECCA FUENTES: Yeah.

3 SENATOR MAY: I think it's already been --
4 I'm just saying, if we can --

5 REBECCA FUENTES: No, we'd read it ourselves,
6 and it was more -- it was around the time.

7 SENATOR MAY: Is -- are we -- okay, fine. No
8 problem.

9 REBECCA FUENTES: I would say, let's just go
10 to the last part.

11 (Crispin Hernandez continues to testify in
12 Spanish, and Rebecca Fuentes continues to translate
13 to English.)

14 CRISPIN HERNANDEZ: We kept strong, and we
15 went educating workers, from trailer to trailer,
16 educating workers about what was going on.

17 But the next day, my co-worker and myself, we
18 were fired.

19 REBECCA FUENTES: So maybe it's better if you
20 ask questions about this.

21 This is relating about intimidation because
22 of the -- not having the protected right to
23 organize.

24 So it could be a good idea now.

25 There's more about that, and more of the

1 things, so maybe you can ask questions.

2 SENATOR MAY: I have a question.

3 So you mentioned the lawsuit that you're
4 involved in.

5 Is it -- is the proposal in this bill enough
6 to make that lawsuit unnecessary?

7 (Rebecca Fuentes now translating English to
8 Spanish, and Spanish to English, for
9 Crispin Hernandez.)

10 SENATOR MAY: Would it solve the problem?

11 CRISPIN HERNANDEZ: Yeah, the -- the -- what
12 is -- what we have in the lawsuit is included in
13 this law, and, most importantly, is to have a voice
14 in the workplace, more equality.

15 Because, nowadays, if workers speak up and
16 just say something, employers intimidate them and,
17 like in my case, with the police.

18 SENATOR MAY: So is it particularly the right
19 to organize that is the element of this bill that
20 would be -- would solve that problem?

21 CRISPIN HERNANDEZ: Yeah, that is correct.

22 But I want to also bring up, it's important
23 the day off. There are many workers who work seven
24 days a week. And also the overtime pay.

25 So I just want to say, our work is very

1 important. And I know that a lot of farm owners,
2 the employers, complain a lot. But our work is
3 very, very important to put food on the table.

4 SENATOR METZGER: Can I just ask about how
5 many farmworkers were employed on this -- on that
6 farm?

7 REBECCA FUENTES: How many?

8 CRISPIN HERNANDEZ: 60 workers -- at that
9 particular farm, 60 workers.

10 And, in general, there are between -- around
11 60,000 workers.

12 We want to be recognized in this. We are all
13 human beings, and this is why this is important.

14 SENATOR MAY: Thank you.

15 REBECCA FUENTES: Thank you.

16 CRISPIN HERNANDEZ: Gracias.

17 SENATOR METZGER: Thank you. Gracias.

18 (Mr. Hernandez and Ms. Fuentes leave the
19 speaker table.)

20 SENATOR MAY: Are you Art?

21 ART GLADSTONE: I am.

22 SENATOR MAY: Okay, wonderful.

23 And just before you start, let me just say,
24 next, Brian O'Shaughnessy.

25 Is Brian here?

1 And -- oh, David Fisher.

2 Angelina Cornell, if she's here.

3 Go ahead, Art.

4 ART GLADSTONE: My name is Art Gladstone, and
5 I'm a city kid.

6 I grew up next to the Senate District of
7 Senator Ramos, on 162nd Street, between the
8 Long Island Expressway and Casino Park.

9 I am, by federal definition, a seasonal
10 farmworker.

11 From 1997 to 2012, I was the farm labor
12 specialist for Central New York of the New York
13 Department of Labor, a position more commonly
14 referred to as "the rural rep."

15 My job was to facilitate labor relationships
16 between farm operators seeking workers and workers
17 seeking employment.

18 I also provided technical assistance using
19 the federal guest-worker program.

20 Additionally, I worked to resolve labor and
21 compliance issues with operators and workers alike.

22 Many times, it was about listening to either
23 party vent.

24 I worked from a philosophy of trying to do
25 the greatest good for the greatest number. This did

1 not mean pitting one side against the other.

2 These days, what I hear from farm operators
3 is added stress and anxiety from this proposed
4 legislation.

5 Now, this is on top of the everyday stresses
6 and anxieties of farming that would leave most of us
7 mere mortals either in a pile of mush or popping
8 Xanax like they were Jujubes.

9 The issues that I hear from farmworkers are
10 exemplified by Blanca, who, due to issues about her
11 status, was unable to be home with her son at a
12 critical time for him.

13 Even worse, was her not being home for the
14 passing of her father.

15 All I could do was be there and comfort her
16 while I gave her a picture of her father and mother
17 I had taken in their provincial town. I was there
18 as she cried her heart out, clutching that photo to
19 her chest.

20 I believe that the answers to the real
21 farmworker issues are better solved at the federal
22 level through comprehensive immigration reform and
23 revamped guest-worker legislation.

24 Terms and assurances already in guest-worker
25 contracts take care of many of the issues this

1 proposed law attempts to solve.

2 I never hear workers talking about issues
3 like those this legislation feels must be addressed.

4 Now, I don't purport to speak for the
5 farmworker population, but I know the people that
6 I know.

7 I think it would be audacious and
8 presumptuous for any person or groups to say that
9 they speak for such a diffuse and diverse group of
10 people.

11 One can find dissatisfied workers to say,
12 indeed, this bill has the issues that need
13 solutions.

14 I feel it would be unconscionable to pass
15 this partisan and agenda-driven legislation without
16 truly hearing the issues I believe actually occupy
17 the minds of most New York State farmworkers.

18 My belief, based on 20-plus years working
19 with the New York State agricultural community, is a
20 fear that the trash will roll downhill, and those
21 most negatively affected by this bill are going to
22 be the workers.

23 Automation is waiting around the corner to
24 ease costs and cut down on labor.

25 I fear workers' incomes are going to be

1 reduced since hours will be, by necessity, cut back.

2 The result?

3 Smaller remittances on which so many families
4 rely on for economic advancement, opening small
5 businesses, obtaining education for their children,
6 and, overall, improving their safety and living
7 conditions.

8 This has the potential to cause long-lasting
9 negative consequences in areas and for people least
10 able to contend with these changes.

11 I also fear for the damage to be done to
12 worker-farm-operator relationships that have been
13 developed over many years.

14 Both parties have benefited, and years of
15 physical and emotional investment will be
16 threatened.

17 Workers will go where they can get the hours
18 needed to finance their needs and dreams.

19 New York State farm operators will be left
20 with few alternatives that provide them the reliable
21 workforce they have come to appreciate.

22 Now, if Senator Ramos was here, I would say
23 to her, because she would get this: Senator Ramos,
24 upstate is not Roosevelt Avenue.

25 The one linchpin for many of these localities

1 is the stability of the agricultural community.

2 I strongly believe that the passage of this
3 proposed legislation will not serve the economic
4 interests of farmworkers, farm operators, or
5 New York State in general.

6 Thank you for hearing me out.

7 [Applause.]

8 SENATOR METZGER: Thank you, Art.

9 I have a question.

10 Are there provisions of this bill that you do
11 see as workable?

12 ART GLADSTONE: Of the bill that are
13 workable?

14 You know, what I refer to, so many of the
15 things that are being attempted to solve, I believe
16 the answer really is going to come through
17 guest-worker legislation, because that's truly going
18 to represent who the farmworker population is going
19 to be.

20 So I think the State is chasing something
21 that needs to be done at the federal level.

22 SENATOR MAY: I'm also going to ask the
23 audience not to applaud after different speakers.

24 The less disruption we have, the better.

25 Thank you.

1 ART GLADSTONE: That was embarrassing.

2 SENATOR METZGER: Thank you very much.

3 BRIAN O'SHAUGHNESSY: Thank you, Senators, for
4 holding these hearings.

5 My name is Brian O'Shaughnessy, and for
6 20 years I was executive director of the
7 Labor-Religion Coalition of New York State.

8 The coalition became involved in this issue
9 when farmworkers asked for our help, and, because
10 the New York laws that govern farmworkers are, to
11 me, profoundly labor and religious issues.

12 The labor questions at the heart of this bill
13 will be addressed, I'm sure, by most speakers today.

14 But what about the moral and religious side
15 of this dimension?

16 These can be seen by putting this hearing
17 into historical context.

18 In the 1930s, almost all workers in the U.S.
19 benefited greatly from passage of federal
20 legislation, especially the Fair Labor Standards
21 Act; however, there were two groups of workers
22 excluded from this law: domestic workers and
23 farmworkers; basically, all people of color.

24 What was said in Congressional debate back
25 then is instructive because it led to the exclusions

1 which New York has not changed, even though other
2 states have.

3 Two examples:

4 To quote Representative Wilcox, "You cannot
5 put the Negro and the White man on the same basis
6 and get away with it."

7 To quote Senator Smith, "Any man on this
8 floor knows that the main object of this bill is, by
9 human legislation, to overcome the great gift of God
10 to the south."

11 So in order for the vast majority of workers
12 in the United States to gain labor benefits, a
13 compromise, cemented in racism, meant two groups
14 were legally excluded.

15 Nine years ago New York ended the exclusion
16 for domestic workers, but to this day they continue
17 to oppress farmworkers.

18 For a New Yorker all of my life, over
19 70 years, I am greatly ashamed of this fact.

20 I need to say, I have the greatest respect
21 for many farmers, and I know that many of them treat
22 farmworkers fairly.

23 I have personally been involved in
24 community-supported agriculture and I support
25 farmers' markets.

1 And for years I was in favor of the
2 legislation -- legislative action that gives
3 millions and millions of New York tax dollars to
4 assist agriculture in this state.

5 But let's look at the contrast.

6 Over the past 80 years, what have New York
7 legislators done to directly benefit farmworkers?

8 In 1996, drinking water in the fields.

9 In 1998, access to toilets and sanitation on
10 some farms.

11 And in '99, an end to a sub-minimum wage that
12 farmworkers suffered under.

13 Looking at this monumental disparity, how can
14 you not, Senators, do all in your power to pass this
15 bill this year?

16 Let me point out that, 30 years ago, a task
17 force of the then-governor recommended that
18 farmworkers be granted the same rights as all
19 workers; in other words, ending all exclusions.

20 What happened to this recommendation?

21 Nothing.

22 And so with this, what I call "dismal
23 history," and also with a strong pessimistic streak
24 that inflicts my Irish soul, I hope you understand
25 my doubt about the legislators of New York ending

1 these exclusions this year.

2 And, on the other hand, I am optimistic in
3 the way that the famous Irish writer Seamus Heaney
4 was, when, in chronicling the terrible violence of
5 Irish decades, he wrote, "Once in a lifetime justice
6 can rise up, and hope and history rhyme."

7 Will justice rise up in 2019 for New York's
8 farmworkers?

9 Will hope and history rhyme in the Senate
10 chamber this year?

11 I believe it will, Senators, because of your
12 moral leadership.

13 Thank you.

14 SENATOR MAY: Thank you.

15 SENATOR METZGER: Thank you.

16 David.

17 DAVID FISHER: Questions?

18 Good morning.

19 Thank you for taking the time to put these
20 hearings together and listen to farmworkers and
21 farmers.

22 I'm David Fisher.

23 My family has a multi-generational dairy farm
24 in Madrid, New York, where we employ over 55 people,
25 and have great respect in who they are and what they

1 do on the farm every day.

2 I'm also here as president of the New York
3 Farm Bureau, the largest general farm organization
4 that represents every commodity, size, and type of
5 farm in New York State.

6 We need a strong farm community, the benefits
7 are far-reaching.

8 Farms are the leading driver of the economic
9 economy in Upstate New York and Long Island, but it
10 isn't just the economy that depends on our farms.

11 It's also our customers, consumers, both far
12 and near, and the markets in New York City and the
13 food banks across the state.

14 This is why the legislation, as presented,
15 raises so many concerns for our farms.

16 Farm Credit East analyzed the impacts of
17 overtime at 8 hours a day and 40 hours a week.

18 It found that labor costs will rise, on
19 average, 17 percent, or, about \$300 million.

20 In addition, when you take into effect the
21 rising minimum-wage costs, along with overtime, net
22 farm income, on average, will drop 23 percent.

23 Some of the more labor-intensive commodities
24 will take an even bigger hit.

25 Vegetable growers will see a net farm income

1 decline by 43 percent;

2 Greenhouse and nursery operations at
3 58 percent;

4 And fruit growers at 74 percent.

5 And you've already heard about the dairy,
6 101 percent drop.

7 This isn't an assumption, but has been
8 proven, as shown by the recent ag census that were
9 released this month by USDA.

10 New York lost 2100 farms in the past 5 years.

11 What sets New York apart, is the minimum wage
12 has consistently climbed to one of the highest in
13 the nation, driving up all wages.

14 Nearby Pennsylvania's minimum wage is still
15 at the federal level of \$7.25.

16 I think when we all agree our employees
17 deserve a fair and competitive wage, and that's why
18 it's a rarity for farms to pay minimum wage.

19 We must offer good wage and benefits, or else
20 we won't have employees in this tight labor market.
21 Our employees will go elsewhere if they aren't
22 receiving the wages and hours that they're
23 demanding.

24 New York farms compete against farmers in
25 other states and countries with much lower wage

1 rates, as I said.

2 Our farms can't just raise prices to absorb a
3 large jump in overtime and expect to sell their
4 goods.

5 Our members have told us they'll consider
6 growing other crops that require less labor;

7 And others have said they'll cut hours or let
8 employees go if they're forced to downsize;

9 Yet others have said they'll just get out of
10 the business that they love.

11 My sons are having similar conversations
12 about our business.

13 They've both had the opportunity to work in
14 multiple states before trying to return to our farm.

15 And I was asked the question last week: Is
16 it time that we look elsewhere?

17 It's a tough thing to face when they are,
18 potentially, the eighth generation to farm in our
19 community in Madrid.

20 So who pays the price? We all do.

21 Our workers will lose hours, see smaller
22 paychecks; fewer farms, will mean less money going
23 to our local communities; and local food access will
24 become even more difficult.

25 We need to do what's right by our employees,

1 and we do.

2 This legislation won't fix the bad apples,
3 but it will drive the good apple farms, the dairies,
4 the nurseries, and the vegetable farms, and others,
5 to make choices that will change the face of
6 New York agriculture and rural New York State.

7 Thank you.

8 SENATOR MAY: Yeah, I have a couple of
9 questions.

10 Just to press you on the economic issues,
11 we've heard a lot of claims that workers would go
12 elsewhere if they couldn't work the number --
13 more -- beyond 40 hours a week.

14 But if Pennsylvania pays so much lower wages,
15 it seems like they wouldn't earn more, in total, if
16 they moved there and worked more hours than they're
17 working in New York.

18 So I'm just trying to understand this
19 argument.

20 DAVID FISHER: Pennsylvania doesn't have a
21 many fruits and vegetables as we do.

22 They'd probably go to Michigan or someplace
23 like that.

24 And it's really hard, because it's different.
25 Dairy farms can schedule.

1 You know, if you look at, let's take apple
2 harvest, those people, some of them come from all
3 over, but, say, from Jamaica. They come here for
4 eight weeks, and that's the window, that's their
5 goal, is to work at least six, or seven days a week,
6 for that time period, to have money to go home and
7 take care of their family for the rest of the year.

8 So, you know, you're trying to make -- it's
9 really tough to -- agriculture is so diverse, it's
10 really hard to put everything in the right
11 perspective from a law standpoint.

12 And that's why, agriculture is diverse.
13 New York is the second most diverse agriculture,
14 commodity-wise, in the nation, and the diversity
15 within each of those is so huge.

16 But we are so dependent in the northeast on
17 weather conditions that, like, California doesn't
18 have to worry about that. It's dry every day.

19 You know, we have to -- when the time comes,
20 we have to work.

21 On our farm right now, we are behind. We
22 haven't gotten any crop work done.

23 So when the weather does break in the next
24 week, you know, we're going to work six or seven
25 days a week, and, you know, we work right with

1 everybody to get those things done.

2 So, it's really hard to legislate things
3 that, like I said, you -- we have been no control
4 over weather, and those people come here for a
5 reason: They come here to earn money, to take care
6 of their family.

7 And their family in other countries have a
8 great standard of living because they can come here
9 and do that.

10 So as Art said, it really needs to be a
11 federal fix, would help, but, it's very tough to
12 legislate everything.

13 SENATOR MAY: Okay.

14 And I also feel like we keep hearing
15 different things about the minimum wage.

16 The minimum wage is higher in New York, and
17 so pushes labor costs. But a lot of people are
18 paying above minimum wage anyway.

19 Do you have statistics about what percentage
20 of farmworkers actually are paid minimum wage in
21 New York?

22 DAVID FISHER: I don't have that in my
23 pocket, but we will get that for you.

24 SENATOR MAY: Okay, great. That would be --

25 SENATOR METZGER: For your farm, what are --

1 what's the wages on your farm?

2 DAVID FISHER: We're starting entry level --
3 well, we have a couple high school kids at minimum
4 wage. But, basically, we start at \$12.50.

5 So -- and we are a little bit different
6 because we don't have -- we have all local help.

7 SENATOR METZGER: I was wondering if you
8 could speak to -- dairy is year-round, so the labor
9 requirements are different, you know, the hours are
10 different.

11 And if you could just discuss, you know, how
12 you're different -- what the differences are, how
13 you're differently impacted, by overtime
14 requirements, and that kind of thing.

15 DAVID FISHER: It depends on how many hours
16 they want the work. But, on a lot of farms, where
17 there are Latinos, they want hours because they're
18 here to send money home.

19 Our farm is a little bit different, that we
20 don't have that.

21 But it's schedulable, it's -- the barn things
22 are.

23 But the crop side is not, so we have H2A
24 workers for the summer that help on our outside
25 crew.

1 SENATOR METZGER: Okay.

2 DAVID FISHER: And we can't -- we can't -- we
3 have to do it when the weather cooperates. And if
4 we get a couple rainy days, we all do shopwork, or
5 whatever. And when we get nice days, we just put in
6 a lot of hours.

7 And that's farming, and it's, just, a lot of
8 people don't understand that.

9 SENATOR MAY: So you heard Crispin's very
10 powerful testimony.

11 Do you -- have you encountered this kind
12 of -- or, heard about this kind of issue with
13 intimidation and --

14 DAVID FISHER: I won't endorse bad actors,
15 and I won't say they're not out there, but that's
16 the Department of Labor's job, and that's the
17 marketplace.

18 And I will tell you, I think these things are
19 going to take care of themselves because people want
20 transparency in their food system.

21 They want to know, environmentally, what
22 we're doing. They want to know how we're treating
23 our employees.

24 And so I think, if we don't do that, and we
25 don't show that transparency, that people won't buy

1 our products.

2 So I think it's going to take care of itself
3 when the consumers, they are demanding those things,
4 and they're getting them.

5 And there's programs in place to prove those
6 things that we're doing on dairy farms and vegetable
7 farms.

8 So, I just don't not feel like it's something
9 that needs to be legislated when the consumer
10 preference is going to prove where those products
11 came from and how they're grown.

12 SENATOR MAY: What mechanisms are there for
13 transparency of that kind, to find out how
14 farmworkers are being treated?

15 DAVID FISHER: The dairy industry is working
16 on that right now.

17 As far as, we have a FARM, F-A-R-M, program
18 for dairy, which monitors how our animals are
19 treated. And there's more phases being implemented.

20 And there's a lot of traceability things that
21 more companies are requiring all the time.

22 SENATOR MAY: Okay. Thank you.

23 (Mr. O'Shaughnessy and Mr. Fisher leave the
24 witness table.)

25

1 ANGELA CORNELL: Thank you very much.

2 Thank you very much, Senators, for this
3 opportunity.

4 I'm sorry, I'm battling a cold and a sore
5 throat, so I hope you can hear me okay.

6 My name is Angela Cornell.

7 I have been on the faculty of Cornell Law
8 School since 2005. My area is labor and employment.

9 And I also direct the labor law clinic, and
10 I am the chair of the faculty steering committee of
11 the Cornell Farmworker Program.

12 There has scarcely been a category of workers
13 whose working conditions and reality more
14 necessitated additional labor protections.

15 The work is one of the most dangerous,
16 according to the U.S. Bureau of Labor statistics.

17 They're exposed to dangerous chemicals,
18 machinery.

19 They have low-pay, demanding working
20 conditions.

21 They're isolated on the farms; generally,
22 they reside there.

23 A considerable percentage of young, underage
24 workers are employed in agriculture, and in New York
25 that number is growing because of the exodus from

1 Central America. I'd say it's probably about
2 30 percent of workers are underage on farms in New
3 York.

4 Their legal status makes them particularly
5 vulnerable. About 60 percent of undocumented --
6 60 percent of workers are undocumented.

7 Those who have H2A visas, even, you know,
8 those who are documented, also have particular
9 vulnerabilities.

10 They are tied, as you may know, to their
11 employer. Their livelihood, and their legal status,
12 is dependent on that employer.

13 And I'll just mention that, we've heard that
14 there have been some videotapes of farmworkers
15 saying that they're opposed to this legislation.

16 And I would just note that many of these
17 workers do face the undue influence of their
18 employers. The power dynamic, like I said, not only
19 is that the source of their income, but they reside
20 there. And if they're an H2 worker, they're totally
21 dependent on their status and that individual.

22 So, just something to be mindful of, of that
23 situation.

24 The supporters of this bill also strongly
25 support farming in New York, especially family

1 farms.

2 I do not believe that extending basic labor
3 rights to farmworkers is going to detrimentally
4 impact the agricultural sector in New York.

5 Farmers are, of course, concerned about
6 profits. I think that's a legitimate concern.

7 But the overtime bill, unlike minimum wage,
8 gives all of the control to employers; they have all
9 of the control over whether to assign overtime.

10 Do I think that means that their workers will
11 only work 40 hours?

12 No. I think their workers will work less
13 hours than they're working now, but they will
14 receive higher pay.

15 Farmers are also concerned about labor
16 disruptions, but, particularly related to the right
17 to organize and bargain collectively.

18 Labor rights have been extended to a number
19 of industries that involve, you know, concerns about
20 crucial issues, like public health, and patient
21 care, and police and fire.

22 There have always been ways to provide those
23 workers labor protections without risking the
24 public's health and safety.

25 I'll conclude, because I'm out of time,

1 simply by saying that these are worker who sustain
2 New York's multi-billion-dollar agricultural sector
3 as the nation's second-largest producers of apples,
4 the third-largest dairy producers.

5 The farmworkers deserve more.

6 You have the capacity, we have the capacity,
7 to extend these basic minimum protections to these
8 farmworkers.

9 And these are fundamental rights, and we
10 should not wait for the federal level to pass an
11 immigration bill in order provide these basic labor
12 protections for our farmworkers in New York.

13 Thank you very much.

14 [Applause.]

15 SENATOR METZGER: Thank you.

16 So I have a couple of questions.

17 One is, you say that 30 percent of the
18 workforce -- farm-labor workforce is underage.

19 I've been to many farms and have not seen
20 evidence of that.

21 So I just wanted to know where you got that
22 data, and what it's based on?

23 And, then, if you could answer how you think
24 this bill would address that, if it does exist.

25 ANGELA CORNELL: Okay.

1 I am -- I am the faculty -- on the faculty
2 steering committee of the Cornell Farmworker
3 Program, and we have a presence in upstate farms.

4 We regularly go to farms. We regularly do
5 trainings on farms.

6 If you'll look at my statement, you'll find
7 more about the work we do on farms.

8 And, at the law school, we also have a
9 farmworker clinic.

10 We know that there are many children working
11 on farms that are under the age of majority.

12 Why is that relevant?

13 I'm simply pointing out that there are a
14 number of reasons why these are vulnerable workers.

15 These are precarious workers, and they need
16 additional labor protections.

17 Thank you so much.

18 SENATOR METZGER: I won't ask you too many
19 more questions because you seem --

20 ANGELA CORNELL: Sorry.

21 SENATOR MAY: And we can communicate by some
22 other way if you would prefer.

23 I did also have a question about the -- what
24 we've been hearing about scarcity of labor on farms,
25 and whether that's something that you have noticed

1 as well?

2 ANGELA CORNELL: I understand the concern
3 about the scarcity of workers.

4 I actually think that "higher pay and the
5 overtime" language will translate into slightly
6 higher pay for these workers.

7 It could actually end up bringing more
8 workers to New York.

9 But I do understand that farmers here have
10 had a difficult time finding workers, I understand
11 that.

12 I don't think this bill will negatively
13 affect. In fact, I think it could end up being
14 helpful.

15 SENATOR MAY: Okay. Thank you.

16 Hope you feel better.

17 LUCIO RENE VILLANUEVA: Good morning.

18 My name is Lucio Villanueva. I have traveled
19 from Mexico to work for Hemdale Farms and
20 Greenhouses for eight years.

21 Hemdale is a 3,000-acre farm, with crops,
22 including vegetables, as well as greenhouses to
23 start vegetable plants.

24 I have a beautiful wife and a one-year-old
25 daughter at home, and another baby on the way.

1 So coming to Hemdale Farms allows me to make
2 a good living for my family.

3 Hansen Farm and Hemdale Farms runs a separate
4 business, but work together for stay on the top of
5 our work and market their vegetables.

6 My supervisor, Angelo, is going to talk on
7 behalf of myself and another employees of the both
8 farms.

9 ANGELO OCAMPO: I have to read too because
10 I don't remember everything.

11 My name is Angelo Ocampo.

12 I supervisor for H2A workers for Hansen Farm
13 and Hemdale Farms and Greenhouses.

14 I have worked for full-time for Hansen Farm
15 for over 20 years.

16 Hansen Farm is the fourth-generations family
17 farm, celebrate our's 100 years in business.

18 This year Hansen Farm won the national
19 YS (sic) Primary Shipper and the high-quality
20 vegetables, particularly cabbage.

21 The H2A employees are here for seven or
22 eight months. They get paid 13.25 per hour. We
23 free all, including houses, transportations, and
24 reimbursement for the travel.

25 This is their job, and they want to work as

1 many hours as possible for the seven, eight months.

2 Most of the works, including planting,
3 hoeing, and harvestings has to be done in good
4 weather.

5 When the conditions are good, we work the
6 10 or 12 hours a day, and time, 7 or more days in
7 the row, and 60 or more hours a week, to keeping the
8 crops in the schedule.

9 When it is raining and the soil is wet, like
10 this week, we have to wait for the soil or the crop
11 to dry.

12 During planting season, we have for
13 (indiscernible) have had to wait many days, or
14 weeks, for all condition that we grow the crops.

15 Last year, the large sauerkraut company in
16 the world in closing their New York State plants in
17 Ontario County, moving to the cabbage harvest to
18 Wisconsin, and ours vegetables harvest was down.

19 (Indiscernible) for 2019, Hansen and Hemdale
20 was negotiating, and got more contracts with another
21 national vegetables company because, these two
22 farms, they had to be new house -- they had build
23 new houses and new packing house that is now built.

24 That's it.

25

1 SENATOR MAY: Thank you very much.

2 ANGELO OCAMPO: You're welcome.

3 SENATOR METZGER: Thank you very much.

4 Can I ask, how long have you been on that --
5 working on that farm?

6 ANGELO OCAMPO: I have 20 years -- over
7 20 years.

8 SENATOR METZGER: 20 years.

9 And is it all -- are the all the workers from
10 the H2A program, or --

11 ANGELO OCAMPO: Yeah, yeah, the H2A, they
12 coming from Mexico.

13 SENATOR METZGER: Okay.

14 ANGELO OCAMPO: Yeah. The H2A guys, yeah.

15 SENATOR MAY: And when you're working
16 12 hours in a day, do you get breaks?

17 ANGELO OCAMPO: Yeah, we have two breaks --
18 no, three breaks.

19 It's 9:30, 3:00, and 6:00; three breaks.

20 SENATOR MAY: And you say sometimes you work
21 seven days a week.

22 Do you have the option to take a day of rest,
23 or do you have to work?

24 ANGELO OCAMPO: The problem is, all depend on
25 the weather, because, right now, we see it for

1 two weeks. You know, if we want to catch, you know,
2 the scale for the plants to stay in the ground. You
3 know, we no planting in the time, maybe it's too
4 late to do the harvesting.

5 SENATOR MAY: So there is no choice?

6 The workers cannot choose to take what day of
7 rest during the week?

8 ANGELO OCAMPO: Well, yeah, it depend on the
9 guys.

10 If they want to taking the day off, they
11 taking, you know.

12 SENATOR MAY: They can?

13 ANGELO OCAMPO: Yeah.

14 SENATOR MAY: Okay.

15 ANGELO OCAMPO: Because there's 35 guys,
16 sometimes the 35 guys, the 5 guys didn't work, or
17 10 guys didn't work, that day, they can switch, you
18 know, yes, for they to have breaks too.

19 Uh-huh.

20 SENATOR MAY: Thank you.

21 SENATOR METZGER: Thank you. Gracias.

22 LUCIO RENE VILLANUEVA: Thank you.

23 ANGELO OCAMPO: Thank you for the time.

24 [Applause.]

25

1 (Mr. Villanueva and Mr. Ocampo leave the
2 witness table.)

3 MATTHEW CRITZ: I think there were somebody
4 before me, but --

5 SENATOR MAY: Abdul-Qadir?

6 No? Okay.

7 Okay, Matthew Critz.

8 And on deck we have, John Clark, and
9 Lon Stephens. If you can come up, that would be
10 great.

11 And Judi Whittaker.

12 But, go ahead.

13 MATTHEW CRITZ: Okay. I'm Matthew Critz.

14 My wife and I are the owners of Critz Farms
15 in Cazenovia. We're first-generation farmers.
16 We've been there since 1985. We now own 350 acres,
17 and grow a very wide, diverse crops.

18 Our main crops are apples, pumpkins,
19 blueberries, and Christmas trees, where we do a
20 bunch of other stuff.

21 We're kind of in a unique position, where
22 80 percent of our crops are marketed retail. And we
23 have a separate workforce that does that, that gets
24 overtime if they work, and all that, workmen's (sic)
25 comp, disability... the whole shooting match.

1 We also have six H2A workers that do the
2 field work. Those H2A workers also get
3 workmen's (sic) compensation, disability insurance,
4 days off if they want them. We pay unemployment
5 insurance on them.

6 We have full -- pardon?

7 SENATOR METZGER: They are not actually
8 allowed to collect on the unemployment.

9 MATTHEW CRITZ: Yes, yes, we have to pay, but
10 they can't collect.

11 Kind of a weird situation, isn't it?

12 Yeah, it's very strange, that we have to pay,
13 but they can't. I would be fine if they could
14 collect.

15 We're -- these workers, besides the pay they
16 get, they also receive free housing, free utilities,
17 free phone, free Internet, free television, free
18 transportation back and forth to work, free
19 transportation to the supermarket every weekend,
20 free transportation from their home country to where
21 they work for us.

22 They also make \$13.25 an hour, which is the
23 base H2A rate in the northeast.

24 And the answer to your question a little bit
25 earlier: In Pennsylvania, if you have H2A workers,

1 you have to pay \$13.25.

2 So my concern -- your question about workers
3 leaving to go to different states?

4 In Pennsylvania, if you're H2A worker, and
5 you don't like working in New York because you can't
6 get over 40 hours, you're going to move to another
7 state. Even Pennsylvania you're going on get paid
8 \$13.25, not the minimum wage in that town -- in that
9 city -- or in that -- excuse me -- in that state.

10 And so my wife and I feel very opposed to
11 this.

12 We feel for, two reasons, especially on the
13 overtime rate, and, you've heard the same story all
14 along, it's all about the weather.

15 And for us, with 20 percent of our stuff
16 going wholesale, we compete against Pennsylvania,
17 Ohio, Vermont, New Hampshire, and especially Canada,
18 no overtime rules there.

19 We ship almost a million pounds of pumpkins
20 all over the northeast every fall, thousands of
21 Christmas trees, and we're competing with these
22 people every day, and we can't absorb this extra
23 cost.

24 It's -- I can't pay \$20 an hour to pick
25 pumpkins and compete against the Canadians that ship

1 them down from Nova Scotia into my Boston market.

2 We've already lost market share to them
3 already.

4 One minute left?

5 Okay.

6 The other point I'd like to bring up is, the
7 workers, this is going to adversely affect the
8 workers. Because we can't afford to pay that rate,
9 they're going to get knocked back to 40 hours.

10 They're H2A guys, they come here for one
11 reason, and that's to work, so, they want to work
12 50, 60 hours a week.

13 So -- and as far as recommendations, I could
14 live with 60 hours. I could live with one day off a
15 week.

16 And we're already doing the other things
17 already with the workmen's (sic) comp and that whole
18 thing.

19 Do you guys have any questions?

20 SENATOR METZGER: Yeah.

21 About what percentage of your costs are labor
22 costs?

23 MATTHEW CRITZ: Oh, God.

24 Because we're in the vegetable business, it's
25 a lot. 30, 40 percent, at least.

1 SENATOR METZGER: Right. And it's great --
2 it's good to get a sense of how it differs across
3 different crops -- different kinds of crops,
4 different kinds of agricultural products, so...

5 MATTHEW CRITZ: Yeah, the labor is very
6 expensive.

7 And it will put a pretty large burden on us,
8 trying to compete with these people from -- that
9 aren't in from New York.

10 Also, if I can have one second, I'd also like
11 to touch on all the other businesses that are
12 affected by our business.

13 We buy the cardboard to put the pumpkins in
14 from a firm in New York State. That'll go down.

15 We use a local trucking firm, and that's,
16 truckloads, drivers that won't have loads to drive.

17 We buy new tractors from a local dealer.

18 It's just -- it's going to precipitate all
19 the way down if we have to drop this business
20 because we can't afford to be in it anymore.

21 SENATOR MAY: I'm also wondering about the
22 transparency issues that we talked about.

23 How often is the housing inspected, or that
24 kind of thing?

25 MATTHEW CRITZ: Yes, okay, for us we get our

1 housing inspected twice a year by the local health
2 department.

3 We also get at least one visit from
4 New York State Department of Labor every summer.

5 And we get a visit from the federal
6 Department of Labor every summer.

7 The Jamaican government provides a liaison
8 person for the Jamaican workers.

9 So -- and we've been doing this 10 years now,
10 and we've never had a case where we've had an
11 unhappy employee.

12 But if we had an employee that was unhappy,
13 he would talk to the Jamaican liaison officer; he
14 would then talk to me.

15 If things weren't working out, he didn't like
16 to work at my farm, they could help arrange moving
17 him to another farm, and maybe a worker from another
18 farm coming to me.

19 Technically, they're here to work for my
20 farm. But, if there's unhappy employees, there's
21 ways around it.

22 So they're not, like, totally beholdng to
23 me.

24 And if they don't want come back, they don't
25 come back.

1 And we have guys that have been coming back
2 for 10 years now.

3 SENATOR MAY: That's what I was going to ask,
4 how long your --

5 MATTHEW CRITZ: Pretty much, everybody that
6 we have now has worked for us before, and come back,
7 the six migrant workers that we have.

8 So if they didn't like working for you, and
9 you didn't give them good housing, or didn't take
10 care of their hours, or if, on a rainy day, you
11 didn't make work for them so they could get their
12 hours in for a week when it rained all week, they
13 wouldn't come back to you.

14 SENATOR METZGER: Okay.

15 Thank you very much.

16 SENATOR MAY: John.

17 JOHN CLARK: Good afternoon, Senator May,
18 Senator Metzger, and the members of the Senate Labor
19 and Agricultural committees.

20 My name is John Clark, and I'm president of
21 the Northeast Agribusiness and Feed Alliance, a
22 300-member trade association of agribusiness
23 companies that serve --

24 SENATOR MAY: Can I interrupt you for a
25 second so that I can welcome my colleague

1 Senator Velmanette Montgomery, who drove 5 1/2 hours
2 to get here, and we are very, very pleased to have
3 her here.

4 Thank you.

5 [Applause.]

6 JOHN CLARK: Thank you for introducing her.
7 Welcome.

8 As I was saying, the Northeast Agribusiness
9 and Feed Alliance is a 300-member trade association
10 of agribusiness companies that serve production
11 agriculture throughout the northeast U.S.

12 Our members comprise of feed, seed,
13 fertilizer, ingredient suppliers, credit providers,
14 and others, whose business it is to support the
15 farming community.

16 Locally here, in Oneida, Herkimer, and
17 Madison counties, some of the members that would --
18 could be affected would be Bailey's Feed in
19 Bloomville, Brown's Feed in Frankfort,
20 Louis J. Gale & Son in Waterville, Gold Star Feed
21 and Grain of Sangerfield, and Lutz Feed Company in
22 Oneonta, who each employ 20 to 50 people that
23 support the farming community.

24 Therefore, the Northeast Agribusiness and
25 Feed Alliance is here today to stand with the

1 farming community in strong opposition to
2 Senate Bill 2837, and implore you to find a path
3 forward that effectively addresses the economic
4 realities of New York's farming sector.

5 No state policy that attempts to address the
6 issues identified in Senate Bill 2837 will be
7 successful unless the policy effectively respects
8 and addresses the economic impacts to New York
9 farmers.

10 Absent a win-win solution, Senate Bill 2837
11 will alter the face of agriculture, and dare I say,
12 the fabric and the face of rural Upstate New York
13 forever.

14 To paraphrase the rest of my testimony:

15 For the past four to five years, dairy
16 farmers, who are price-takers, have suffered with
17 low commodity prices.

18 To put this burden on them would hurt their
19 businesses and make them less competitive.

20 As was stated, New York is now number three
21 in dairy.

22 If this bill goes through, it could make them
23 less competitive and force milk to be produced in
24 other states where it will be more competitive.

25 My point here today is that, we stand in --

1 shoulder-to-shoulder with the dairy producers.

2 And it will have a rippling effect, just as
3 Mr. Critz talked about his suppliers, the feed
4 industry will be adversely affected.

5 I respectfully submit these comments.

6 SENATOR METZGER: Thank you.

7 SENATOR MAY: Thank you.

8 SENATOR METZGER: I don't have any questions.
9 Did you have any questions?

10 SENATOR MAY: I don't think I have any
11 questions.

12 And we're going to have to limit our
13 questions a little bit if we're going to get through
14 everyone on our list.

15 So, thank you for your testimony, Mr. Clark.

16 JOHN CLARK: You're welcome.

17 LON STEPHENS: Good afternoon,
18 Senators Ramos (sic), Metzger, and Montgomery, and
19 distinguished members of the Senate Labor and
20 Agricultural committees.

21 My name is Lon Stephens.

22 I am the current general manager of
23 Cooperative Feed Dealers in Conklin, New York.

24 I have held this position for the past 29 years.

25 35 independent and family-owned feed mills

1 own this 85-year-old cooperative.

2 CFD's activities include providing bulk
3 grain, mineral and vitamin premixes, and animal
4 nutrition advice to member mills.

5 Our New York feed mill membership count
6 totals 18.

7 The average employment represented by each is
8 approximately 20, not including CFD's 45 employees,
9 for a total of about 400 employed in New York State.

10 Each one of these members, and CFD itself,
11 relies on the dairy industry for their income,
12 so each has a vital interest in the success of
13 New York State dairy farms.

14 As the previous speakers have told you, milk
15 prices have been depressed over the past three to
16 five years, devastating the bottom lines of many
17 otherwise successful dairy farms, and driven many
18 out of business.

19 Increasing expenses on the remaining farms
20 will only hasten their exodus, and the negative
21 impact it will have on the economies of upstate
22 towns and counties already struggling to keep their
23 job and tax revenue intact.

24 I'm here to testify that not only dairy
25 farms, but vegetable and crop farms, which are so

1 vital to the upstate economy, will be challenged.

2 But the 400 jobs represented by CFD and its
3 members will be impacted as well.

4 The increase in accounts receivables from
5 dairy farmers held by my members threaten their very
6 survival. And I predict that some feed mills will
7 not survive.

8 Many of my members have been in business for
9 over 100 years.

10 The current economic threat from dairy --
11 affecting dairy farms, unable to pay their feed
12 bills, is much more severe than at any other time
13 during my 34-year tenure at Cooperative Feed
14 Dealers.

15 This threat to feed mills is real, and the
16 ripple effect to the economies of the towns and
17 villages that benefit from the jobs and tax revenues
18 they supply would be significant.

19 I urge to you consider the impact that
20 raising labor expenses will have on this important
21 New York State industry.

22 Dairy farmers will have no one to pass this
23 expense along to, other than their vendors, my
24 members, and I can attest that my members cannot
25 extend any more credit than what they already have.

1 Your decision to not allow this legislation
2 to be enacted is the decision to help New York State
3 agriculture as it struggles through this darkest
4 period in its history.

5 Dairy farmers, and farming, has been a
6 bedrock of New York landscape and economy for the
7 past two centuries.

8 Please give it a chance to continue.

9 Thank you for your consideration.

10 SENATOR METZGER: Thank you.

11 SENATOR MAY: Thank you.

12 I don't believe we got your written
13 testimony, so if you can submit --

14 SENATOR METZGER: We do.

15 SENATOR MAY: -- oh, do we have it?

16 Oh, okay.

17 I beg your pardon.

18 LON STEPHENS: Do you have mine?

19 SENATOR MAY: Yeah, I guess we do.

20 (Mr. Clark and Mr. Stephens leave the
21 witness table.)

22 SENATOR MAY: Are you Judi Whittaker?

23 JUDI WHITTAKER: Yes, uh-huh.

24 SENATOR MAY: So Karin Reeves is next, if you
25 could come up, and Alfredo Mejia.

1 I guess I need to be louder here.

2 You can go ahead.

3 JUDI WHITTAKER: Good day, Senator May,
4 Senator Metzger, and Senator Montgomery.

5 Thank you all for the time. We appreciate
6 you listening to our concerns.

7 My name is Judi Whittaker.

8 Along with my husband, I, and my son, we have
9 a dairy farm in Broome County. Our farm has been in
10 business for 104 years.

11 My husband and myself were hoping to pass
12 this farm on to our grandsons.

13 I'm not so certain now.

14 We milk cows three times a day, every day,
15 365 days a year.

16 We have employees we value very much.
17 They're just like family to us. We include them in
18 on picnics, special occasions, and celebrations.

19 If enacted, this Farmworker (sic) Fair Labor
20 Practices Act would have dire consequences on our
21 farms, and I really worry that those employees we
22 value so much would not stay and we would not have
23 them any longer.

24 We pay our workers well.

25 We provide housing for our employees. This

1 includes a house, electric, cable TV, Internet
2 service, heat, air conditioning, a day off. We pay
3 workers' compensation on them. We pay disability on
4 them.

5 It's a lot of expense for us.

6 Looking at the expense that that would cost
7 us, and what our potential of what we could do to
8 change anything, would be to start charging our
9 employees for the housing costs; for the electric,
10 for the cable TV, for the Internet services.

11 We haven't -- if we have to pay additional
12 overtime pay on our farm, would take our payroll,
13 which is a little bit more than \$500,000 now, to
14 closer to \$700,000.

15 When all the taxes and all of the fees are
16 included, it's more of a losing proposition for us.

17 We're a dairy farm, we are price-takers, not
18 price-setters.

19 We send our milk to DFA, it's processed and
20 bottled. 30 days later, we get paid for that milk,
21 not knowing at the time we sent it what we're going
22 to get paid.

23 We have no idea, we have no control over
24 that.

25 We can't pass it on to anyone, the costs of

1 those.

2 With dairying being in a downturn five years
3 now, we're losing money every day.

4 This additional burden would possibly put us
5 out of business.

6 We can't pay for more from a losing business.

7 How sad is it that the people that are
8 providing food for you are now qualifying for food
9 stamps.

10 We have bills to pay, and our employees are
11 one of our biggest and our most important. We pay
12 them before we pay ourselves.

13 We haven't paid ourselves in over a year.

14 Our employees want as many hours as they can
15 get. They have families to take care of.

16 I fear, if we can't give them the hours that
17 they're looking for, they will leave and we will
18 have no employees.

19 Instead of living free, we would need to have
20 them pay for those expenses.

21 It would end up, in the end, not a winning
22 situation for them.

23 Thank you for taking time to listen to my
24 concerns.

25 Our future in the dairy industry is at stake

1 right now.

2 And I'll just say a little quote from one of
3 my good friends.

4 Assemblywoman Donna Lupardo said, "Any plan
5 put forward needs to be balanced."

6 And we just ask for someone to listen.

7 Thank you.

8 SENATOR METZGER: Thank you so much.
9 Appreciate your testimony.

10 SENATOR MAY: And, Karin, ready?

11 KARIN REEVES: Good morning.

12 SENATOR MAY: Hi.

13 KARIN REEVES: Thank you, Senators, for
14 holding these hearings.

15 My name is Karin Reeves, and I'm one of the
16 owners of Reeves Farms in Baldwinsville.

17 We grow around 350 acres of vegetables and
18 berries, and we hire about 70 seasonal workers each
19 year, with the majority of them coming through the
20 H2A program.

21 And, my primary concerns with the farm labor
22 bill are related to overtime and potential for work
23 stoppages, as you've heard from other farmers today.

24 Many other pieces of the bill, we're already
25 doing today, so we don't really have concerns about

1 those pieces.

2 But we simply can't afford to pay overtime
3 when we have our workers working anywhere from 50 to
4 70 hours per week.

5 As you've heard, you know, we don't set our
6 prices. We have to compete in a global marketplace.

7 And even today I'm constantly having
8 conversations about why we can't meet the prices
9 from other states and countries.

10 So forcing farms in New York to pay overtime
11 puts us on an uneven playing field.

12 And the bill also has a provision, where
13 farms would have to pay a daily overtime, and that
14 piece of the bill really puts an unfair burden on
15 agriculture since, virtually, no other industry in
16 New York has that requirement.

17 Overtime pay was originally introduced to
18 encourage businesses to hire more people rather than
19 give the same workers more hours.

20 But, simply hiring more people in agriculture
21 comes with a lot of additional requirements, since
22 we have to provide housing and pay for travel costs.

23 But, while these costs are significant,
24 they're not even our biggest concern.

25 Our biggest concern, really, is our employees

1 will not be satisfied with 40 hours per week.

2 And, you know, they're leaving their family
3 behind and their life behind. They come here,
4 really, to do one thing, and -- which is make as
5 much money as possible.

6 And, if we have to limit them to 40 hours a
7 week, they're -- they've told us that they're going
8 to look for work outside our state.

9 So this bill really puts us in a catch-22.

10 If we continue to let our employees work that
11 50 to 70 hours a week, we won't be able to operate a
12 competitive business. But, if we limit them to
13 40 hours, we risk that they may not return to our
14 farm.

15 Just a brief word about work stoppages.

16 A strike during our growing season would,
17 essentially, hold us hostage, and would really be
18 devastating for our farm.

19 So, for that reason, we believe that there
20 needs to be some no-strike clause, or something
21 addressing that, in the legislation.

22 And we have several of our employees here
23 today, and I would like to let Sam speak on behalf
24 of our workers.

25 (Samuel Montelongo speaking in Spanish, and

1 Ari Mir-Pontier translating to English.)

2 SAMUEL MONTELONGO: Good day.

3 Our boss has told us that they want to pass a
4 new law that will only allow us to work 40 hours a
5 week.

6 That will prejudice us because we are working
7 now 70 hours a week.

8 That would only give us about 10 hours in
9 overtime, not the other additional 20.

10 The boss has told them, that if they pass
11 this law, that they will bring in 30 more job --
12 workers.

13 That will affect us because that's too many
14 people in the camp, or they'll have to add to the
15 camp.

16 Because we've been working 60 to 70 hours,
17 that money helps us maintain our families in Mexico.

18 We only come here six to seven months, and
19 the rest of the time we work over there.

20 Our boss also told us that we could have a
21 day off without any fear of anything happening to
22 us.

23 We feel that if you do not pass this law, it
24 would be beneficial to us.

25 But this will be the Senators' decision.

1 I only come here to request that.

2 SENATOR METZGER: Muchos gracias.

3 SAMUEL MONTELONGO: De nada. You're welcome.

4 SENATOR MAY: I have a couple questions.

5 If you have a complaint about the conditions,
6 is there a system for bringing that complaint to
7 your employers?

8 SAMUEL MONTELONGO: There are no complaints.

9 [Laughter.]

10 KARIN REEVES: We have one manager on the
11 farm that's responsible for overseeing all the
12 housing, and also making sure, you know, everyone
13 knows where they need to be that day.

14 So any complaints, you tell Andres. Right?

15 SAMUEL MONTELONGO: (Nods head.)

16 If he did have one, he would speak with the
17 boss.

18 SENATOR MAY: And the workers understand that
19 this bill doesn't require that you work only
20 40 hours a week; it requires that the employer pay
21 additional overtime pay for more than 40 hours a
22 week?

23 SAMUEL MONTELONGO: He understands this, but
24 they will still bring in 30 more people to divide up
25 the jobs, and that will limit their hours to 40.

1 KARIN REEVES: I mean, you see that in a lot
2 of other industries.

3 You know, I mean, the majority of businesses
4 don't allow their employees to work significant
5 overtime. They hire more people.

6 And that's the approach we're going to have
7 to take in order to try keep our costs down so we
8 can be competitive.

9 SENATOR METZGER: How many years have you
10 been working on this farm?

11 SAMUEL MONTELONGO: (Speaking in English.)

12 13 or 14. I can't remember.

13 SENATOR MAY: And I just have one question
14 for you, Karin.

15 The -- you said that most of your employees
16 were here on H2A visas.

17 Are there -- are there different categories
18 of workers, and do they earn different amounts, and
19 how does that work?

20 KARIN REEVES: That's a good question.

21 The -- our -- like I said, the majority of
22 the workers come through the H2A visa program.

23 We also have delivery trucks that go out
24 every day, and so we hire about 10 to 12 seasonal
25 delivery drivers, and they're mostly people, like,

1 bus drivers and, you know, people that are off for
2 the summers.

3 And then we have a small fruit stand, so we
4 hire some other seasonal high school students to
5 work that.

6 So there's different job classifications.

7 But all the -- all the field work and all the
8 packing is done by the H2A workers.

9 SENATOR MAY: Thank you.

10 KARIN REEVES: Thank you.

11 (Ms. Reeves and Mr. Montelongo leave the
12 witness table.)

13 ALFREDO MEJIA: My name is Alfredo Mejia.

14 I have been working on a farm for 22 years in
15 Batavia, New York. This a vegetable farm.

16 We planting potatoes, beets, peas, carrots,
17 and sweet corn, and cabbage, snap bean, and field
18 corn.

19 We have a very short season to plant and our
20 harvest on the crop.

21 We cannot control the weather. On a good
22 weather day we have to do as much as possible.

23 Regarding the harvesting as not the same
24 because, if you will harvest on at the same time,
25 our crop will be spoiled, and we are risking a lost

1 crop in yields and dollars for all of the hard work.

2 I am a single father of the two boys.

3 One after graduation from St. John Fisher
4 College last year, and I was able to pay his tuition
5 for four years.

6 And now I have a son who is about to
7 graduation from high school, and he's will be
8 intending to college as well.

9 My first work was in a factory in Wilmington,
10 Delaware. They pay overtime; however, we never
11 allowed to work more than 40 hours to receive this
12 benefit.

13 In that time I was single, and I paid my rent
14 and my transportation, and I have very little left
15 to make my (indiscernible).

16 I was told by a friend, I was -- if I was to
17 work more hours, I can get farmer job.

18 I chose this because I want to work, and here
19 my -- and work as much as possible to meet my needs,
20 and as well to be able to help my parents.

21 My message is, if this bill gets signed,
22 I will have to find a second job on the night, on
23 the weekends, because the farmers-owners cannot
24 afford to pay for 20 or 30 extra hours per week in
25 time-and-a-half pay, and I cannot meet my needs

1 working only 40 hours.

2 Unless a farmer can raise his prices for
3 their crop, and (indiscernible) allowed to force the
4 farmers to pay overtime for more than 8 hours of
5 work in the day, or 40 hours in the week, we hear of
6 many farms and many more peoples because they want
7 to be able to get the work done on time and pay the
8 bills.

9 Thank you for listening to me, and I pray
10 that you guys make the right decision.

11 SENATOR METZGER: Thank you very much.

12 SENATOR MAY: Thank you.

13 SENATOR METZGER: Do you work -- are you full
14 year? Or --

15 ALFREDO MEJIA: Yes. Full year.

16 SENATOR MAY: I hope your son gets to go to
17 the college of his choice.

18 ALFREDO MEJIA: Thank you.

19 SENATOR MAY: Thank you.

20 SENATOR METZGER: Thank you very much.

21 SENATOR MAY: We have Stuart Mitchell.

22 STUART MITCHELL: I'm Stuart Mitchell, the
23 president and CEO at Pathstone Corporation.

24 You've been greeted well, I won't go through
25 that again.

1 I do believe, and I think it's been proven
2 time and again today, that everyone who is
3 testifying today is absolutely committed to
4 protecting and advancing our New York State
5 critically-important agriculture industry.

6 I think farmworkers and employers certainly
7 embrace that.

8 I grew up on a small dairy farm in Middlesex,
9 New York. Went to Cornell. And got involved in
10 farmworkers -- working with farmworkers, on behalf
11 of farmworkers, in 1967.

12 In late 1968 I became a part of an
13 organization, or a group of people, that formed what
14 is now known as Pathstone Corporation.

15 I've been working with farmworkers and
16 employers for almost 50 years.

17 Since 1969 we have assisted thousands of
18 farmworkers develop the skills and resources
19 required to obtain year-round, full-time,
20 unsubsidized employment with benefits and with labor
21 protections.

22 In addition, we have assisted hundreds of
23 farmworkers obtain year-round full-time employment
24 within the industry -- within the agricultural
25 industry.

1 Progressive agricultural employers recognize
2 that and value the importance of their workforce.

3 The Fair Labor Standards Practices Act will
4 create a level and equitable labor practices
5 foundation for the industry and promote employee
6 satisfaction and retention.

7 In the '70s and '80s I participated as a
8 member of the New York State Department of Labor
9 Minimum Wage Advisory Committee.

10 The committee was established by the
11 Legislature to make recommendations to the
12 commissioner and the governor regarding labor
13 standards for farmworkers.

14 It took decades for this group to negotiate
15 and achieve legislation that required farmworkers
16 receive the same basic minimum wage paid other
17 workers.

18 During that long and arduous public and
19 private debate, the other labor protections being
20 proposed by the Farmworker (sic) Fair Labor
21 Practices Act were never seriously considered by the
22 New York State Department of Labor, the governor, or
23 the state Legislature.

24 Now is the time to finally eliminate, once
25 and for all, second-class, sharecropper-inspired

1 worker -- workplace conditions for farmworkers.

2 The advisory-council model for reaching
3 agreement in fairness for farmworkers simply did not
4 work.

5 I've had countless conversations with
6 employers who express the same fears that many
7 employers are expressing today.

8 My 50 years of experience advocating for the
9 rights of workers has convinced me that the
10 industry's extremely and extraordinarily resilient.

11 The incremental increases in workplace
12 protections for farmworkers over the last several
13 decades have in no way damaged the vitality of the
14 industry.

15 In fact, if anything the industry is stronger
16 than ever.

17 The industry has always been able to manage
18 increased operating costs in energy, taxes,
19 equipment, and technology, and as earlier noted, the
20 New York State Legislature and governor has
21 regularly provided economic incentives and subsidies
22 to the industry.

23 With a level playing field for the
24 agricultural workforce, the industry will
25 demonstrate, once again, its resilience and ability

1 to adapt to new economic realities.

2 I guess, for example, that increasing
3 overtime will be less expensive than creating
4 housing for new workers coming into the farm.

5 Working together, we can ensure that every
6 hungry person living and eating in New York will
7 have equal access to high-quality, affordable,
8 health-giving -- healthy life-giving food.

9 Each of us passionately believes that we must
10 all have an inalienable right to enough food every
11 day to enjoy and appreciate a productive and full --
12 fulfilling life.

13 Enacting this legislation will create an
14 incredible marketing opportunity to convince
15 consumers that they should demonstrate their
16 appreciation for the workers and owners who make it
17 possible for us to eat healthy food every day.

18 I urge you to support this legislation.

19 Remembering the words of
20 Dr. Martin Luther King, "How long?"

21 Not long, because the arc of the moral
22 universe is long, but it bends toward justice.

23 Thank you.

24 [Applause.]

25

1 SENATOR MAY: Thank you.

2 Let me just ask one question that came up
3 from the previous testimony, about the overtime
4 having been put in place to encourage employers to
5 hire more workers rather than to have workers
6 working long hours.

7 Do you believe that this -- what do you think
8 would be the outcome -- you said it would be cheaper
9 to just increase the overtime pay.

10 But, if the purpose of that is to actually
11 decrease the number of hours people are working, is
12 that a reasonable goal in agriculture in New York?

13 STUART MITCHELL: Yeah, I think the concept
14 that crosses my mind all the time, is that we built
15 an agricultural labor structure around the idea that
16 we have to work 70 hours a week.

17 That is, in this day and age, not a life-work
18 balance idea of what work should be.

19 So that the idea that the families who are at
20 home without their mother or father, because they're
21 working 70 hours a week in agriculture, could be
22 dramatically changed if they were working 40 hours a
23 week, or 45 hours a week.

24 I'm only pointing out that it's going take
25 some adjustment for the system to break away from

1 that idea that people have to work 70 hours a week
2 in order for the industry to survive.

3 That concept will change when these
4 regulations come in place, just like the minimum
5 wage created a change, but the industry adjusted to
6 it.

7 And they will adjust to this.

8 They want -- you can hear this, we've got an
9 incredibly powerful group of entrepreneurs driving
10 this agricultural industry.

11 They will make this work.

12 We will get food, we will eat.

13 SENATOR METZGER: So you don't recognize
14 differences between farming, in terms of the climate
15 and the dependence on natural forces and other
16 industries?

17 You don't see any difference?

18 STUART MITCHELL: There absolutely is a
19 difference, there's no question about it.

20 All those factors create -- make it difficult
21 for this industry to get their work done.

22 My point is, that it shouldn't be done on the
23 backs of workers.

24 They've got ways that they can adjust for
25 those issues, just like they would if a tractor

1 broke down, or any other number of issues that
2 impact their business.

3 Somehow, this idea that agricultural workers
4 have to be the scapegoat for the weaknesses in the
5 industry is -- is -- it's just not fair.

6 It's just simply not fair.

7 SENATOR MAY: So let me welcome
8 Senator Jessica Ramos to Morrisville.

9 Thank you so much. I'm glad you made it.

10 SENATOR RAMOS: Me too. I am very glad
11 I made it too.

12 SENATOR MAY: Do you want to make a few
13 comments of any kind?

14 SENATOR RAMOS: Uhm, well, no.

15 I mean, I just got out of a car where I was
16 for several hours, but, nevertheless, yes, my
17 apologies for being late.

18 We got stuck behind -- we got stuck in
19 Skoufis country, actually, where a tractor-trailer
20 flipped, and we were stuck there for a good time.

21 But, nevertheless, I'm glad to be here, and
22 to hear everybody's views and voices on this issue.

23 It's one that we're hoping to remedy soon.

24 So I am glad to hear everybody's testimony
25 from every stakeholder that there is.

1 So thank you for having me.

2 OFF-CAMERA AUDIENCE MEMBER: "Thank you,
3 Mr. Mitchell."

4 SENATOR MAY: Jesse Mulbury.

5 JESSE MULBURY: So I'd like to start by
6 thanking Senators May and Metzger and Montgomery and
7 Ramos for taking the time to hear what we had to say
8 today.

9 And there have been plenty of speakers who
10 are more eloquent than I am, who have spoken
11 already.

12 So I think that one of the most valuable
13 things that I can do here today is talk to you guys
14 a little bit about my background.

15 I'm coming from a company called
16 Northern Orchard up in Clinton County, New York, in
17 the Champlain Valley, and we are apple-growers, and
18 we farm about 475 acres of apples, varieties like
19 Macintosh and Honeycrisp, Fuji, Gala. We're into
20 the new Cornell varieties, SnapDragon and RubyFrost.

21 I hope you get a chance to try them.

22 I'm entering into my eighth harvest at the
23 farm. I'm working alongside my sister who is
24 entering her fourth harvest. We're the third
25 generation of farmers making a go at it at

1 Northern Orchard within our family.

2 My dad, Albert, has been farming since 1972
3 at the farm, and our family's involvement in
4 Northern Orchard started in 1945 with my grandfather
5 Marcel.

6 The orchard has been planted since 1906.

7 So we have a history of over 100 years of
8 apple growing.

9 Maybe something a little unique about apple
10 orchards, and I think I can speak for the way that a
11 lot of other orchards in our situation operate, is
12 our heavy, heavy reliance on the H2 program.

13 We've been participating in the H2A labor
14 program since the 1970s.

15 I'm currently 27 years old, and we have
16 employees who have been coming back, year to year,
17 in the H2A program for over 30 years; so, literally,
18 longer than I've been alive.

19 It's a relationship where I look to these
20 guys, like Jasper and Lester and David, and I could
21 go on and on, but, I look to these guys for advice
22 and guidance in life and in farming. And I rely on
23 our relationship to show me the correct way in going
24 forward as a new farmer, and in addition to what
25 I've learned growing up on the farm.

1 We're very concerned about some of the
2 provisions that are being recommended in the
3 Farmworker (sic) Fair Labor Practices Act.

4 And I think maybe I can talk a little bit
5 about some numbers that we're currently facing.

6 In 2018 we grossed about \$4.7 million on our
7 farm, and labor accounted for 2.3 million. So well
8 over 40 percent of our entire expense was labor.

9 Every farmworker who comes onto our farm, due
10 to our heavy reliance on and our relationship with
11 H2, starts at \$13.25 an hour.

12 As an owner of the farm, I'm currently making
13 around \$17 an hour.

14 I highlight that point to say, that I think
15 there are a lot of industries out there in today,
16 Walmarts and the Amazons and the McDonald's of the
17 world, where there are some big discrepancies
18 between what the job owners are doing and what their
19 workers are doing.

20 And I want to implore you to consider the
21 fact that that's not the case on these farms.

22 I work alongside our employees every day.

23 I was taught by my father and my grandfather
24 that you cannot be a boss on a farm. If you're not
25 capable of doing that work yourself, how can you

1 possibly teach somebody else how to do this hands-on
2 work?

3 Our calculations show that the time and a
4 half, 8-a-day, 40-hour-a-week provision would crease
5 our labor -- per year, our labor costs, by
6 16 percent. And during our harvest it would
7 increase the labor expense by over a third.

8 In the course of one season that would put us
9 out of business.

10 We have a very limited window in the apple
11 industry, 6 to 8 weeks to pick our entire apple crop
12 on 475 acres.

13 That's several hundred thousand trees. It's
14 about 21 million apples picked by hand.

15 I'll go ahead and yield the rest of my time
16 to any questions, but, I just hope I've given a
17 little bit of a sense of some of the climate that
18 are around the farms, and I'd like to stress the
19 importance of our relationship with our workers.

20 Thanks.

21 SENATOR MAY: So what I'm hearing is the
22 overtime is the big problem for you in this bill.

23 Would other aspects of the bill be some --
24 all right with you, are you okay with that?

25 JESSE MULBURY: Sure.

1 I mean, some things, such as like -- that
2 have been touched on, like workers' compensation and
3 unemployment insurance, we already participate in
4 fully.

5 I think that the Senators need to consider
6 the implications on the smallest and the newest
7 starting farms with regards to some of that
8 legislation.

9 The other one in our case that really has me
10 nervous and is scary to me, is the idea of
11 collective bargaining.

12 I think that, on our farm, we're already
13 dictated by the state and federal department of
14 labor, wage-and-hour division; department of health;
15 the EPA; the USDA.

16 All of these organizations are auditing us
17 year to year, inspecting us year to year, and all of
18 them have a say, in one or another, to make sure
19 that we're being fair and that we are protecting our
20 workers.

21 The threat of a strike I think is the
22 scariest thing to me as a farmer.

23 If there was like a misguided effort to
24 strike on the farm during our harvest, that's it for
25 us. That's it for us.

1 We -- my father's been farming his entire
2 life. He's brought in 48 crops.

3 There's not a lot of industries out there
4 where you have 48 opportunities in a whole lifetime
5 of working to get it right.

6 And the mistake made one year, or a crop loss
7 one year, the effects of that are massive.

8 It's not -- we grow a crop for a whole year.
9 It's a slow payoff, you know.

10 From this time right now, actually, up in our
11 region, we're just getting into what we call "green
12 tip." The trees are breaking their dormancy, and
13 it's time for us to go, it's time to start
14 protecting the trees. We have to finish up our
15 pruning and make sure everything is good to go for
16 the fruit to grow.

17 And we have a very limited time to do that.

18 And so I just say that to highlight the fact
19 there are very critical times of year where the
20 threat of a strike, or whatever term you would want
21 to use for it, would just have devastating
22 implications on our farm.

23 I also would just like to say that we
24 wouldn't be around if it wasn't for our H2 guys and
25 the relationship that we have.

1 We wouldn't have made it all this time
2 because, we have 35 full-time employees. For our
3 harvest we go to 180, if that gives a sense of the
4 labor input that's required to bring in an apple
5 crop.

6 It's simply massive.

7 And if we don't have a good working
8 relationship with our guys, if we weren't fair and
9 transparent, and we didn't have that relationship of
10 respect, we would be out of the industry very
11 quickly.

12 SENATOR MAY: Thank you.

13 SENATOR MONTGOMERY: Thank you for your
14 testimony.

15 Obviously, apples are very important to
16 everybody in our state.

17 I just wanted -- you may have mentioned it,
18 and I missed it.

19 What's the length of your season, and how
20 many employees does it -- do you require in order to
21 get through a season?

22 JESSE MULBURY: Yes, ma'am.

23 So our season -- basically, our growing
24 season goes from, about, sometime here in April, it
25 kind of varies year to year, depending on how the

1 winter finishes it up, but let's call it, April to
2 about mid-November. That's our opportunity to grow
3 a crop.

4 But that being said, as soon as that crop is
5 finished and the trees go dormant, those trees were
6 growing branches all year long. All kinds of --
7 they're in the business of growing bigger, as trees
8 do. And so all winterlong we prune back the trees.

9 That's kind of our winter job.

10 So there's always times in every season of
11 the year when there are some major labor
12 requirements.

13 Due to the nature of the H2A program, our --
14 you know, it's for a seasonal need for labor. So we
15 begin participating in that program around
16 April 1st, and we finish up around December 1st.

17 We rely a local crew to get as much of the
18 pruning done as we can throughout the winter.

19 We -- so our crew at its smallest is about
20 35 people, local full-time employees.

21 In April we bring on our first 25 H2A
22 employees, so that brings our crew up to about 65.

23 In July that number jumps to about 80.

24 And in September we bring in an additional
25 100, to bring the total to 180, to bring in the

1 crop.

2 And then that tapers off in November and
3 December, back down to the 35 for the winter months.

4 SENATOR MONTGOMERY: Thank you.

5 SENATOR MAY: Thank you.

6 JESSE MULBURY: Thank you, guys.

7 SENATOR METZGER: Thanks very much for your
8 testimony.

9 HERBERT ENGMAN: Good afternoon.

10 My name is Herb Engman, and I had a 35-year
11 career at Cornell University.

12 SENATOR MAY: Let me interrupt just for one
13 second.

14 Yusuf Abdul-Qadir, who was on the program
15 earlier, I gather that he's here. So I'm going to
16 ask him to go after you.

17 So, if you'd come up, please. Thank you.

18 Go ahead.

19 HERBERT ENGMAN: During that 35-year career,
20 I was, for 30 years, the director of the Cornell
21 Migrant Program, which is a migrant farmworker
22 program.

23 And after I retired, I became the elected
24 town supervisor of the Town of Ithaca, which is
25 full-time.

1 So during those years I learned something
2 about farmers, something about farmworkers, and
3 something about public policy.

4 And what one of the main things I learned,
5 was that the public policy of the United States and
6 New York State is, basically, based on racism and
7 discrimination.

8 You've already heard from Brian that the
9 public policy at the national level, how that
10 worked, and a compromise with southern legislators.

11 In New York State, the state constitution
12 says that all workers have the right to bargain
13 collectively.

14 Farmworkers are excluded because they're not
15 defined as "employees."

16 From everything I've heard today, from
17 farmers, from workers, they certainly sound like
18 employees to me.

19 Calls for changes in New York State are not
20 new, as Brian mentioned earlier.

21 In 1989 there was a major attempt.

22 There was a publication called "Agricultural
23 Labor Markets in New York State, and Implications
24 for Labor Policy."

25 It concluded that, quote: Farmworkers in

1 New York State should be granted the right to
2 organize unions and bargain collectively, and, other
3 statutes that set apart farmworkers and farm
4 employees from their agricultural peers should also
5 be reconsidered.

6 The point, is to eliminate agriculture's
7 special treatment, and to ensure that equal rights
8 protection and obligations prevail for employees and
9 employers across all sectors of the state's economy.

10 Continued public-policy discrimination is a
11 major reason why there's been so little progress for
12 farmworkers in New York State.

13 Another reason has been, that farmers have
14 argued that improvements will put them out of
15 business.

16 When drinking water in the fields was
17 required in 1996, they said it would put them out of
18 business.

19 It didn't.

20 When access to toilets was required in 1998,
21 they said it would put them out of business.

22 It didn't.

23 When equal minimum wage was passed in 2000,
24 they said would it put them out of business.

25 It did not.

1 The agricultural industry will argue that the
2 Fair Labor Practices Act will put farmers out of
3 businesses.

4 It will not.

5 California has protected farmworkers much
6 better than New York State, and they have a rather
7 robust agricultural industry.

8 If lawmakers wish to help small farmers, they
9 could redirect some of the 300 million-plus dollars
10 per year in subsidies, agricultural programs, and
11 tax breaks that the taxpayers already contribute to
12 New York agriculture.

13 It is absurd and unfair that large farmers
14 get the lion's share of taxpayer money, not small
15 farmers, and certainly not farmworkers.

16 Farmworkers should not bear the burden of bad
17 public policy.

18 Equality for farmworkers will be good for
19 farmers.

20 It will remove the stigma of taking advantage
21 of farmworkers.

22 It will improve the likelihood of recruiting
23 local workers and retaining well-trained employees.

24 Above all, it will be the fair thing to do.

25 After all, when does the economic prosperity

1 of one person justify the exploitation of another?

2 For the benefit of farmworkers, farmers, and
3 taxpayers, it is time to pass the Farmworkers Fair
4 Labor Practices Act.

5 Thank you.

6 [Applause.]

7 SENATOR MAY: That was exactly four minutes,
8 I'm very impressed.

9 SENATOR METZGER: I have a question.

10 The \$300 million, where are you getting that
11 figure?

12 We just did the budget, so I didn't notice
13 nowhere close to that.

14 HERBERT ENGMAN: The Environmental Working
15 Group, the -- called "EWG," lists the federal
16 subsidies on their website.

17 This was, 1917 was the latest.

18 And New York farmers get \$92.9 million in
19 federal monies, which, of course, is partially paid
20 by New York State taxpayers.

21 Now, New York State subsidies are more
22 elusive. I don't know that there's any one place
23 you can find them.

24 But ag and markets, which is dedicated
25 totally to agriculture, gets about \$200 million a

1 year.

2 And there's something called the "Governor's
3 Report on Tax Expenditures." These are tax breaks.

4 Farmer get \$68.64 million a year from that
5 source.

6 So I couldn't find any commodity payments,
7 like for apples and onions. But every once in a
8 while there are some chunks of money that come from
9 the State, but I don't know if there's been any in
10 recent years.

11 But that gets to well over \$300 million a
12 year, close to \$400 million. The taxpayers are
13 providing for the support of agriculture in
14 New York.

15 SENATOR MAY: And the breakdown you said was
16 mostly to larger farms?

17 HERBERT ENGMAN: The federal subsidies
18 particularly, yes, go directly to the large farmers.

19 It's based on milk volume, and that sort of
20 thing, which is absurd.

21 It's the small farmers that need support; not
22 the large ones, they're doing very well.

23 SENATOR METZGER: All right, just to clarify,
24 most of New York's farms are small and midsize
25 farms.

1 SENATOR MAY: Any other questions?

2 SENATOR RAMOS: I'm good.

3 SENATOR MAY: Thank you.

4 So for anyone who's keeping score here, we're
5 back to Witness Number 10, Yusuf Abdul-Qadir.

6 Thank you for being here.

7 YUSUF ABDUL-QADIR: Thank you, Senator.

8 And, I mean, I just want to acknowledge the
9 predecessor -- my predecessor, because I think he
10 has really articulated some issues that need to be
11 really thought through, and I definitely appreciate
12 his testimony.

13 Good afternoon.

14 As Senator May said, and good afternoon,
15 Senators, my name is Yusuf Abdul-Qadir, and I'm the
16 Central New York chapter director for the New York
17 Civil Liberties Union.

18 The NYCLU, or, the ACLU of New York, is a
19 not-for-profit, non-partisan organization, with
20 eight offices throughout New York State, and more
21 than 120,000 members and supporters.

22 Our mission is to promote and protect the
23 fundamental rights, principles, and values embodied
24 in the Bill of Rights of the U.S. Constitution and
25 the New York State Constitution.

1 I am here today to speak in support of the
2 Farmworkers Fair Labor Practices Act, which would
3 have remove the exclusion of farmworkers from
4 New York labor law protections, and thereby provide
5 farmworkers with the basic labor rights that almost
6 all other hourly workers in our state receive.

7 Agriculture is a multi-billion-dollar
8 industry in New York.

9 New York ranks among the top agricultural
10 states in the country. It is the second-largest
11 producer of apples, snap beans, maple syrup, and is
12 the third-largest dairy producer in the nation.

13 We've heard from some of those folks here
14 today.

15 None of this production would be possible
16 without the workers who harvest the crops and
17 operate the dairies in our state.

18 Farmwork is grueling, it is dangerous, and
19 can even be life-threatening.

20 Workers are exposed to pesticides and other
21 chemicals, intense physical strain, extreme heat and
22 cold, and dangerous animals and machinery.

23 Between 2006 and 2016, 69 farm fatalities
24 were reported to the New York State Department of
25 Health.

1 Farmworkers work long hours with no overtime
2 pay.

3 A recent survey of Hispanic dairy workers in
4 New York reveals that the average daily work shift
5 is 11.3 hours, and the most workers, 89 percent,
6 work six days a week.

7 And for female workers, work conditions often
8 included the added harm of sexual harassment or
9 assault.

10 The exclusion of farmworkers from fundamental
11 labor protections dates back to a racist compromise
12 made between President Roosevelt and southern
13 segregationist legislators over FDR's "New Deal."

14 To win support for the newly-created federal
15 labor law, agriculture and domestic workers,
16 primarily Black workers at the time, were explicitly
17 excluded from coverage.

18 Subsequent state labor laws, including
19 New York's, retained this racist exclusion.

20 Although 13 states have enacted substantial
21 labor protections for farmworkers, New York has
22 remained shamefully silent for over 80 years.

23 Enacting the Farmworker (sic) Fair Labor
24 Practices Act will finally provide farmworkers with
25 the equal rights that they deserve; namely, the

1 right to a weekly day of rest, overtime pay,
2 workers' compensation regardless of farm size,
3 regular health and safety inspections for all
4 farmworker housing, and collective bargaining rights
5 so workers can advocate for better work conditions
6 without fear of being fired.

7 We, the NYCLU, have been active on this
8 issue, bringing it to the highest court in the
9 state.

10 As you heard from others, and some of our
11 colleagues like Crispin Hernandez, this issue is one
12 that requires the better angels of ourselves to
13 emerge and for our serious attention to be given to
14 it.

15 We rarely ask where the food we eat comes
16 from or whose hands have toiled.

17 In order to ensure we have access to it, our
18 litigation is one of the ways we're involved in this
19 work, but we are deploying our statewide
20 infrastructure to raising awareness of this issue
21 alongside allies and directly-impacted individuals,
22 like Crispin.

23 In 2019, our most valuable work -- vulnerable
24 workers should not be denied basic labor
25 protections.

1 Passage of the Farmworker (sic) Fair Labor
2 Practices Act will not only fix this historic error,
3 but it will send a strong signal that New York
4 stands firm with all workers.

5 The time has come to eliminate one of the
6 last vestiges of Jim Crowe, and for New York to make
7 good on its promise to be one of the most
8 progressive and pro-labor states in the nation.

9 This is why I strongly urge you to pass the
10 Farmworker (sic) Fair Labor Practices Act this
11 session.

12 Thank you.

13 SENATOR MAY: Thank you.

14 Let me ask you a question, something that
15 came up I think before you got here.

16 But one thing that we heard was that, the
17 overtime-pay provision was put in place to encourage
18 employers to employ more workers, not to pay workers
19 more.

20 Is that your understanding?

21 Because that is probably the most contentious
22 aspect of this bill from the viewpoint of farmers.

23 And, one of the arguments is, that they will
24 need to cut back the hours of their employees, and
25 employ more laborers, instead of paying their

1 current laborers more because they just can't afford
2 to do that.

3 So, I'm just wondering, is that your
4 understanding of the history of that --

5 YUSUF ABDUL-QADIR: Uhm --

6 SENATOR MAY: -- protection?

7 YUSUF ABDUL-QADIR: -- I think -- I've heard
8 a number of people say this today.

9 And throughout, you know, my work on this
10 issue across Central New York and the state, it's
11 something that's been brought up many times.

12 I think it's important to recognize that this
13 is, in some respects, a false-positive, and by that
14 I mean, we're not asking the fundamental question,
15 as to whether or not farmworkers should be excluded
16 like every other worker, which is really the
17 question at hand.

18 The question at hand is: Should farmworkers
19 be excluded particularly because of a racist policy?

20 And it's important, and I think we appreciate
21 the challenges, where some small farms in particular
22 could find this to be challenging for them.

23 And I think there are ways for the
24 legislative process to identify, investigate, and
25 address those issues, to the extent that those are

1 the more egregious ones that are brought about in
2 this particular piece of legislation.

3 Unfortunately, though, what we really should
4 be asking, is whether or not we should exclude this
5 class of workers from any other workers?

6 And, should we, as a state, in 2019, continue
7 to allow, really, a racist policy to exist
8 irrespective of what folks would argue is a
9 challenge for them?

10 And I think, you know, there was a gentleman
11 who was here prior to me, who said that, you know,
12 "entrepreneurs will figure it out."

13 We're able to identify these challenges and
14 create solutions accordingly, and I think that's
15 going to be an important avenue to approach.

16 SENATOR MAY: Do you have suggestions of what
17 some of the fixes could be for the small farmers?

18 YUSUF ABDUL-QADIR: I think we can -- I'll
19 make a note to make sure to provide that to your
20 office, and as well, the rest of the Senators, if
21 that's something that is requested of us.

22 SENATOR MAY: Thank you.

23 TRAVIS TORREY: Thank you, Senators, for
24 taking time here today.

25 I really appreciate the chance to comment on

1 the Farmworker (sic) Fair Labor Practices Act.

2 My name is Travis Torrey. I'm a
3 twelfth-generation family farmer at Torrey Farms
4 based in Genesee County.

5 Our farm encompasses nine family members of
6 the eleventh and twelfth generation, alongside
7 180 year-round employees, and an additional
8 250 seasonal employees during the peak season on the
9 farm.

10 Farming is a way of life.

11 Mother Nature rules when and how everything
12 happens on our farm.

13 Our seasonal climate limits the times of year
14 during which we can make a crop in New York.

15 Farmers cannot plan and schedule when work
16 can be done.

17 The 8-hour day restriction before overtime
18 kicks in is a tremendous burden.

19 It is not uncommon to work full hours one day
20 due to weather, and twelve the next, depending on
21 the weather, especially the spring that we've been
22 experiencing here in Western New York.

23 The farmworkers on our farm have tremendous
24 pride in the work they do.

25 They are all part of our team, and they

1 understand better than anyone the control that
2 Mother Nature has on our farming operation.

3 I work alongside these farmworkers, like
4 Leandro Mateos right here, day in and day out.

5 They are like family.

6 We often will find work in odd jobs for our
7 farmworkers to do when it is raining or too muddy to
8 get in the fields.

9 This is something that will become of the
10 past with the bill that is being passed.

11 We will have to cut corners any way we can to
12 stay competitive in our industry.

13 Farm jobs have been given -- farm jobs have
14 given many opportunities to farmworkers that may --
15 that may -- they may never have had a chance at.

16 We have employees who have put their children
17 through college, have gone on to purchase their own
18 homes, are building homes for family in Mexico, and
19 have retirement accounts, along with many other
20 benefits.

21 The seasonal workers on our farm who come
22 under the H2A program will seek other work in other
23 states, and will choose not to come to New York,
24 because they want the hours and they want to make as
25 much money as they can for the limited time they are

1 here working in our country.

2 The prices that we receive are determined by
3 many factors out of our control, including supply
4 and demand, and competition coming from our
5 neighbors to the north, Canada, and other growers in
6 neighboring states, both of which who do not have
7 overtime provisions in place.

8 As has been seen in California where overtime
9 positions have been passed, production has been
10 moved to Mexico where farmworkers are making \$15 or
11 less per day picking strawberries, instead of over
12 \$15 an hour they were making in California.

13 Local processors will move operations to
14 other states where products can be grown cheap
15 enough to supply them.

16 The dairy cooperative that we are a member of
17 has invested in and owns the bottling equipment that
18 provides milk to the public schools of
19 New York City.

20 Many of the businesses on the Hunts Point
21 Terminal Market, the largest wholesale market in the
22 world, are huge purchasers of locally-grown produce
23 from New York State.

24 Where will this affordable local produce come
25 from?

1 The margins just are not there on our fresh
2 vegetables and dairy products, and increased costs
3 of production cannot be passed along.

4 We as shippers will simply be passed over for
5 fresh vegetables and dairy products that can be
6 grown less in neighboring states and countries.

7 The farming landscape in New York will change
8 dramatically -- drastically if this bill becomes
9 law.

10 Some farms will close up shop and sell out.

11 Others will grow less labor-intensive crops,
12 eliminating as many farm jobs as possible.

13 Those that have the resource to do so will
14 move their operations to other states, and I know of
15 some that have already started that process.

16 Our vegetables and dairy products can both be
17 produced in other states, and, unfortunately,
18 nothing that we grow here in New York is specific to
19 our region.

20 Our neighboring states and Canada will
21 benefit from our inability to compete.

22 In peak season we have over 400 employees
23 working together, to create a crop.

24 SENATOR MAY: I need to interrupt you, your
25 time is up.

1 TRAVIS TORREY: Oh, sorry.

2 SENATOR MAY: I'm sorry.

3 Did you want to --

4 LEANDRO MATEOS-GAYTAN: Yes.

5 I'm Leandro Mateos, and I'm a representative
6 of my fellow co-workers at Torrey Farms who are
7 working today to get all these year crops planted.

8 I have been working for Torrey Farms for
9 30 years. When I started working with the company,
10 the Torrey family treated me as a family.

11 Every farm, we pack cucumbers, cabbage,
12 pumpkin, green beans, zucchini, potatoes, onions,
13 and we also pack winter squash, such as Butternut,
14 Acorn, and Buttercup, and many pumpkins.

15 The Torrey company is the largest in the
16 state of New York, with more than 15,000 acres, and
17 with two dairies, one located in -- located in
18 Lyndonville, New York, and the other one in Elba,
19 New York.

20 In April we started to plant onions and
21 cabbage. In May, we plant cucumbers and zucchini.

22 Torrey Farms has H2A workers who come with a
23 work visa. Approximately 300 people, work, on
24 average, of 70 to 80 hours a week in the harvesting
25 season.

1 The company, Torrey Farms, helps people in
2 need; for example, the food bank.

3 They make donation to the food bank every
4 year, a total of 6 millions pounds of the products
5 they harvest.

6 We (indiscernible) 125 trailers a year.

7 Donations are taken to different states,
8 mostly to New York City.

9 The company, Torrey Farms, also give us free
10 housing at no cost, and the houses they give us are
11 in very good conditions. And also provide
12 transportation.

13 Personally, I'm very grateful to Torrey Farms
14 because they give me housing for my family, and
15 benefits, such as vacations, personal days, sick
16 days, and holidays, as well a 401(k) plan, medical
17 and dental insurance.

18 Because of all this benefits, my son
19 Leon (ph.) Mateos realized his dream of going to
20 University at Rochester for four years, and then to
21 the SMU (indiscernible), the number-one university,
22 and (indiscernible). My son Leon now works for
23 (indiscernible), and his first game is coming out in
24 September, (indiscernible).

25 All this was possible because Torrey Farms

1 give me the benefits of a free house and many hours
2 of work.

3 The one of the universities was very
4 expensive.

5 After scholarship and school loans, there was
6 a still balance. Thanks to all the hours I worked,
7 I was able to pay.

8 I have a daughter who is in eighth grade and
9 a high honor. She's in a dance competition too, and
10 her dream is also to go to university.

11 Now, with this new law, they want to
12 (indiscernible) -- they -- to reduce the only hours
13 per week is going to hurt the lives of my family,
14 and many others.

15 How can I put my daughter's (indiscernible)
16 tuition, (indiscernible), and the university?

17 The law of reducing 40 hours per week will
18 make (indiscernible) people H2A and migrants to
19 start migrating to other states where they can work
20 more than 40 hours.

21 New York is going to suffer the consequences
22 because the workers of the farms and dairies will
23 leave to look for work to other states.

24 The farmers only have four months to raise
25 the harvest, and that's not counting the rainy days.

1 Sometimes it's two or three days raining, and no one
2 works.

3 And that why -- and that's why, when the
4 weather is good, we take advantage to do what we
5 can.

6 I want to thank you, Senator Jessica Ramos,
7 thank you Jen Metzger, and Rachel May, and the rest
8 of the board.

9 Thank you.

10 SENATOR MAY: Thank you.

11 SENATOR RAMOS: Thank you.

12 SENATOR MAY: Any questions?

13 All right. Thank you very much.

14 SENATOR RAMOS: Thank you very much.

15 (Mr. Torrey and Mr. Mateos-Gaytan leave the
16 witness table.)

17 SENATOR MAY: We have Librada Paz?

18 Okay.

19 LIBRADA PAZ: Every year I talk to a lot of
20 workers, asking about the working conditions. So
21 many of them have their own stories.

22 Workers work 70 to 80 hours per week, even
23 more, depending on the season, just like how they
24 mentioned, from 7 a.m. until dark.

25 So how many hours hand laborer and no

1 overtime?

2 Farmers are actually benefiting for saving
3 almost another shift from those hand laborer.

4 Workers get sick for excessive work because
5 there is no time for them to care for their
6 well-being. There's no disability insurance.
7 There's no time for them go for a doctor for a
8 medical checkup.

9 Many workers die because of malnutrition and
10 because of the excess of work.

11 Some farmers care more about the animals,
12 about the crops, than they care more about the
13 workers.

14 So, when the workers get sick, they can't
15 have a day off to go do those medical checkup.

16 Like I say, a lot of people die because of
17 that.

18 A lot of people also get injured from all
19 type of agriculture.

20 From falling on a ladder, from losing a hand
21 by cutting a cabbage on the field, and all those
22 type of things, and people are afraid to complain.

23 Cows kick on the chest, and people were not
24 complain because they are afraid of being fire.

25 Worker has been so loyal to their work, so

1 many of them even give their life accidentally to
2 protect the work duties, and, still, a lot of them
3 will not complain because, if they complain, they
4 afraid of being fire.

5 Because they are afraid of being fire, they
6 rather just not complain.

7 All of the workers will do a lot in their
8 abilities to produce a lot.

9 They will actually, just like what you heard,
10 people do really want to do a lot of work, and,
11 also, they do a lot of work and they do a lot of
12 hours because they don't get paid enough.

13 So sometime White farmers do really care
14 about the cars and the crops because they would lose
15 a lot, of course.

16 But how about when you lose a human life, did
17 you ever care about that? Did you care about what
18 they lost?

19 Some people have died.

20 Some people lost part of their body for
21 working there.

22 And a lot of them will complain.

23 Over 90 percent of them, or more, will not
24 complain because of that issue, because they are
25 afraid of speaking up.

1 They are afraid of -- because they don't have
2 a right to speak up, huh, because if they speak up,
3 they be fire.

4 If they are here today, and you are a farmer,
5 you probably will fire them.

6 Just because of that reason, they rather be
7 quiet and not say anything.

8 It is so unfair.

9 They are not machines.

10 They are human beings.

11 They have feelings when they get hurt. They
12 got feelings when they go to the hospital, and not
13 able to make a home back.

14 I think that's what we really have to take
15 care of. They're human beings, they need time; they
16 need time to care for themselves, to care for the
17 family.

18 Those families who has kids home, and they
19 grow up by themself, and nobody should care about
20 them, because they just there by themselves because
21 the parents are working so many hours, so long, and
22 they have no time for them.

23 Also, if they complain, I'm sure that they --
24 how do you call that? -- they been told, that if you
25 complain, if you're a slow worker, you probably will

1 be fire.

2 If you are fire, also -- if you complain, I'm
3 sorry, you will simply be replaced by another
4 HA (sic) worker who comes in. Just like what you
5 have heard, a lot of them hire HA (sic) workers.

6 Why not citizens do this work?

7 Because they are hard-working condition.

8 So we'll just keep in mind, citizen, if you
9 haven't had experience in the work, you should try
10 and realize how hard it is.

11 For all of those reasons, that's how -- why
12 I became an advocate for the farmworkers.

13 Thank you.

14 SENATOR MAY: Thank you.

15 We've heard from a number of farmers that, if
16 hours were reduced to 40 hours a week, that the
17 farmers would leave and go to other states where
18 they could work more.

19 Is that your experience in speaking with
20 farmworkers?

21 LIBRADA PAZ: I do understand that, yes, that
22 is a disadvantage about it.

23 I mean, a lot of people do want to work, like
24 what we have said, like what they heard.

25 But because sometimes they don't get enough

1 pay. But if they would pay overtime, I'm sure that
2 the people would also realize that, I mean, by
3 adding the overtime to the people, why not get the
4 benefit for that for the workers, and not just the
5 farmer themselves benefit for the hand laborer of not
6 paying overtime.

7 So I think we have to really balance this
8 off.

9 And, also, like I said, a lot of people
10 working so much. And, also, some of those people,
11 or most of those people, also want a lot less hours,
12 because they have families, and because they have
13 the school activities, and all those things.

14 So they, basically, have family who cares
15 about the kids, and they want those day offs -- or,
16 hours cut off.

17 I actually talked to one of the students --
18 one of the -- I'm sorry, one of the gentleman
19 workers that comes in, some of the visa workers that
20 would come in, and they said, you know, I would
21 like to do some other activities outside. Well, we
22 can't even go because we come so late at home.

23 I mean, you know, like, what you heard,
24 80 hours per week, do you have time to do other
25 activities?

1 No, they don't.

2 So they really want to be part of that
3 because they have a life, and they really wanted to
4 do something else.

5 So, for that, really help out if they reduce
6 the hours. And get a retirement, of course.

7 SENATOR MAY: Thank you.

8 SENATOR MONTGOMERY: I'm listening to the --
9 your testimony, and I'm feeling that there is so
10 much more in common between elected officials and
11 the farmworkers, because some of the issues that you
12 just raised, the many, many hours; no overtime;
13 underpaid; that's all very much a part of what
14 happens to us.

15 Just so you know.

16 So, I just -- we could use some advocacy as
17 well.

18 SENATOR RAMOS: We're going unionize too,
19 Valmanette.

20 SENATOR MONTGOMERY: No unions for us either.
21 No overtime.

22 Just so you know.

23 We could use your help.

24 SENATOR RAMOS: As can our staff.

25 SENATOR MONTGOMERY: They didn't know before

1 they came in the business.

2 I've been here a long time, so I can identify
3 with you.

4 SENATOR RAMOS: She's younger than --

5 SENATOR METZGER: So we're going to take just
6 a 10-minute break, so people can use the bathroom,
7 get a drink.

8 We'll resume.

9 What's the actual time?

10 Okay.

11 Please be back in the room at a quarter of
12 two.

13 (The hearing stands in recess.)

14 (The hearing resumes.)

15 SENATOR MAY: Hi, everybody.

16 Let me ask you to take your seats again.

17 We need to get started so we can get out in a
18 timely manner.

19 So, please take your seats.

20 Is Errol Percell here?

21 Gabriela, did you want to make a presentation
22 as well?

23 Okay.

24 Why don't we get started.

25 We have Gabriela Quintanilla, is that how you

1 pronounce it?

2 Okay.

3 GABRIELA QUINTANILLA: Thank you so much.

4 Before I start, I just want to give a quick
5 statement in Spanish.

6 (Witness speaking in Spanish).

7 My name is Gabriela Quintanilla, and I'm the
8 proud daughter of a poultry worker.

9 I became involved with Rural and Migrant
10 Ministry during my teenaged years because I wanted
11 to learn more about the rights of my mother as a
12 poultry worker.

13 My mother was unable at the time to have a
14 union because that was not something that the
15 factory allowed.

16 Eventually, with lots of hard work and
17 community organizers, such factory was able to allow
18 for a union.

19 This changed my mother's lives (sic), and the
20 life of my sisters and I.

21 Farmworkers in the state of New York do not
22 have access to collecting -- collective bargaining
23 rights.

24 As a community member and organizer, I can
25 not tell you how many times I have heard:

1 That women are being harassed;

2 The farmworkers' paychecks are being stolen,
3 because the boss decided that he didn't want to pay
4 them;

5 Or the fact that they got injured on the job,
6 but their boss did nothing to help them until it was
7 too late.

8 The right to collectively bargain would allow
9 for farmworkers to speak for themselves and join a
10 union that protects them.

11 At the same time, a day of rest is needed
12 farmworkers.

13 By not having a day of rest, it affects the
14 family, their children.

15 Many of the students that I work with say
16 that they feel abandoned because their parents don't
17 have time to spend with them.

18 The fact that farmworkers do not have a day
19 of rest and are constantly being exploited means
20 that their families are suffering.

21 It is not just about collective bargaining
22 rights and a day of rest, it is about human dignity.

23 It is about the acknowledgment that the
24 exploitation of farmworkers has been happening for
25 too long.

1 Farmworkers are the beginning of our food
2 chain, and yet they continue to be devalued for
3 their work.

4 The time to change this is now.

5 And all of the Senators that are in this room
6 today, have the power to do that for the sake of our
7 future generation.

8 We have to do better today.

9 We cannot hide behind oppressive practices
10 and continue the exploitation of Black and Brown
11 bodies in the state of New York.

12 Enough is enough.

13 Thank you.

14 SENATOR MAY: Thank you.

15 SENATOR RAMOS: Gracias.

16 SENATOR MAY: Thank you very much.

17 (Ms. Paz and Ms. Quintanilla leave the
18 witness table.)

19 DIANA CABA: Good afternoon.

20 My name is Diana Caba, and I'm senior
21 director of economic empowerment at the Hispanic
22 Federation.

23 Chairs Metzger, Ramos, Senators May and
24 Montgomery, thank you so much for allowing me the
25 opportunity to testify on behalf of the Hispanic

1 Federation and our network of 100 Latino-based --
2 Latino community-based organizations.

3 The Hispanic Federation is a service-oriented
4 membership organization that works with more than
5 100 Latino non-profits in the northeast and
6 nationwide to promote the social, political, and
7 economic well-being of the Latino community.

8 We do that by supporting and strengthening
9 Latino non-profits, conducting public policy,
10 research, and advocacy, and offering our New York
11 residents with an array of community programs in the
12 areas of education, immigration, health, economic
13 empowerment, disaster relief, and civic engagement.

14 With the interest of the Latino community at
15 stake, we are here to -- today to express our strong
16 support for passage of the New York State
17 Farmworkers Fair Labor Practices Act, Senate
18 Bill 2837.

19 The Farmworkers Fair Labor Practices Act
20 granted -- grants basic labor protections to farm
21 laborers; among them, collective bargaining rights,
22 8-hour workdays, overtime rates, 24 hours of
23 consecutive -- excuse me, 24 consecutive hours of
24 rest each week, unemployment insurance, workers'
25 compensation, and a sanitary code which applies to

1 all farm and food-processing labor camps housing
2 migrant workers.

3 Farmers -- farmworkers labor under harsh
4 conditions and engage in intensive physical activity
5 to feed all of us, yet they're exempt from several
6 fundamental rights and protections that are afforded
7 to all other workers.

8 An estimated 80,000 to 100,000 farm laborers
9 in New York are currently excluded from basic labor
10 protections under state and federal law.

11 The Farmworkers Fair Labor Practices Act
12 would ensure that the conditions in which
13 farmworker -- farmworker-laborers labor are more
14 safe, sanitary, and humane.

15 By passing this act, New York would reinforce
16 the need for laws, protecting farmworkers and our
17 workforce.

18 New York can pave the way for other states to
19 pass progressive labor policies that are good for
20 our community and our economy.

21 Nearly 80 years have passed since Jim Crow
22 Era of racial bias caused farmworkers to be excluded
23 from the Federal Fair Labor Standards Act, yet
24 New York has perpetuated the exclusion of farmworker
25 from labor rights, while the state continues to have

1 one of the nation's largest and most robust
2 agricultural economies.

3 In 2017, New York farms generated over
4 4.8 billion in revenue, and contributed nearly
5 2.4 billion to our gross domestic product.

6 As many of our farmers see their economic
7 situation improving, many of our farmworkers do not.

8 These workers, many of them immigrants, some
9 of them undocumented, work 60 to 80 hours a week
10 without workers' compensation, without being paid
11 overtime, and face exploitation and oppression on a
12 regular basis.

13 They are also denied the right to organize
14 and bargain which is guaranteed to employees under
15 the New York State Constitution.

16 To deny this already vulnerable population
17 the equal access to protections and benefits in
18 their place of work contradict our values as a state
19 and as a country.

20 By protecting our farmworkers, New York can
21 continue to position itself as one of the largest
22 economies in the world while reaping the benefits of
23 increased economic opportunities for its workers and
24 their families.

25 This is not about putting farmworkers ahead

1 of farms.

2 It's about lifting an entire industry in our
3 great state.

4 It is about basic human rights, and ensuring
5 that farmworkers will be treated humanely with
6 dignity and respect.

7 We urge our state Legislature to pass into
8 law the Farmworkers Fair Labor Practices Act before
9 the end of the 2019 legislative session.

10 We're counting on your leadership to guide
11 New York in the right direction, and help remove the
12 statutory exclusions that deny farmworkers these
13 rights.

14 The Hispanic Federation wants to thank you
15 again for inviting us to share this testimony.

16 It is critically important for the
17 Legislature to continue to lead efforts to ensure
18 that farmworkers have access to what they need to
19 sustain a quality of life in the great state of
20 New York.

21 Let 2019 be the year that marks the end of
22 the shameful legacy of exclusion, and allows us to
23 say with moral certainty, that New York honors the
24 dignity of all.

25 Thank you.

1 SENATOR MAY: Thank you.

2 Let me ask one question.

3 Because I -- because I represent farmworkers,
4 and farmers, both, in my district, I'm grappling
5 with a lot of the conflicting issues that we're
6 hearing today.

7 And, so, I'm trying to figure out this -- the
8 overtime issue, and how it impacts the farm economy.

9 And so if -- if we had a situation where we
10 passed the bill as it is now, and the farmers were
11 able to charge the workers for their housing and the
12 other on-farm benefits that they receive, would that
13 answer the concerns that you are raising about
14 dignity and fairness?

15 DIANA CABA: Well, I'm -- at the moment I'm
16 not prepared to respond to that, because I don't
17 know exactly what those costs are, and what, you
18 know, support farmers get to also provide housing
19 for their workers.

20 So I can find out that information and get
21 back to you on that.

22 SENATOR MAY: Thank you.

23 DIANA CABA: Thank you.

24 SENATOR MAY: Thank you.

25

1 ANTHONY EMMI: Thank you, Senators, for
2 letting us testify here today, and setting this up.
3 Good afternoon.

4 My name is Anthony Emmi.

5 My family owns and operates Emmi and Sons,
6 Incorporated, a fruit and vegetable farm in
7 Baldwinsville.

8 I'm a third-generation farmer. I grew up
9 working on our family farm.

10 I served in the Army for seven years,
11 including a combat tour, and returned home to the
12 farm in 1992 to, hopefully, a more peaceful life.

13 25 of 70 seasonal employees are H2A workers.
14 The majority of our H2A workers have been with us
15 for 10-plus years.

16 Other farmworkers have been with us from
17 20 to over 30 years.

18 Our employees like to work on our farm.

19 I have four concerns with the proposed
20 legislation:

21 Overtime. This provision will put an end to
22 the way we farm. We simply don't have the income to
23 make it happen.

24 Each year we absorb increases in wages,
25 taxes, and regulatory costs, and I have cut my labor

1 almost in half while trying to maintain sales.

2 Crop prices have been flat for years, and it
3 is difficult to compete with countries and states
4 with lower production costs.

5 With labor costs approaching 50 percent of
6 our net farm income, we will be unable to sustain
7 the way we farm now.

8 Unions, I really don't have a problem with
9 that.

10 It's, just, because of our short harvest
11 windows, I would like to see a no-strike clause
12 because that would just devastate us.

13 Mandatory day of rest is my third point.

14 That requirement, we already tried to do
15 that.

16 Some days we only get half, half a day.

17 But that should be left up to the employee so
18 they have control over that, if they want to take
19 the day or not, especially if we lose work to bad
20 hours -- or, to bad weather if we lose work.

21 Unemployment benefits. Our employees, except
22 for the H2A, do have the right to unemployment
23 benefits if they qualify.

24 Federal law prohibits H2A employees from
25 collecting UI benefits, yet New York is the only

1 state that forces its farmers to pay UA (sic) tax on
2 the H2A payroll.

3 Our UI tax a year on our farm is \$60,000 a
4 year, half of that from the H2A payroll.

5 All our workers are covered by workers'
6 compensation and disability insurance, and all of
7 those coverages, combined, cost just under \$100,000
8 a year on our farm.

9 Farming is dependent on weather and
10 completing crop work on time.

11 It requires flexibility with labor, our hired
12 labor and our family labor.

13 There are no shortcuts to produce
14 high-quality safe food.

15 Increasing the high-crop production costs on
16 our state will make us even less competitive.

17 Farmworkers will not want to come to New York
18 state for limited work hours. This will worsen the
19 labor situation.

20 The proposed legislation will hurt New York's
21 agricultural industry, our rural communities, and
22 cost farmworker jobs and the opportunities those
23 jobs create for their families.

24 Thank you.
25

1 SENATOR METZGER: Thank you.

2 I have a couple questions.

3 First, thank you for your service as well.

4 Do you have a mix of H2A workers and -- are
5 they all H2A workers?

6 ANTHONY EMMI: No, ma'am.

7 We have 25 to -- 25 H2A workers coming this
8 year.

9 And we have migrant workers also that have
10 legal status. They've been with us, those are the
11 ones, that have been with us for over 20 years.

12 SENATOR METZGER: And are they paid -- I'm
13 just wondering if they're paid -- or whether they
14 are differences?

15 ANTHONY EMMI: They're paid -- because the
16 management is so complicated on a farm, you know,
17 stuff breaks and you got to grab people, I pay
18 everybody the H2A rate, the highest rate.

19 SENATOR METZGER: Okay, very well.

20 ANTHONY EMMI: So there's no questions,
21 except for our retail, which we pay the state
22 minimum wage.

23 SENATOR METZGER: Uh-huh.

24 And in terms of overtime, is there -- is
25 there a number of hours -- do you have an

1 alternative recommendation?

2 ANTHONY EMMI: Yeah, I think we could live
3 with 60 to 65 hours.

4 I'm just concerned because, if I got to go to
5 40 hours just to try to survive --

6 And we're survivors, we'll find a way around
7 it, this will be different. There won't be a lot of
8 jobs.

9 -- different type of farming, which I've
10 already been trying for several years, green beans.
11 You have to harvest it by machine, so it's just a
12 one-man job.

13 Put 100 acres of that on my farm into that.

14 So I don't -- you know, it's just hard.

15 It will be hard to.

16 SENATOR MAY: What if it were averaged over a
17 number of months, or something like that? Is there
18 a --

19 ANTHONY EMMI: That might work, but then
20 you're -- you're taking a chance with the weather
21 situations, and things, you know.

22 So I -- I just don't know.

23 I mean, we simply don't bring in enough
24 income to make it happen.

25 My kids went to college, and have already

1 left the state. My nephews are leaving.

2 There's just not a lot of opportunity here.

3 And I can't -- like my daughter, I just moved
4 her to Nashville just two weeks ago.

5 I can't afford to pay her enough money on the
6 farm for her to make a living.

7 You know, so...

8 SENATOR MAY: Let me go back to your
9 testimony about the day of rest.

10 So if it were mandated that people were
11 entitled to that, but it was optional, the question
12 is: How would that be enforced?

13 Because we certainly heard from some
14 farmworkers who did not feel that they could --

15 ANTHONY EMMI: Right.

16 SENATOR MAY: -- make demands of their
17 employers.

18 So, I just have that concern.

19 You know, there are a lot of things in this
20 law that are aimed at the bad actors --

21 ANTHONY EMMI: That's right.

22 SENATOR MAY: -- in this industry.

23 And the question is: How do you make
24 something like that work?

25 ANTHONY EMMI: It would probably just have to

1 be part of the inspections when the labor department
2 comes in and wants to talk to the workers without us
3 present. You know, it would have to be -- that
4 question would have to be asked.

5 I mean --

6 SENATOR MAY: And how often does that happen
7 that they come in?

8 ANTHONY EMMI: Oh, at least once a summer,
9 the State comes -- the state labor department comes
10 in. Occasionally the federal labor department.
11 Health department is there two or three times a
12 summer.

13 SENATOR RAMOS: If we've got farmers, they're
14 a bad actor, do you really think that there won't be
15 any retaliation against that worker for complaining
16 that they didn't get the day off that they asked
17 for?

18 ANTHONY EMMI: I can't speak for that.
19 I don't know.

20 There's bad actors in all industries.

21 There's bad actors in the military when I was
22 in the military.

23 And people are scared, I understand that.
24 I fully understand that.

25 But, laws don't stop those people.

1 I don't know how you can stop that.

2 I think, in our industry, you'll be out of
3 business. I just don't think workers will stay
4 there.

5 I mean, there's a shortage of labor the way
6 it is now.

7 We chose the H2A program.

8 I always tell people, the H2A program is the
9 worst business decision I ever made, but the last
10 chance I had at putting together a labor force,
11 because of the cost of it.

12 I would rather hire a domestic labor force,
13 it would be cheaper. And maybe we could be more
14 competitive.

15 SENATOR RAMOS: You know what? You said
16 earlier, and it's something that I have heard quite
17 often as I've been touring farms in Wayne County and
18 Genesee County, and as I continue to do so, where
19 many farmers assert that farmworkers will leave if
20 they don't like their employer.

21 And that's much more true for H2 (sic) visa
22 workers; right?

23 ANTHONY EMMI: Uh-huh.

24 SENATOR RAMOS: But you have to accept that
25 there are people who are so poor and so desperate

1 for work that they'll work for anyone.

2 So wouldn't it be better to ensure that there
3 is a law on the books that outlines exactly what the
4 rules are so there's no confusion?

5 ANTHONY EMMI: There's a lot of laws on the
6 books, Senators, that don't stop bad people.

7 SENATOR RAMOS: Sure.

8 ANTHONY EMMI: So you can make the law, but
9 I don't think it will stop them.

10 SENATOR RAMOS: So we shouldn't have the law
11 at all?

12 ANTHONY EMMI: But I don't think that --
13 I think that's an exception with our industry.

14 SENATOR RAMOS: Huh.

15 ANTHONY EMMI: The margins aren't there.

16 And if you're caught doing that kind of
17 stuff, or the other employees see that, I don't
18 think you're going to be in business very long.

19 I really don't.

20 There's too much of a labor shortage to do
21 this kind of work.

22 So...

23 SENATOR MAY: Thank you.

24 SENATOR METZGER: Thank you very much.

25

1 JOSE VEGA: Good afternoon.

2 SENATOR RAMOS: Good afternoon.

3 JOSE VEGA: My name is Jose Vega, and I am
4 farmworker at Emmi and Son, Incorporated.

5 I have worked for the Emmi family for
6 32 years.

7 I am fortunate to have the opportunity to
8 work as many hours I want to while I'm here during
9 the season.

10 The reason why I am here today is because
11 I do not agree with the farmworker bill that is
12 being proposed.

13 I am also speaking for all of our employees:
14 This bill will have a bad effect.

15 Our wage are good, that's not a problem.

16 Farming require a lot of work hours, and we
17 want the hours.

18 If the bill is passed, the farm will not be
19 able to afford the increased costs, and will be
20 forced to limit us to 40 hours a week.

21 The Emmi have to do this with the retail
22 employees and their two farm stands to remain open.

23 I cannot make the sacrifice of missing family
24 and family activity and supporting my family in
25 Puerto Rico to make less money.

1 Our employees are also not willing to make
2 the sacrifice.

3 Every year we fight to make more money on the
4 produce we grow.

5 Part of my job in the morning is to take care
6 of the customer and serve our crop.

7 We lost sales because people can often find
8 cheaper produce that come in from other state.

9 The price is the farm having the same for
10 very long time, and the cost to grow the crops
11 continues to increase each year.

12 This bill would not be fair to us.

13 He would be one affect by having less hours
14 of work or losing our job.

15 I see the farm income and expenses, and
16 I know they will not be able to afford this.

17 Farming's dependent of weather. Time s
18 needed to plant and harvest it when we came in our
19 short season.

20 The farmworker bill would cost us good wages
21 and ability to work as many hours as we want.

22 SENATOR RAMOS: I have a question.

23 In your testimony, Mr. Vega, you explained
24 that you are speaking on -- for all of your
25 employees?

1 There are about 70.

2 How many of them voted for you as their
3 representative?

4 JOSE VEGA: Well, for our employees in the
5 farm --

6 SENATOR RAMOS: Right.

7 JOSE VEGA: -- yeah, because they're not here
8 right now.

9 They really want to be here, but they
10 still --

11 SENATOR RAMOS: No, I understand that.

12 But my question is a little different.

13 JOSE VEGA: Okay.

14 SENATOR RAMOS: What I'm trying to ask you
15 is, how it is that you're speaking on behalf of them
16 all?

17 JOSE VEGA: Okay.

18 One of the things is, this guy, we explaining
19 to them about the farmworker bill, and they just
20 said not coming here for 40 hours.

21 SENATOR RAMOS: But you were not elected as
22 their representative. Does that make sense?

23 (Senator Ramos and Mr. Vega begin a
24 conversation with one another in Spanish.)

25 SENATOR RAMOS: Okay. Gracias.

1 SENATOR METZGER: Would you please translate
2 for the group?

3 SENATOR RAMOS: Your answer.

4 Can you say your answer in English, if you're
5 able to.

6 JOSE VEGA: Okay. We were talking to the --
7 at least the six guys that's coming soon, the guys,
8 the most older people in the farm, and I were
9 talking to them, and they told me that I can talk
10 for them.

11 ANTHONY EMMI: Pablo couldn't be here today.
12 They're still traveling.

13 JOSE VEGA: They still traveling.

14 SENATOR RAMOS: Okay.

15 SENATOR MAY: All right, thank you very much.

16 SENATOR METZGER: Thank you.

17 SENATOR RAMOS: Thank you.

18 (Mr. Emmi and Mr. Vega leave the witness
19 table.)

20 SENATOR MAY: Are you Jason?

21 JOSE CHAPA: Jose.

22 SENATOR MAY: Oh, Jose.

23 JOSE CHAPA: Yes.

24 SENATOR MAY: If Jason is here and could come
25 up, that would be great.

1 JOSE CHAPA: Hi, good afternoon.

2 Thank you for having me, Senators.

3 My name is Jose Chapa. I'm the legislative
4 coordinator for the Justice for Farmworker campaign
5 in New York. This coalition includes several
6 organizations across the state.

7 I wanted to start off by stating why I'm
8 doing this kind of work.

9 I was born in Mexico, but I moved to the
10 United States at the age of 4 with my family.

11 During my childhood, in the summertime, my
12 family would travel to Iowa and Minnesota in order
13 to work in the corn fields of these states.

14 I would stay behind and be taken care of by a
15 family member, or I would sometimes go to the fields
16 and wait for them, along with my cousins and other
17 children, in the buses that took my parents to work.

18 During my teenaged year, I traveled to the
19 Panhandle of Texas with my family, and there
20 I worked in the corn fields and the cotton fields.

21 I remember the first time I ever stepped foot
22 in a corn field. After a couple of hours of work,
23 I passed out from the extreme heat and I was carried
24 out by my father.

25 At that time, I was working simply because,

1 that is what I knew, and that is what we needed to
2 do as a family, in order to have money for the rest
3 of the year.

4 Like most other migrant farmworkers, my
5 family never questioned the practices that were used
6 and implemented by the supervisors and the farm
7 owners.

8 This is still the case with a workforce that
9 has been conditioned not to question authority, and
10 abide by the rules that have been set forth by
11 generations of oppression.

12 I did not fully understand the systematic
13 disadvantages farmworkers faced in the workplace
14 until after I left college.

15 I learned about the lack of basic rights and
16 protections farmworkers faced compared to other
17 workers in the country due to the long history of
18 discrimination, based on racism.

19 As the coordinator of this campaign, I have
20 traveled across the state, and I have talked to a
21 multitude of workers, allies, and farmers who indeed
22 see a problem with the state of affairs farmworkers
23 are subjected to.

24 Farmworkers in New York are not only migrant
25 farmworkers, New Yorkers, they're New Yorkers. They

1 are residents that have made New York their home.

2 I have talked to farmworkers who are not able
3 to take a day off in order to take their children to
4 the doctor.

5 I have talked to farmworkers who have been
6 injured at the job and have not been properly
7 compensated for their injury or taken to the doctor
8 in time to get their injury checked out.

9 I have talked to workers who work and are not
10 paid overtime.

11 I have talked to female workers who have been
12 sexually assaulted in the fields, and are not
13 comfortable nor capable of speaking out against
14 their supervisors or other co-workers for fear of
15 retaliation, because they're not able to have a
16 negotiated contract with their employers which would
17 protect them.

18 On the flip side, we do know, and we are
19 aware, that there are farmers that do provide some
20 of these protections.

21 But why shouldn't these protections extend to
22 all employers and make this a law in order to
23 protect all farmworkers across the state?

24 If this law is implemented, farmworkers will
25 finally see a transition in which they will finally

1 be able to work with the dignity and the respect
2 every other worker in the state is allotted and
3 deserve, and contribute to their local economies
4 even more so than they already do.

5 Farmworkers deserve the dignity and respect
6 to have the day of rest, be able to organize and
7 negotiate a contract with their employer, get proper
8 compensation for the amount of work they produce in
9 order to feed New Yorkers, and all other Americans.

10 Thank you.

11 SENATOR MAY: Thank you.

12 So we heard from the previous witness that,
13 you pass these laws and the bad actors aren't going
14 to observe them anyway.

15 What's your response to that?

16 JOSE CHAPA: Yeah, exactly, there are going
17 to be bad actors, and why can't there be a law that
18 says, let's punish these bad actors in case they go
19 out of line?

20 SENATOR MAY: Thank you.

21 SENATOR RAMOS: Are you saying the point of
22 law is so that there are consequences for bad
23 actors?

24 JOSE CHAPA: Yes.

25 SENATOR RAMOS: Hmm. Interesting.

1 SENATOR MAY: Thank you.

2 JOSE CHAPA: Thank you.

3 SENATOR MAY: We're going to change the rules
4 a little bit. So each...

5 You're all from the same farm?

6 We need to just give four minutes to each
7 farm, so, all of you together will get four minutes.
8 Okay?

9 JASON TUREK: Thank you, Senators.

10 My name is Jason Turek, and I'm a
11 fourth-generation vegetable farmer from
12 Cayuga County.

13 With me today is Leonardo Resendiz Perez; his
14 father, Jose; and Mayolo Rivera.

15 Our employees are like families to us, and
16 the farm's greatest resource. We have a core group
17 of around 10 team members, 5 have been with the farm
18 for over 20 years.

19 Benefits include health insurance, paid
20 vacation and sick days, paid holidays, and year-end
21 bonuses.

22 Seasonally, we hire up to another
23 130 employees through the H2A program.

24 Starting hourly rate is 13.25, with the
25 opportunity to make in the low 20s on piece rate.

1 Housing, utilities, and transportation are
2 provided for free.

3 The program is inspected and administered by
4 the federal and state department of labor and the
5 health department.

6 Unlike our southern and western colleagues,
7 we get one crop, three, or up to four months, of
8 harvest to pay our bills for the rest of the year.

9 We are not at the liberty of increasing
10 prices to compensate for increasing costs.

11 The customers tell us what they will pay
12 based on supply and demand.

13 Walk the Hunts Point or Brooklyn produce
14 market in August and you'll find them glutted with
15 vegetables from 10 neighboring states and Canada.

16 There are weeks where we pick our crops at a
17 financial loss, simply to keep the guys working.

18 Yes, sometimes we would be better off
19 financially, let the crops rot in the field.

20 Personally, our farm hasn't made a positive
21 gain in three years.

22 And if this bill passes, as presented, we'll
23 be forced to limit hours, switch to less
24 labor-intensive crops, or move vegetable production
25 to another state.

1 The bill will have a crippling domino effect
2 on our upstate economy.

3 Thank you, and I'll turn it over to Leo.

4 LEONARDO RESENDIZ PEREZ: Hello, my name is
5 Leonardo Resendiz. These are my father's words:

6 I worked 19 years at this farm.

7 I have been in the United States since 1986,
8 and has worked in Texas, California, Florida,
9 Georgia, South Carolina, North Carolina, Virginia,
10 West Virginia, Tennessee, Pennsylvania, Connecticut,
11 Michigan, New Jersey, and Delaware.

12 I have a lot of experience working with other
13 people.

14 All of these states have the same crops they
15 grow in New York, but none of them gave me the
16 opportunity that I had here in Turek Farms to be
17 with my family.

18 I started working with Turek Farms since
19 2000, and now I call this "home."

20 These are the things that I would like about
21 New York: Every week having a paycheck. Respected.
22 Peaceful. Steady work. Kindness.

23 Every week I'm here to work.

24 In Florida, it was three or four days a week.
25 Since 2000, cousins, nephews, and brothers,

1 and friends have been coming under the H2A program.
2 They come to work from July to December, and have
3 gone back to Mexico to buy or build their houses, go
4 on vacation with their families, buy transportation,
5 move place to place.

6 In 2002 I bought a house in Florida.

7 If it wasn't for this job up in New York,
8 I wouldn't be able to buy the house.

9 This job also put my older son through
10 Barry University of Miami, Florida.

11 In conclusion:

12 I understand the bill doesn't restrict
13 40 hours, but, in the end, we know it's gonna
14 happen.

15 We will be very sad to leave this job.

16 These are my friends, Mayolo (indicating).

17 (Now reading on behalf of Mayolo Rivera.)

18 Hello, my name is Mayolo Rivera.

19 I have six years working with Turek Farms
20 with H2A.

21 I'm agreeing all of the things my friend Jose
22 said.

23 I'm used to working 240 hours per month.
24 This bill would cut me to 160 hours per month, plus
25 maybe 20 overtime hours, which equals 30. That is

1 190 hours.

2 I'm 50 hours short.

3 How will I make that up?

4 Maybe I have to leave the state.

5 Thank you very much.

6 SENATOR METZGER: Thank you. Gracias.

7 JASON TUREK: Thank you.

8 (The previous four speakers leave the
9 witness table.)

10 SENATOR MAY: Is Bruce Krupke here?

11 And Phil Hall, will be on deck.

12 Is Phil Hall here?

13 PHIL HALL: Yes, I am.

14 SENATOR MAY: Okay, great.

15 Go ahead.

16 BRUCE W. KRUPKE: Good afternoon,
17 Senators May, Metzger, Senator Montgomery,
18 Senator Ramos.

19 My name is Bruce Krupke. I am the executive
20 vice president for the Northeast Dairy Foods
21 Association which is based in North Syracuse,
22 New York.

23 We represent 328 dairy-product processors,
24 manufacturers, distributors, and suppliers since
25 1928 in New York and the northeast United States.

1 Thank you very much for holding this hearing,
2 and allowing me to provide some brief comments
3 regarding proposed legislation to change farmworker
4 labor laws in New York State.

5 Our association is opposed to amending the
6 current laws, which would mandate unnecessary
7 changes for farmworkers in New York State.

8 Simply put: The current farm labor laws and
9 regulations are more than sufficient. They are
10 working just fine, and do not need changing.

11 Our association members are the customers of
12 dairy farmers. Members of our association purchase
13 raw milk from dairy farms, process and manufacture
14 finished dairy products, like fluid milk, yogurt,
15 cheese, ice cream, cottage cheese, and milk powders.

16 These products are widely distributed and
17 sold here in New York State, across the country, and
18 in recent years, increasingly, around the world.

19 The dairy segment of all New York State
20 agriculture accounts for more than 50 percent total
21 gross value.

22 I started working for the dairy industry in
23 1980, and I was told then an old saying that I have
24 observed and witnessed over the years to be very
25 true:

1 "The dairy industry is like a three-legged
2 milk stool, representing the dairy farmer,
3 processor-manufacturer, and a retailer.

4 "When one leg is either shorter or longer
5 than the others, it is out of balance and does not
6 work well."

7 The proposed farmworker-rights legislation
8 will make the "dairy farmer" leg very unbalanced in
9 a way which will be damaging to both the farmers,
10 but also to the member companies our association
11 represents.

12 The legislation will greatly impede the
13 dairy's farmer ability to operate.

14 It will increase their labor costs, their
15 profitability, and their ability in basic survival.

16 This is our greatest concern.

17 The reason there are so many dairy-processing
18 and manufacturing and distribution companies in our
19 state is because we have adequate access to the raw
20 milk from the farms.

21 Our northeast region is one of three major
22 milk-producing areas of the country, of which
23 New York State is the third largest.

24 The proposed legislation will hurt the dairy
25 farmers' ability to stay in business.

1 Currently, we have a relative milk-supply
2 equilibrium which is supported by basic
3 supply-and-demand factors.

4 Our members will continue to operate and do
5 business in New York State so long as there are
6 adequate milk supplies and business-friendly
7 policies which do not make us less competitive.

8 Our members sell dairy products across the
9 country.

10 If our finished dairy products cost more
11 because of increased dairy farm charges, we will not
12 be competitive with other manufacturers, ultimately,
13 losing business, and jobs.

14 Should we become less competitive because
15 there is a shortage of milk supply, these companies
16 have the ability to move to other regions of the
17 country.

18 I have personally witnessed this scenario
19 happen in other states.

20 New York is fortunate to have a strong,
21 competitive agricultural industry.

22 In New York State, the dairy sector alone
23 accounts for more than 180,000 jobs.

24 We have many advantages over other regions of
25 the country, and the world for that matter.

1 Our three-legged milk stool is working.

2 We do have struggles, but have also had the
3 opportunity to work hard and innovate an already
4 tough state to do business.

5 The truth is, forcing farmers to comply with
6 new excessive, unnecessary, restrictive, and
7 business-choking labor-laws mandates will have a
8 devastating effect for them and those that sell
9 their products too.

10 It will also affect consumer prices that they
11 pay for food, agriculture goods and products.

12 Good-paying jobs will be at risk.

13 We encourage you to oppose the proposed
14 farmworker-rights legislation, and protect our
15 agriculture industry.

16 Continue to allow the dairy-processing and
17 manufacturing industry to be competitive, and to
18 keep the milk stool to be balanced and strong in the
19 marketplace.

20 Thank you very much for allowing me to
21 testify today.

22 I'd be happy to answer any questions that you
23 may have.

24 SENATOR MAY: Thank you.

25 SENATOR METZGER: I have just one question.

1 Have you examined the impact on prices that
2 this -- that the overtime pay or provisions would
3 have?

4 BRUCE W. KRUPKE: No, I'm not aware of any
5 studies that would indicate that.

6 In general, if the cost of the product that
7 we have to purchase from farmers goes up because
8 their costs are going up, they do have the ability,
9 through voluntary premiums, to ask for more money
10 from our members.

11 Those voluntary premiums vary, and are based
12 on a lot of different factors. But voluntary
13 premiums are supplied to dairy farmers, not only in
14 New York State, but throughout the rest of the
15 country, and they're competitive.

16 And should the voluntary premiums requested
17 from the producers in New York State be higher, then
18 our costs will be higher.

19 Yeah.

20 SENATOR MAY: Thank you.

21 BRUCE W. KRUPKE: Thank you.

22 SENATOR MAY: Phil Hall.

23 PHIL HALL: Go ahead.

24 IRVIN TEMICH: Good afternoon.

25 My name is Irvin Temich.

1 I have worked with Schum-Acres for 14 years.

2 Everyone that works there does a lot of good,
3 hard work.

4 The Schum-Acre family has always treated me
5 and everyone else fairly and respectfully. It is,
6 honestly, more like a family than just a bunch of
7 workers.

8 This law is not going to be good for the
9 worker, nor the owners.

10 I'm happy with my job here.

11 If things change because of this law, and the
12 owners are forced to make changes to afford the
13 workers, then many of us just will leave.

14 We don't want to leave, but we will go
15 somewhere else to find a different place to work.

16 I am speaking not only for myself; for the
17 other workers, and for the owners who work besides
18 us.

19 Thank you.

20 PHIL HALL: Farmers in New York face a number
21 of continuing challenges, including unpredictable
22 weather and long working hours.

23 For dairy farms that make up the largest
24 proportion of the state's overall agricultural
25 production, declining milk prices have cut revenues

1 sharply, in some cases, threatening family
2 business -- businesses.

3 Tariffs, including those imposed recently on
4 agricultural products by the nation's trading
5 partners in response to those imposed by the federal
6 government, have increased financial uncertainty for
7 many farmers in New York, and nationwide.

8 Federal policies relating to visas for
9 migrant workers and other immigration programs have
10 increased restrictions on such workers who play an
11 important role in the state's agricultural
12 workforce.

13 Such steps may add to the challenge of
14 planting and harvesting on a timely basis.

15 In addition, potential changes to federal
16 farm-aid policies and other agricultural programs
17 may affect farmers in unpredictable ways.

18 Still, despite these and other challenges,
19 New York farms remain an essential part of the
20 state, contributing to all levels of the economy
21 through the jobs they support and the income they
22 generate.

23 Those are direct quotes from the agriculture
24 and New York State report from the comptroller's
25 office.

1 Senator Ramos refers to a Jim Crow Era law
2 that denies human beings parity with nearly every
3 other worker in the state.

4 The problem with her racially inflammatory
5 statement is that it is simply uninformed and an
6 ignorant opinion.

7 Agriculture, particularly the agriculture
8 involving livestock, always has been, and always
9 will be, different from every other industry.

10 That is precisely the reason that agriculture
11 has operated under a unique set of rules.

12 Agriculture provides the workforce of
13 New York State with opportunities that other
14 industries cannot provide.

15 If a worker enters into agriculture and
16 decides that the opportunities it provides will not
17 satisfy their goals, then that worker has the
18 freedom to choose another career opportunity.

19 Government intervention is neither required
20 nor desired.

21 The Governor recently stated that the budget
22 we put forward is not supported by the revenues,
23 himself acknowledging the fact that one should have
24 enough money to pay -- or, before one plans to pay
25 for something.

1 Well, unfortunately, many agricultural
2 employees may have to find jobs in another state
3 because, quite frankly, Senators, the budget which
4 you planned to legislate on to us is, as our
5 Governor said, simply not supported by revenues.

6 Farms will be forced to make drastic changes
7 in response to this proposed drastic change.

8 From the language that Senator Ramos has used
9 in promoting Bill S2837, I stand here as a farmer
10 accused of racism and inhumane and unjust treatment
11 of my employees, an accusation with which
12 I disagree.

13 While I also stand here as a New Yorker, and
14 I accuse you, Senators, of flippant, irresponsible,
15 and dishonest use of New York's financial resources.

16 According to Forbes.com "Financial State of
17 the States," New York is among 40 states unable to
18 pay their bills.

19 New York ranked 42nd, with an F grade, and
20 the report stated that much of the State's overall
21 debt comes from constitutionally-protected pension
22 benefits and retiree health-care costs.

23 The report goes on to say, that New York's
24 financial condition is not only alarming, but also
25 misleading, as government officials have failed to

1 disclose significant amounts of retirement debt on
2 the State's balance sheet.

3 Residents and taxpayers have been presented
4 with an unreliable and inaccurate accounting of the
5 state's government's finances.

6 I do not know, and will not pretend to
7 understand, the entire scope of the state of
8 New York's finances, but the information available
9 to me is alarming enough.

10 And I can honestly say that it would be
11 impossible to run a farm, or any business, for that
12 matter, the way that our state has been run
13 financially.

14 Contrary to Mr. Engman's testimony,
15 Senators, the dairy farms of your state of all size
16 are suffering.

17 An economist --

18 OFF-CAMERA SENATOR: Thank you.

19 PHIL HALL: -- one said --

20 Thank you.

21 SENATOR MAY: Yeah, your time is up. Sorry.

22 Thank you.

23 Any questions?

24 SENATOR RAMOS: Nope.

25 I'm just glad he got it out.

1 SENATOR MAY: And let me just make sure
2 people understand, the pronunciation of my
3 colleague's name, it's Senator Ramos.

4 SENATOR RAMOS: Thank you.

5 PHIL HALL: I'm sorry.

6 SENATOR RAMOS: That's all right.

7 SENATOR MAY: Thank you.

8 PHIL HALL: Thank you.

9 (Mr. Krupke, Mr. Temich, and Mr. Hall leave
10 the witness table.)

11 SENATOR MAY: Paul Baker, is the name?

12 PAUL BAKER: Yes.

13 Thank you for the opportunity to address the
14 Senators.

15 I'd like to maybe change the tone a little
16 bit here, and, first, let me give you a little quick
17 background.

18 I'm fifth-generation farming. I was from
19 Niagara County. My family originated in
20 Long Island, and, for whatever reason, we got to
21 wanderlust and kept heading west.

22 Most of my relatives wound up in Colorado,
23 actually, they we want that far.

24 My point of my story is, my family chose to
25 be in agriculture.

1 I don't know, some people say that if you're
2 in agriculture, it's a curse of your father's. You
3 kind of inherit the bug, and you keep going --

4 (Inaudible comment from the audience.)

5 PAUL BAKER: Okay.

6 -- you kind of keep going with it.

7 And I think it's important that we recognize
8 that it's a choice.

9 There's many jobs in this society that
10 I would not want to do. I wouldn't want to be an
11 ironworker putting up a high-rise in New York City,
12 but yet we need to do it.

13 We need to be producing food in this country,
14 and in this state.

15 I think it's perfectly fine, and it's your
16 duty as Senators, to investigate the conditions on
17 the farm.

18 I think we should change the tone, though.

19 I'm not opposed to you having the farmworker
20 bill.

21 I'm opposed to not having the discussion so
22 that we can find a workable solution so that all
23 sides can be better off at the end of the day.

24 For example, I think most farmers, when given
25 the opportunity, do not oppose unionization.

1 They recognize that their workers have a
2 right to collectively talk and work among
3 themselves.

4 I think what they're very much opposed, in
5 this particular bill, if I understand the
6 legislation, is we do not have protection against a
7 strike.

8 That, I would like to see put in, and I think
9 you wouldn't have any opposition.

10 As it's already has been mentioned by many of
11 my colleagues already, many of the things that
12 you're asking for, we're already doing as a
13 community, with workmens' (sic) comp and such.

14 Or even paying, in my opinion, unfair
15 unemployment insurance for our H2A workers, when
16 they have no way of ever collecting it.

17 And as one person said, it's -- depending on
18 your farm, it's a sizable amount of money.

19 So I think that needs to be looked at as we
20 look toward a compromise.

21 The other thing is, I think is -- we need to
22 talk about the farmers here.

23 There's a huge decline in the number of farms
24 in New York State.

25 How long can we continue to do that and still

1 have an economic-viable second?

2 And people can do statistics any way they
3 want.

4 But, farming is one of the largest economic
5 drivers in the upstate economy.

6 We need to continue to do support that.

7 It's very important for not only the farmers,
8 but the support industries around.

9 As far as the question of being an
10 entrepreneur, I think that's maybe one of the
11 biggest curses that farmers have.

12 We have always been met with a challenge.

13 Go back to the cotton. We came up with the
14 ways to mechanize it.

15 We'll continue to try to do our
16 entrepreneurial duty and find ways to make things
17 more efficient.

18 But, we reach a point where we're -- and
19 I think we're there right now, technology really
20 isn't, in my case, like with apples, we do not have
21 a new way to harvest apples efficiently. So we have
22 to -- we are dependent on having a huge amount of
23 both people come in to pick 30 million bushels of
24 apples in a short period of time.

25 We've been trying, unsuccessfully,

1 unfortunately, to go to the federal government to
2 try to get better legislation so that there's equity
3 amongst us all.

4 I think most farmers in New York would feel,
5 if we wanted to have overtime, fine. Let's do it on
6 a national basis.

7 Because, our marketplace, as much as we love
8 to be in New York, is very much a national and a
9 global marketplace.

10 I see my time is up, so I'll be here for
11 questions.

12 SENATOR MAY: Thank you very much.

13 And, just in response to the -- your very
14 first thing you said, the reason we're holding a
15 hearing here is to make sure that this conversation
16 can happen, and that voices, all of the voices, can
17 be heard.

18 PAUL BAKER: That's -- it's absolutely
19 essential.

20 Okay?

21 SENATOR MAY: I guess, yes.

22 Thank you very much.

23 SENATOR RAMOS: Thank you.

24 KIM SKELLIE: Thank you for having us.

25 My name is Kim Skellie. I'm from El-Vi Farms

1 in Newark, New York, which is in the Finger Lakes
2 region.

3 We have 2,000 cows and about 3400 acres we
4 crop.

5 We have about 30 full-time employees and
6 20 part-time, and about 50 percent are American and
7 50 percent are foreign-born.

8 They work approximately 40 to 70 hours a
9 week, and that really depends on family needs, their
10 interests, and some farm needs.

11 Everyone gets one to two days off a week,
12 whether it be -- except, occasionally, during
13 harvest season.

14 And like many of the other farms, we do
15 provide workers' comp.

16 We have bonuses every month in addition to
17 their regular paychecks.

18 And I think, in our area, especially, but
19 I think it's very widespread amongst a lot of the
20 farms in the state, the labor market is short.

21 We have learned to, through better
22 communication, teamwork, and camaraderie, build
23 workforces that are quite stable and long-term.

24 And so the idea of fear and intimidation, and
25 people feeling like they can't leave, I think that's

1 a small slice of this pie.

2 We are -- actually, we work to keep our
3 employees with us, because they know there's other
4 jobs out there. It's easy to find another job, and
5 there's other good businesses in our area where they
6 could go to work if we didn't treat them with
7 respect and pay them well.

8 That being said, this act, the collective
9 bargaining, I agree with what Paul said.

10 A lot of it we'd be okay with.

11 The strike, whether it be for crops or
12 animals, there's animal health risks if cows don't
13 get milked, fed, cleaned, and taken care of on a
14 very timely, daily basis.

15 As far as the overtime goes, that's the
16 biggest thing we struggle with.

17 Our labor costs per employee have gone up
18 17 to 18 percent in the last three years anyway,
19 with minimum wage rising, and we have two more years
20 of that.

21 If we changed -- if we have to go with
22 overtime without changing anything, it would
23 increase another 17 to 18 percent, which, for us, is
24 \$230,000.

25 So, any business has to learn to control

1 costs, and you would do what you can to control
2 costs.

3 And that's why we go the route of saying,
4 we've got to curb people back to 40 hours a week.

5 And then I think of, retail industries and
6 food-service industries, where people are only
7 working 35 to 40 hours a week. Many of them go get
8 second jobs elsewhere because they are not allowed
9 to work more hours than that.

10 And I feel that's what we would put our
11 employees in position for.

12 I guess the last thing I'd like to say is, if
13 we make that change, our people would probably be
14 reduced in pay about 25 to 33 percent, depending on
15 how much we're able to hire more people.

16 MATT WUNDER: I'm Matt Wunder. I'm also with
17 El-Vi Farms. I'm the assistant crop-production
18 manager.

19 I've been with the farm for 15 years, and
20 I've done many things there over that time that I've
21 really enjoyed. Building new barns for the animals.
22 In my current role, repairing equipment for cropping
23 seasons.

24 I grew up on a small family farm, and I've
25 seen what happens when a farm can't make it in the

1 economy.

2 So I understand what it takes, from the
3 farming side, to get the work done and get a job
4 done in a timely manner.

5 As a team member on the farm, we take pride
6 in getting our work done, and getting it done well.
7 And we -- sometimes we work a lot to do that.

8 And having that ability to work, when it's
9 there, has helped me and my family in many ways.

10 Currently, my family budget requires -- is
11 set up so that I need to work 40 to 45 hours a week.

12 I choose to work 55 to 60 hours a week so
13 that my kids can have extra, things that I didn't
14 have.

15 If the farm was in a situation that they had
16 to reduce hours, I would have to look elsewhere for
17 employment in a field I wasn't passionate about,
18 and --

19 SENATOR MAY: Thank you very much. We have
20 to end there.

21 But I thank you very much.

22 I did have a couple of questions, if that's
23 okay?

24 SENATOR RAMOS: Yes, go ahead.

25 SENATOR MAY: Mr. Skellie, I wanted to ask

1 you, you mentioned bonuses.

2 What are those based on?

3 KIM SKELLIE: At our farm, milk-quality
4 bonuses. So it's the quality of the milk, which is
5 measured by the co-op.

6 We get a bonus as a farm, and then we share
7 it with the employees.

8 SENATOR MAY: I see. Okay.

9 KIM SKELLIE: So -- and it ranges. You know,
10 for the most part, it's been in the range of \$150 to
11 \$300 a month, per employee.

12 SENATOR METZGER: Could you -- I know dairy
13 farming is very different from, you know, growing
14 vegetables, in terms of the labor needs, the labor
15 demands.

16 And could you just describe those differences
17 with seasonal labor?

18 Like, I mean, I know you've said that -- you
19 know, the hours range from 40 to 70.

20 But that's -- you know, you've got, what's an
21 average week in the wintertime versus -- do you grow
22 your own feed, your own hay?

23 So --

24 KIM SKELLIE: We grow --

25 SENATOR METZGER: -- if you could talk about,

1 just characterize the hours.

2 KIM SKELLIE: -- right.

3 So the people who work in the barn with the
4 animals have a pretty structured week that doesn't
5 change a whole lot throughout the year. And those
6 people range from 50 to 70 hours week. And it
7 depends on whether they have one or two days off
8 each week.

9 The people working the crop side, they range
10 from 40 to 60. And, of course -- and it may be more
11 than 60 at times. Matt will sometimes put in an
12 80-hour week when you're in the heart of planting or
13 harvest season. So their weeks will be up and down,
14 May, June, September, October, would be the heaviest
15 months.

16 Does that answer your question?

17 SENATOR METZGER: Yes, it does. Thank you.

18 SENATOR MAY: I just have to say, you guys
19 are like an advertisement for handsome plaid shirts.

20 [Laughter.]

21 SENATOR MAY: Thank you.

22 KIM SKELLIE: Thank you.

23 (Mr. Skellie and Mr. Wunder leave the
24 witness table.)

25

1 SENATOR MAY: Mr. Brown.

2 JEREMY BROWN: Good afternoon, Senators, and
3 thank you for your travels to Upstate New York, and
4 for the opportunity for me to share my story, and
5 testify in regard to the Farmworkers Fair Labor
6 Practices Act.

7 Forgive me if I'm generalizing, but, farmers
8 as a whole are very process-oriented and committed
9 to our work, so we often forget to tell our story.

10 And I feel that part of the push for a bill
11 like this is a perception battle between what
12 happens in some instances, and what happens as a
13 rule.

14 I am the dairy manager at Twin Birch Dairy in
15 Skaneateles, New York.

16 At the farm we have 3400 acres that we
17 utilize to feed our heard of 1500 adult cattle.

18 We support 25 families.

19 And I am a non-family partner with the legacy
20 family and another non-family partner that's one of
21 my peers.

22 And, I started my career in the dairy
23 industry as a farmworker.

24 So, about Twin Birch Dairy.

25 We have a written mission statement which

1 reads, "Our goal is to be an asset to our community
2 by being stewards of our land, providing well-being
3 for our heard, and ensuring the livelihood for
4 employees and operators."

5 We are an asset to our community by providing
6 over a million dollars in payroll to people who live
7 within five miles of the farm.

8 We support diverse off-farm jobs, ranging
9 from trucking jobs to get feed, fuel, milk away from
10 the farm; sales people; professionals, such as
11 lawyers, dairy-cow nutritionists, veterinarians, and
12 processors.

13 At Twin Birch we're also members of the
14 Cayuga Marketing Group. We're a group of 29 member
15 farms in Central New York.

16 In 2013 we began construction on a
17 dairy-processing plant in which we make powdered
18 ingredients for export around the world.

19 There, we employ 75 people, and we have
20 another 25 people that we employ through our milk
21 trucking company.

22 We continue to be asset in our community
23 because we're able to maintain population in a rural
24 area, and provide a tax base.

25 We're stewards of the land.

1 We have adopted best-management practices
2 voluntarily before there is any push from state or
3 local organizations to do so, and we help to
4 contribute to the esthetics of Upstate New York.

5 Care for the animals.

6 Cows being -- or, cows well-being is
7 contingent on consistent round-the-clock care and
8 high-quality feed.

9 That's where providing a livelihood for
10 co-workers and employees comes into play.

11 It's our goal to attract the best people we
12 can get.

13 I spend more time with my co-workers than
14 I do with my own family.

15 We've been able to achieve low turnover on
16 the dairy, and, when we do have turnover, people are
17 asking their friends, family, neighbors from home,
18 to come and work with them at our farm.

19 We also promote people from within so they
20 can help to climb the ladder, and start with
21 labor-type jobs and move into management.

22 We offer competitive pay packages with
23 health care, housing, utilities, paid vacation,
24 meals, transportation, uniforms.

25 The cost of living is much different in

1 Upstate New York than it is in other areas of the
2 country, and this results in a huge amount of
3 disposable income.

4 And that is what my employees have told me
5 time and time again, that their number-one goal is,
6 is to have cash in hand to support their families.

7 Some of the harsh realities of this proposal
8 is that we exist in a global market. Milk is not
9 priced solely for New York State.

10 I believe, as the minimum wage changes, it's
11 kind of self-correcting. We can ride that out, but
12 everybody needs to be on the same playing field.

13 And when we couple that with overtime, it
14 makes that go exponential.

15 Thank you for your time.

16 SENATOR MAY: Thank you.

17 SENATOR METZGER: Thank you so much.

18 DAVID RANDALL: Good afternoon, Senators.

19 Thank you for coming today to hear our
20 concerns.

21 My name is David Randall. I'm from
22 Co-Vale Holsteins, a fourth-generation family dairy
23 farm.

24 A little bit about our farm.

25 We have nine employees on our farm.

1 The average time our employees have been with
2 us is for eight years, with two of them for being
3 over twenty-five.

4 Today I am here not to debate whether
5 farmworkers should get overtime as much as I am
6 concerned where the money is going to come from to
7 pay for this.

8 Just last January the minimum wage went up.

9 We buy lunch every day at our local store for
10 our employees. The same day the minimum wage went
11 up, the price of lunch went up over a dollar on
12 everything.

13 We can't do that, we can't raise our prices
14 to offset the costs of labor.

15 The dairy industry is in a horrible financial
16 state.

17 In 2018 the United States lost 2700 dairy
18 farms.

19 The last three years we have been running in
20 the red.

21 We've borrowed against assets in hopes that,
22 in the future, the price of milk will come up.

23 In the dairy industry, we are mandated by
24 state legislation, such as the one you're proposing,
25 but the federal government sets the price of our

1 product.

2 I don't know of any other industry in the
3 United States that is getting the same price of
4 their product today as they did in the 1970s.

5 The farmer has no more to give.

6 At the present time, if we had a farm in
7 Pennsylvania, which is an hour south of us, where
8 the minimum wage is 7.25, our payroll would have
9 been at \$120,000 less last year.

10 With the proposed legislation, it would add
11 80,000 to last year's payroll; in other words, it
12 would cost our farm approximately 200,000 more to
13 operate in New York State than it would in
14 Pennsylvania, and that's not including the increase
15 of nearly a dollar an hour starting this January.

16 So as a businessman, how can we justify
17 staying in New York State?

18 Other neighboring states during the last few
19 years have substantially subsidized the price of
20 milk during these times to protect the family farms.

21 Proposing legislation of this financial
22 burden is preying on farmers' love of their land and
23 their roots.

24 If the purpose of this legislation is in the
25 care of the Latino people, why hasn't there been a

1 program to get them here legally to work on our
2 dairy farms, and a program to get to their licenses?

3 As far as Latino people not being treated
4 properly, there is such a shortage of labor on dairy
5 farms, that any farm that doesn't take the best
6 possible care of their employees would lose them,
7 they'd go to a neighbor's.

8 We've never had an employee say they worked
9 too hard or too many hours.

10 The reason there is such a labor shortage is
11 because we have such a broken welfare program in
12 New York State.

13 If someone doesn't want to work, they don't
14 have to.

15 But we're not here to talk about that.

16 I'm 27 years old, and I love farming in all
17 aspects of it.

18 All I've ever wanted to be is a dairy farmer,
19 and that's, my dreams have come true.

20 But, with proposed legislation like this, my
21 dream may come to an end.

22 I will have -- or, at least it will come to
23 an end in New York State, because I will keep
24 farming, and I'll have to keep continuing to provide
25 for my family, even if that means moving, leaving

1 the state.

2 I want to finish by making one last
3 statement.

4 Over the last few years everyone asked,
5 "Where have all the small farms gone?

6 Well, proposed legislation like this is what
7 puts small farms out of business forever.

8 This legislation would be devastating to all
9 farms.

10 Thank you.

11 SENATOR METZGER: Thank you very much.

12 BRUCE GIBSON: Good afternoon, Senators.

13 Thank you very much for hearing us today.

14 My name is Bruce Gibson. I'm a partner in
15 Locust Hill Dairy, LLC. We're a dairy farm in
16 Oswego and Jefferson counties.

17 We have 50 employees.

18 We crop -- we have really two distinct
19 businesses, two teams.

20 We crop about 6,000 acres, and we grow feed,
21 primarily corn and hay, to feed our cows. We have
22 about 3500 cows.

23 So I guess I'm that "big farmer" that an
24 earlier speaker said would be just fine.

25 And maybe that's true, I don't know, I don't

1 know the answer to that.

2 But I thought it was important that I come
3 and at least tell you my story, in terms of how
4 I think this legislation would affect my team,
5 because my team is everything.

6 Those 50 guys and girls are critical to our
7 success, our mutual success. We're joined together.
8 They count on me as I count on them to help me help
9 my cows. We're caretakers as farmers.

10 And I think, I've heard some stories today
11 that I hope just simply aren't true.

12 Let me move forward, though.

13 As a big farm we have a bigger payroll, so
14 it's sort of the same thing. Right?

15 Our payroll is roughly 2 1/2 million dollars,
16 that that goes into the local economy. And we have
17 relationships with other businesses in the area that
18 are really important small businesses, where we're
19 their biggest customer.

20 The dairy economy has been very challenging,
21 even for big farms like ours.

22 We kind of crept backwards in 2015 and 2016,
23 2017. And 2018 we took a big, big step backwards.
24 The price of milk reached historic lows.

25 And the point I'm driving at is how

1 time-sensitive farming is, because, despite our crop
2 team's best efforts, in 2017, when we were growing
3 our feed, that we feed in 2018, essentially, we
4 couldn't get on the fields.

5 We couldn't get the corn planted in time, and
6 we couldn't get it off the fields when it was at its
7 best.

8 So the result was a lower-quality feed
9 product, that drove our milk production down pretty
10 heftily, at a time when milk was historically low.

11 We're digging our way out of that hole. It
12 will probably take me two years, minimum, to just
13 recover from last year, and probably four years, if
14 it can even happen, to get sort of back to where we
15 were.

16 But, this is really the farmworkers' labor
17 bill. It's not the farm owner's sob-story session.

18 So, let me talk about my team.

19 The crop guys work probably 60 hours, on
20 average, and, basically, year-round, because, in the
21 winter, they're tearing apart machines, putting them
22 together.

23 And in the spring and summer, like now
24 they're working 80 hours, right, to get that corn in
25 the ground in a timely fashion.

1 And if we don't get it in that window, and we
2 suffer, you know, next year in production, you know,
3 it's just -- we just can't do that.

4 On the barn side, where I spend all of my
5 time, it is a little more structured. Right?

6 And so, as an earlier speaker suggested, it's
7 a 50- to 70-hour workweek, and those extra hours are
8 actually really important to those workers.

9 It's really the first question anyone asks me
10 when they come to talk about working on our farm,
11 whether it's the crop team or the barn team: How
12 many hours am I going to work?

13 We've been able to lure workers from other
14 industries.

15 We have a John Deere-certified mechanic that
16 worked for an equipment dealer.

17 He can go back there tomorrow.

18 The reason he works for us is because, he's
19 able to work those extra hours, and raise his
20 family, pay his mortgage, et cetera.

21 We have a gentleman that worked at a car
22 dealership, he was a mechanic. He's now a mechanic
23 on a dairy farm.

24 Big change for him, really, the same reason.
25 He was able to actually earn more money.

1 And when it comes to the barn crew, the same
2 is true. We're very -- they're very
3 income-sensitive employees.

4 I think that, if this bill existed today, and
5 I was having to pay time and a half within the
6 schedule that we keep, that would raise my payroll
7 about 40,000 a month, and I can tell you that I just
8 can't bear that cost right now. Honestly, that just
9 would not work.

10 Would I try to do something else to work
11 around that?

12 Absolutely; and maybe it will work, maybe it
13 won't.

14 I couldn't promise you that everyone will go
15 work on another farm. That may or may not be true.

16 In terms of collective bargaining, though,
17 I think that's great.

18 If my farm employees feel that they have a
19 need to organize, then I have failed as a farmer.

20 If they don't take a day off, I make them
21 take a day off. I think that's critical.

22 But, the overtime legislation I think could
23 put things at risk.

24 I'd like to tell a story about a farmworker,
25 if I could just have 30 more seconds.

1 I have a farmworker that works for me, her
2 name is Gladys, and she works alongside her three
3 brothers.

4 And, together, their income is,
5 approximately, oh, probably somewhere north of
6 \$160,000, combined, as a family.

7 And this is in a county where the individual
8 average is about \$24,000.

9 They pay their costs to live, and they send
10 money home.

11 They hail from San Marcos, Guatemala, where
12 their family is actually building a farm of their
13 own.

14 On the work that they're doing in our
15 operation, they're building a coffee operation that
16 now extends into the hundreds of acres, hopefully,
17 changing the dynamic of their family for future
18 generations.

19 That's all I have today.

20 Thank you very much.

21 SENATOR METZGER: Thank you very much.

22 SENATOR MAY: Thank you.

23 MATT IGOE: Hi. My name is Matt Igoe, and
24 I work for a large poultry farm.

25 My wife owns a vegetable and fruit farm.

1 And I'm also on the board of directors for a
2 local growers' association.

3 So I have different hats.

4 I've submitted testimony, I'll just read from
5 that.

6 So the Fair Labor Standards Act of 1938
7 created protections for a majority of American
8 workers; however, in a historic wrong, farmworkers
9 were excluded.

10 That exclusion by the FLSA needs to be
11 corrected. All workers should be treated equally.

12 The question is, is how do we get there?

13 In the 80 years since its signing, a
14 trillion-dollar food economy has grown up around the
15 rules and regulations set forth in the FLSA.

16 Every American alive today makes food choices
17 and has expectations about price that are built upon
18 that law, and it's not just products made in the
19 USA. Countries who export to America build their
20 own food-production systems based upon market
21 realities in America.

22 You know, I'm from the Hudson Valley.
23 I couldn't make it next week, so that's why I'm
24 here, but I'll tell you about where we are.

25 Where I live and work and grow food, I can

1 speak to the devastating impact the Farmworker (sic)
2 Fair Labor Practices Act would have if it passed in
3 its current form.

4 In a region where 40 percent of the farms are
5 unprofitable, the sudden increase in wages would
6 force farmers to cut worker hours, take on more
7 workload themselves, discourage continuity in
8 farming by forcing families to sell farms and exit
9 agriculture economy entirely, increase the pace of
10 mechanization, and negatively impact climate change
11 by decreasing the number of small, diversified
12 farms.

13 The only winners here would be the big giant
14 corporations who can absorb labor costs that small,
15 midsize, farmers cannot.

16 We're talking about billion-dollar farms out
17 there. There's about a dozen of them.

18 They would limit the -- further cause -- I'm
19 sorry -- causing further consolidation in our food
20 production, and limiting healthy local food choices
21 for New Yorkers.

22 While states like California have three
23 growing seasons to make a profit, New York just has
24 a single growing season which, in effect, triples
25 the risk of farming.

1 One late frost or an overly rainy summer is
2 enough to ruin a crop and, with it, that year's
3 earnings.

4 It's also important to remember that small
5 and midsize farmers must sell their products to
6 local consumers and businesses, but those same local
7 consumers and businesses can buy from anywhere with
8 lower labor costs, which include neighboring states
9 like Pennsylvania, but also countries like Mexico,
10 Thailand, and China.

11 We would, literally, be priced out of the
12 market -- of the New York markets where we were
13 instrumental in creating.

14 The best way to address the issue is a
15 comprehensive bill at the federal level, a bill that
16 addresses both inequalities of the past and the
17 viability of small and midsize farms in the futures.

18 If New York decides against that route and,
19 instead, pushes ahead with the state bill that would
20 New York farmers at a disadvantage, selling against
21 producers with lower labor costs, the only just
22 implementation, and its direct financial support for
23 New York farmers, is a long-term phase-in to give
24 employers time to absorb the costs of labor
25 increases so that New York farms and farm jobs may

1 be preserved.

2 SENATOR MAY: Thank you.

3 SENATOR METZGER: Thank you.

4 SENATOR MAY: Can you suggest details of what
5 that phase-in would look like?

6 MATT IGOE: Seven to ten years would be good.

7 I think California did seven -- five, six,
8 seven years on theirs.

9 SENATOR MAY: I think they delayed
10 implementation for several years, and then there's a
11 phase-in after that.

12 MATT IGOE: Yeah, exactly, something like
13 that.

14 And, also, you know, the costs are going to
15 be a heavy burden on farmers, as we've heard here
16 today.

17 And if there was a form of credit that we
18 could look at for farmers, that would be helpful
19 too.

20 SENATOR MAY: For example, a credit for
21 housing -- providing housing and --

22 MATT IGOE: Providing housing, but also
23 dollar-for-dollar offsets on the cost of the raising
24 of the labor costs, at least in the beginning of the
25 program, to offset the costs.

1 SENATOR MAY: Okay. Thank you.

2 MATT IGOE: Sure. Thanks.

3 MEGHAN HAUSER: Hello. I'm Megan Hauser.

4 I'm a co-owner of Table Rock Farm.

5 Table Rock is a dairy in Western New York,
6 and we've been in operation since 1915.

7 Our farm is successful because of the
8 talented, thoughtful, highly-skilled employees we
9 have.

10 Our 35 employees range in service -- they
11 come from a 45-minute radius of our farm, and they
12 range in service from 1 year to 45 years of
13 employment.

14 Each of our team members works hard to make
15 our farm a success, and I believe it's important to
16 reward this dedication with appropriate wages and
17 benefits.

18 Every new Table Rock employee begins with an
19 hourly wage well above New York State's minimum
20 wage.

21 Our job benefits include paid training, paid
22 personal time off.

23 Our farm overtime rate, which happens after
24 55 hours worked weekly, this is a benefit we've
25 offered since the 1970s.

1 Our typical workweek is 50 to 55 hours, but
2 when a crop must be planted or harvested, overtime
3 is required to do the job right.

4 We pay double time on six major holidays.

5 We recognize that employees are missing
6 important family time to keep Table Rock going.

7 We pay time and a half when someone gets
8 called in with less than 24 hours notice.

9 We have a retirement plan.

10 We have long-term disability coverage,
11 monthly payments towards health insurance, weekly
12 time off from work, paid continuing education,
13 scholarships for the children of our employees.

14 We have (indiscernible) raised on the farm.

15 We have monthly gas cards and pizza parties
16 for meeting our goals.

17 And we have key decision-making roles in
18 monthly and annual meetings for our employees.

19 People in their first job at our farm receive
20 a mentor, a formal training program, and
21 understanding of what a "job" is, and what's
22 expected in a job, and that feeling of camaraderie
23 and self-worth that you get from working with a
24 talented team.

25 We offer these benefits because it's

1 important to reward good work, and to be an employer
2 of choice, and to attract the right people.

3 I understand and agree with your desire to
4 ensure employees receive fair wages and benefits and
5 have safe working conditions.

6 The farmer colleagues that I know agree with
7 that too.

8 However, I am concerned that the proposed
9 well-intentioned changes are a threat to the
10 viability of farming in New York State.

11 New York employers already face hurdles that
12 employers in other states do not.

13 Our minimum wage is higher than our
14 neighboring states, and ranks in the top five
15 nationally. This hourly wage, in turn, affects our
16 employment taxes and our workers' compensation
17 expenses.

18 New York State's environmental standards are
19 higher than in many other states.

20 We're in favor of strong environmental
21 regulations, but this is a competitive disadvantage
22 for farmers in New York.

23 And we have a labor shortage.

24 I think many of the concerns raised in this
25 proposed legislation are going to take care of

1 themselves as talented employees become scarcer and
2 scarcer.

3 As you've heard, we're in the middle of a
4 multi-year downturn for our farm's profitability,
5 and for farms throughout New York State.

6 We've given raises to our team members in
7 each of the previous years, not because we can
8 afford to, but because they've earned it.

9 Costs continue to rise to run a farm, but the
10 cost to have a home and to maintain a family have
11 also increased.

12 I've not paid myself this year so we can
13 continue to give our teams the raises and the
14 benefits they deserve to earn.

15 Should changes, like overtime after 40 hours,
16 become mandatory, I calculate my labor costs would
17 increase about 15 percent just to cover the
18 over-term -- overtime wages.

19 With current farming conditions, I would have
20 to strongly evaluate whether I can continue to
21 dairy, and many of my farming colleagues would have
22 to do the same.

23 There are 35 families that count on jobs at
24 Table Rock.

25 Their earnings impact our local communities,

1 both economically, when an employee saves up to buy
2 a home and/or a vehicle, and, socially, when they
3 coach our Little League teams or volunteer to serve
4 at our cooperative extension.

5 Employment on farms gives young, talented
6 people a reason to settle and to stay in our rural
7 communities.

8 In summary:

9 I have an exceptional team, and I want to be
10 an exceptional employer.

11 These proposed changes, such as overtime
12 after 40 hours, and the existing minimum wage, will
13 make New York State exceptional, but in a way that
14 harms New York State employers and discourages
15 farming in rural communities in New York State.

16 Thank you.

17 SENATOR MAY: Thank you.

18 SENATOR METZGER: Thank you very much.

19 SENATOR MAY: Let me just ask one question,
20 because we've heard from you and a number of other
21 farmers who take pride in the way you treat your
22 employees.

23 And I'm just wondering, wouldn't it be
24 advantageous to you if all the farmers were required
25 to treat their employees that same way?

1 I'm just feeling, like, are you at a
2 competitive disadvantage by virtue of trying to do
3 the right thing?

4 MEGHAN HAUSER: I don't feel we're at a
5 disadvantage.

6 I feel the only way to employ the kind of
7 people we want to employ with those kind of talents
8 and abilities is to be an employer of choice.

9 And there's such -- I think there's such a
10 labor shortage in New York State, we have to do
11 those things in order to make people say, Table Rock
12 is where I want to be.

13 SENATOR METZGER: How big is your herd?

14 I'm just trying to get a sense of the size of
15 your farm.

16 MEGHAN HAUSER: We're milking about
17 1150 cows.

18 SENATOR METZGER: Okay, so you're big, a big
19 operation.

20 MEGHAN HAUSER: It's all relative.

21 SENATOR METZGER: Yeah, true, for New York.

22 SENATOR MONTGOMERY: (Inaudible.)

23 MEGHAN HAUSER: Okay, sure.

24 SENATOR MONTGOMERY: One of the other
25 witnesses talked about dry cows.

1 MEGHAN HAUSER: Uh-huh.

2 SENATOR MONTGOMERY: What does that mean?

3 MEGHAN HAUSER: Oh, sure.

4 SENATOR MONTGOMERY: I'm sorry, I don't --

5 MEGHAN HAUSER: That's -- I'm glad you asked
6 the question.

7 So there's a time when cows aren't milking,
8 just before they give birth, and that's what we call
9 "dry cows."

10 SENATOR MONTGOMERY: I see.

11 MEGHAN HAUSER: There's many farmeries' words
12 that we use, so it's good to ask.

13 SENATOR MONTGOMERY: Oh, okay.

14 So everybody else is being milked, except
15 those?

16 MEGHAN HAUSER: Yes, yeah.

17 SENATOR MONTGOMERY: Okay. Thank you.

18 MEGHAN HAUSER: Okay.

19 Anything else?

20 Okay.

21 Thanks.

22 SENATOR METZGER: Thank you.

23 SAMANTHA DeRISO: I'll try to keep it brief.

24 Thank you, Senator May, Senator Metzger,
25 Senator Montgomery, and Senator Ramos, for shedding

1 light on the plight of workers in New York State,
2 and for the opportunity to present testimony in
3 support of passage and enactment of the
4 Farmworkers Fair Labor Practices Act.

5 My name is Samantha DeRiso. I am the
6 president of the Central New York Labor Council, and
7 the Central New York Labor Council represents
8 17,000 members in Central New York, and it's the
9 affiliate of the New York State AFL-CIO.

10 I am a 30-year member of the United Food and
11 Commercial Workers Union in Oriskany, New York, and
12 I am also a native of Upstate New York.

13 The Central New York Labor Council and the
14 New York State AFL-CIO have advocated on behalf of
15 farmworkers for decades.

16 We have proudly supported the
17 Farmworkers Fair Labor Practices Act since its
18 introduction in 1999.

19 In 20 years since, there has been no
20 meaningful, substantive improvements for farmworkers
21 in the state.

22 Now it is the time to pass the bill of
23 Farmworkers Fair Labor Practices Act.

24 Many New Yorkers would be astounded to learn
25 that we already know farmworkers do not enjoy the

1 same rights as other workers.

2 Farmworkers do not have the right to overtime
3 pay or the day of rest.

4 They do not have the same rights as other
5 workers when it comes to workers' compensation,
6 temporary disability insurance, and minimum wage.

7 Further, farmworkers do not have the right to
8 form a union.

9 Farmworkers are uniquely susceptible to
10 exploitation.

11 Agricultural workers in New York State are
12 often immigrants. Many do not speak English, and
13 many live on farms where they work, receiving room
14 and board from their employers.

15 These farms are located in secluded rural
16 areas, and the fact that many farmworkers do not
17 have driver's license or access to cars only
18 exaggerates -- exacerbates the level of isolation.

19 Farmworkers with temporary work visas are
20 particularly vulnerable because their visas are
21 revoked when they stop working.

22 All of these factors give employers great
23 leverage over farmworkers.

24 Because of this leverage, and out of fear of
25 retaliation, farmworkers often do not exercise the

1 meager rights they currently have.

2 Enacting the Farmworkers Fair Labor Practices
3 Act will be -- will help to correct the power
4 imbalance, and ensure that the farmworkers are
5 treated like other workers in the state.

6 I would like to just take a moment to talk
7 about Patrice, a farmworker from Western New York.

8 Patrice could not be here today, but I have
9 been asked to read a short note from her.

10 "My name is Patrice, and I am an agricultural
11 worker.

12 "I work year-round in all seasons, cold
13 weather, sun, and snow.

14 "It is very hard for that" -- "very hard work
15 that requires a lot of strength.

16 "Who said that had a woman could not do it?

17 "Of course we can.

18 "I could -- "I would like the law to pass so
19 that we have the benefits that we are excluded from.

20 "The law would help all the workers in the
21 field, and help them not to experience so much
22 injustice."

23 I know I have one minute.

24 "For example, the wage-theft, many workers
25 are afraid to speak and suffer reprisal.

1 "It is necessary to have a day of rest, and
2 collective bargaining rights, because we are human
3 beings, and it is necessary in order to perform more
4 work in the workplace.

5 "Many workers have to work in the rain and
6 the cold.

7 "There are farmer" -- "farm owners who give
8 farmworkers a home at their place, and are
9 mistreated because of it.

10 "Thank God for the farmer that I work for
11 now. He gives us a day of rest. He gives us
12 permission to leave work when we do need, due to
13 emergencies. He even has paid us a week's vacation.

14 "I would like all farmers to be like this.

15 "I would like all the laws that protect us.

16 "I want farmers to look at us as human
17 beings."

18 I'll yield my time.

19 Thank you.

20 SENATOR MAY: Thank you.

21 SENATOR METZGER: Thank you.

22 BRET J. BOSSARD: Good afternoon, Senators.

23 My name is Brett Bossard.

24 I'm here today as a proud fourth-generation
25 dairy farmer from Fabius, New York, just a half an

1 hour from here.

2 SENATOR MAY: Ms. DeRiso, can we make sure to
3 get your written testimony?

4 SAMANTHA DeRISO: Yes, I will make sure
5 (inaudible).

6 SENATOR MAY: Okay. Thank you.

7 Sorry.

8 BRET J. BOSSARD: Again, my name is
9 Brett Bossard, and I'm a proud fourth-generation
10 dairy farmer from Fabius, New York, just a half an
11 hour from here.

12 I am one of three owners, and along
13 with 40 additional employees, we operate
14 Barbland Dairy, LLC.

15 Personally, I am lucky to be able to say that
16 I truly love what I do each and every day, and
17 I hope that my employees can say the same.

18 I'm going to skip around a bit here, just to
19 get some of the key points brought up, and to have
20 time for questions.

21 But, I'm here today, not as a way of saying
22 that your basis for fair standards for farmworkers
23 is not without merit, but, hopefully, as a way to
24 demonstrate that the agricultural community is much
25 better positioned when it comes to worker needs than

1 you may have previously thought.

2 And, more importantly, I'm here today to help
3 ensure that my two young girls will have the chance
4 to be fifth-generation dairy farmers.

5 I feel that the overtime is the greatest
6 challenge in your bill.

7 For my personal farm, our weekly payroll
8 hovers consistently, around the years, at \$30,000.

9 So doing the math on last year's hours
10 worked, it would, mandatory time and a half be on
11 40 hours, calculates to be \$894,000.

12 This is a 61 percent increase in our labor
13 costs.

14 I would be more than I'm willing to share the
15 details of how I got to those numbers, but, with
16 workmen's comp, and everything else that goes into
17 it, is where the numbers that I came up with.

18 This is absolutely unsustainable for our
19 business and will force us into some very difficult
20 decisions as the future of our business.

21 Already part of our strategic 10-year plan on
22 the farm is looking at locations out of state for
23 these very reasons.

24 The average hourly cash wage on our farm
25 currently of our 40 employees is \$15.09.

1 That does not include the week's paid
2 vacation for all employees that have been there over
3 a year, and along with the other perks and benefits
4 that we provide to our employees as well.

5 If working conditions were so terrible that
6 we have heard by many earlier today, then I would
7 ask you: How are several dairy farmers, and I feel,
8 the majority, not the minority, of dairy farmers,
9 are able to possess such a tenure by their
10 farmworkers?

11 I really feel that we are blessed to have
12 18 percent of our staff that have been with us for
13 over 15 years.

14 80 percent of our staff has been with us for
15 over 5 years.

16 And it is, the Spanish-speaking workers that
17 we have makes up approximately 50 percent of our
18 workforce, and that continues to grow as our
19 business has doubled in size over the last
20 seven years.

21 One of the great parts of my job is the
22 ability to see people grow.

23 And I'm here today with one of our great
24 assets on the farm, Lupa, which I will give a few
25 minutes to speak as well.

1 He is in charge of the care of our cows every
2 day.

3 SENATOR MAY: Just one minute left, so --

4 BRET J. BOSSARD: Yep, certainly.

5 I will turn it over to him at this time.

6 LUPAREO PEREZ-CARBAJAL: Hi.

7 My name is Lupareo Perez-Carbajal. I'm
8 grateful to work in Barbland Farm for 22 years.

9 I was -- I just want to let something -- let
10 you guys know, without disrespecting anybody, but
11 I think all the dairy farmers, they never make
12 anybody work more than what they want to.

13 I know, I have a lot of friends, and I don't
14 know if it's a good or bad thing, but every time
15 they call me, if I know of a job somewhere else,
16 they all, the first thing they ask is, "How many
17 hours?"

18 And the reason why we want to work so many
19 hours is because we make promise back home, that
20 we're going to come back with money, and give our
21 kids what we can't give them over there, because
22 our -- our pay over there, it's \$7 a day for
23 12 hours of work.

24 So when we come here, you know, it's
25 something that we don't want to just waste our time

1 just doing things that we're not supposed to.

2 So when we come here, we try to get the best
3 that we can.

4 Thank you.

5 SENATOR MAY: Thank you.

6 SENATOR METZGER: Thank you very much.

7 [Applause.]

8 (Mr. Bossard and Mr. Perez-Carbajal leave
9 the witness table.)

10 SENATOR MAY: Paul.

11 PAUL FOUTS: Thank you for the opportunity to
12 come.

13 I'm going to read an abridged version of what
14 my written testimony was, and, hopefully, I can
15 answer some questions after.

16 My name is Paul Fouts.

17 I'm the third generation to operate my
18 family's dairy farm located in the northeast corner
19 of Tompkins County.

20 Our farm has seven full-time and two
21 part-time employees, half of which are domestic,
22 half are foreign-born, and I work alongside them
23 each and every day, and I have the hands to prove
24 it.

25 There's no job that I ask them to do that

1 I have not done or am not willing to do myself.

2 I value their contributions to our farm in
3 many respects. They are like family to me.

4 I am taking the time on this beautiful sunny
5 day during the busiest part of a farmer's year to
6 testify about the proposed legislation because the
7 impact of its enactment, combined with the ongoing
8 increase in minimum wage, terrifies me.

9 I am terrified that I will lose my labor
10 force because I can no longer afford them, and
11 will be stripped of the flexibility to pursue
12 arrangements that are favorable for both of us.

13 I am terrified that my smaller neighbor farm
14 will not be able to afford the unemployment,
15 disability, insurance that will be required for the
16 small amount labor he has.

17 I am terrified that having mom, dad, son, or
18 daughter become an employee will no longer be an
19 option in the generational transfer process.

20 I am terrified that our support businesses
21 will not be able to cope with the impacts that will
22 come to them, both directly and indirectly.

23 I am terrified that our communities that we
24 have called "home" for generations, and whose
25 economic backbone is agriculture, will become ghost

1 towns when the equipment dealers, feed mills,
2 processing plants, and a plethora of other
3 agricultural businesses shutter their doors.

4 I am terrified that colleges, such as CALS at
5 Cornell, SUNY Morrisville, SUNY Cobleskill,
6 SUNY Alfred, will be irrelevant because agriculture
7 will no longer be a viable business in New York, as
8 evidenced by the report released by Farm Credit.

9 I have heard labor practices in agriculture
10 described by some as draconian.

11 To the outsider who is used to an
12 employer-employee relation being adversarial,
13 I suppose it would be easier to have this -- be easy
14 to have this misguided viewpoint.

15 But our relationship with our employees is
16 better described as being cooperative in nature.

17 We make every attempt to have our employees
18 schedule a method of remuneration compatible with
19 their individual needs while staying within the
20 realities of our business.

21 Since many of our employees have been at our
22 farm for multiple years, I am confident our labor
23 practices meet their satisfaction.

24 I am confident enough, that I invited
25 Assemblywoman Barbara Lifton to meet with our

1 workers, without my presence, to discuss their
2 opinions of the proposed legislation.

3 To her credit, she accepted the invitation,
4 and on April 18th she met with our employees while
5 I milked cows.

6 I implore each of you to ask her about the
7 conversation because, the deal was, what was said in
8 the room stays in the room, so I don't know what
9 they said.

10 The most sustainable way to provide an
11 abundant supply of safe, affordable nutrition to our
12 population is to grow it and produce it locally.

13 The scope of impact of the Farmworker (sic)
14 Fair Labor Practices Act extends far beyond large
15 farms. It touches every corner of the agricultural
16 community in New York, and by ignoring natural and
17 economic realities of agriculture threatens its
18 existence.

19 How can you assure the residents of New York,
20 your constituents, the food and fiber they need
21 while simultaneously strangling the very industry
22 that provides it?

23 And if I have some more time, I'd like to
24 clarify some things that were said earlier.

25 One is that, there is a program called

1 FARM program, that David Fisher touched on. And
2 they are coming out with a module on that, where we
3 have to meet certain standards for labor practices.

4 And that is driven by the market, which is
5 where it should be driven from, because then maybe
6 we can see some returns for that.

7 And I've heard several times that this --
8 that New York is number-three dairy state.

9 We are number four, because we are losing
10 farms.

11 We didn't get overrun by another state. We
12 lost it.

13 And don't -- just because we have agriculture
14 here today, do not assume it will be here tomorrow.

15 SENATOR MAY: Thank you.

16 [Applause.]

17 SENATOR MAY: Let me ask a question, because
18 you framed this in the things that you're afraid of.

19 I've visited a number of dairy farms, and,
20 frankly, the machinery that people use for milking
21 the cows terrified me.

22 And I just found myself wondering, if you had
23 been working for 13 hours in a day, doesn't the
24 likelihood of accidents and, you know, danger, and
25 fear, enter in as you work -- get more and more

1 tired?

2 I just am curious about how that --
3 obviously, you care about the welfare of your
4 workers.

5 How do you factor that?

6 PAUL FOUTS: We have -- and I explained some
7 of the evolution in my written testimony.

8 We work 12-hours shifts.

9 My employees work 12-hour shifts.

10 And we do give them breaks throughout that,
11 for lunch, and, you know, to try to give them a rest
12 from that.

13 We give them the 12-hour shifts because
14 that's what they wanted. Both domestic and foreign
15 labor wanted the 12-hour shifts, and I explained the
16 reasons for that.

17 So our domestic people work, it's a
18 50-hours -- 48-hour workweek, really. And our
19 foreign-born are 60. We do pay overtime above that.

20 And, as a comparison, I work over 100.

21 So, I see all the shifts.

22 And so I know that you can work 100 hours and
23 not drop dead. You can work over 100 hours and not
24 get hurt.

25 You have to be talented and focused on what

1 you do.

2 SENATOR MAY: Okay. Thank you.

3 (Discussion among the Senators.)

4 SENATOR MAY: Thank you very much.

5 JEREMY MAPSTONE: Good afternoon, Senators,
6 and thank you again for giving us all this
7 opportunity to discuss the Farmworker (sic) Fair
8 Labor Practices Act.

9 My name is Jeremy Mapstone, and I'm a
10 third-generation farmer from Manlius, New York.

11 We have a 300-cow organic dairy farm that was
12 started in 1944 by my grandfather.

13 He convinced his parents to move out to the
14 country because he knew, at age 16, that he wanted
15 to be a farmer.

16 Sometimes I think back on what I knew at the
17 age of 16, and it's amazing.

18 But he -- and then after that, he came to
19 SUNY Morrisville, and then he actually learned how
20 to be a farmer.

21 So, 2019 marks 75 years of us shipping milk
22 at our location.

23 So, fast-forward to today:

24 We employ six full-time workers, and,
25 seasonally, may add up to five or six more.

1 Our normal workweek is a 5 1/2-day workweek.

2 We provide -- as many of our other, you know,
3 farmers have stated, we provide paid vacation,
4 transportation, housing, you know, many benefits,
5 that we're happy to provide.

6 We take care of our employees.

7 They take great care of us, so we feel it is
8 our responsibility to do the same.

9 I recognize the difficulties in trying to
10 take into account everybody's, you know, point of
11 view on this issue.

12 And, again, very much appreciate this
13 opportunity for people on both sides of the issue
14 to, you know, try and, maybe, reach a comfortable
15 middle ground, compromise of sorts.

16 I think my main concern would be the overtime
17 provision.

18 Our current labor costs makes up 20 percent
19 of our yearly budget.

20 And as the bill is -- if it were to pass as
21 it is stated now, our labor costs would become
22 30 percent of our yearly budgets, and about an
23 \$85,000 increase off of our bottom line.

24 Again, as some of our other farmers have
25 previously stated, you know, we really don't have

1 any opportunity to make up that increase.

2 So that's certainly -- certainly scary.

3 I won't repeat many of the same things that
4 everybody else has already said. I understand, you
5 know, we've been here a while and we're trying to
6 get out.

7 So, a couple different things.

8 The USDA agriculture census just came out a
9 few weeks ago, and a couple disturbing trends.

10 You know, as a young farmer, I'm 25 years
11 old, 8 percent of us are made up of farmers that are
12 less than 35 years of age.

13 That, to me is a problem.

14 You know, I don't know what the answer is,
15 but -- and, again, I, you know, commend you guys
16 for, you know, trying to look out for our industry,
17 and giving us an opportunity to share, you know,
18 some of our stories and some of our concerns.

19 But, again, 8 percent, you know, of people
20 that are young farmers, clearly, there's not young
21 producers getting into this industry.

22 That's a problem.

23 Going along with that, I mean, people have
24 said 2100 farms, you know, going out of business.

25 I heard some of the previous people say,

1 well, you know, farmers are, you know,
2 entrepreneurs. They will figure it out.

3 And maybe that's true.

4 But -- you know, and, also, in the same vein,
5 you know, well, they're not out of business yet.
6 You know, they claimed before they would be out of
7 business.

8 But, you know, most of us are used to doing
9 more with less, you know, but at what point, you
10 know, does it start to go in the other direction?

11 You know, 2100 farm in the last five years,
12 that seems a little disturbing to me.

13 So, I just worry that, you know, at some
14 point, you know, it's going to tip too far in the
15 wrong direction.

16 So, I know I'm running low on time here, so
17 I'll wrap it up there, but...

18 Thank you again.

19 SENATOR METZGER: Thanks very much.

20 SENATOR MAY: Thank you very much.

21 I just want to thank everybody who has stayed
22 around.

23 We have four more witnesses on our list, so
24 we're closing in on the end of this.

25

1 SENATOR MONTGOMERY: I appreciate your
2 pointing out the age problem.

3 First of all, 57 is not old, just so you
4 know.

5 JEREMY MAPSTONE: That's -- you're right.
6 I didn't mean to imply that.

7 SENATOR MONTGOMERY: Okay.

8 And -- but the other part of what you said
9 is, one thing I think is extremely important, is
10 that we really need to invest a lot more, even than
11 we already do, and we do, in the future farmers of
12 America, because -- and I think not just young
13 people who grow up in certain areas, but who grow up
14 throughout the state --

15 JEREMY MAPSTONE: I agree with that.

16 SENATOR MONTGOMERY: -- should be encouraged
17 to become active in terms of farming and
18 agriculture, and understanding and viewing that as a
19 viable industry and career.

20 JEREMY MAPSTONE: I agree with that.

21 SENATOR MONTGOMERY: Thank you for raising
22 that.

23 JEREMY MAPSTONE: I appreciate that very
24 much.

25 SENATOR MAY: We also have a Young Farmer

1 Apprenticeship Program bill that we're hoping to
2 move forward too.

3 JEREMY MAPSTONE: Looking forward to seeing
4 that.

5 SENATOR MAY: So trying to encourage more
6 young people to go into farming.

7 JEREMY MAPSTONE: Appreciate it. Thank you.

8 SENATOR METZGER: Thank you so much.

9 MARK RUSSELL: Good afternoon.

10 SENATOR METZGER: Mark?

11 MARK RUSSELL: Yes.

12 Ready?

13 Mark Russell.

14 Senator May, Senator Metzger,
15 Senator Montgomery, thank you for having this
16 meeting, and thanks for staying till the end.

17 You know, this is a very 0long meeting.

18 My name is Mark Russell. I'm an apple grower
19 in Niagara County; Appleton, in Niagara County.

20 I'm a medium-size operator, grow on 50 acres
21 with my wife in partnership.

22 And, currently working in a succession plan
23 to buy the farm with my parents.

24 It's not really going well. It's going to be
25 very expensive for us.

1 And so a bill like this makes me wonder if
2 I should finish that succession plan, or not.

3 We -- well, we may be able to find other
4 opportunities in other states, but we can't take the
5 farm that I own already with my wife. Those trees
6 have roots, they're stuck in the ground, they can't
7 go across the state lines.

8 And we have roots here too as well, as do the
9 other growers in Western New York.

10 I won't speak for them.

11 But, our harvest crews do not.

12 They are -- they have a choice of where to
13 work, and they are going to work where they can
14 maximize their hours, maximize their earning power.

15 A 40-hour workweek is a wonderful thing, nice
16 work if you can get it, but, it doesn't amend itself
17 to produce agriculture, which is what I'm in, you
18 know, what you find on the store shelves in a
19 grocery store.

20 Our work is too immediate, too acute, too
21 intense at various times of the year, to be
22 conscripted into a discreet 40-hour workweek.

23 We come up with a similar 2,000-hour work
24 year, but we kind of turn the farming on its head,
25 because we work a 50-hour week, as an average, over

1 40 weeks. And that gives you 12 weeks vacation.

2 Now, my guys like that 12 weeks vacation.

3 They also like, since they came so far up
4 here to work, and they come from Mexico and the
5 Caribbean, they didn't come up here to sit at home
6 on Saturday. They came up to work, they came up to
7 punch the clock.

8 And they like doing that, and I guess I do
9 too.

10 So one of my guys, Martine Ariano (ph.), he's
11 worked for me 15 years, he likes to spend his
12 12 weeks off going home to visit his family in
13 Guanajuato.

14 Another employee of mine, Adolfo Gomar (ph.),
15 who met Senator Ramos in Batavia, and spoke to her,
16 he likes to go home to Manuel Doblado in Mexico and
17 work on his 200-acre green ranch with his wife and
18 son.

19 Now, Adolfo has put four kids into college.
20 In fact, his eldest daughter has a master's degree
21 in engineering.

22 He didn't get everything he got by not
23 hustling, or by having his hours limited by his
24 employers.

25 I'm glad he found me as someone to work for.

1 He chose me more than I chose him, and he's
2 been great for us. Wouldn't be where we are without
3 him.

4 I have lost employees to the perception that
5 I have limited their hours or their earning ability.

6 There was a guy named Donmigi (ph.) who used
7 to work for me a few years ago.

8 Now, one day on a day of rest, I show up,
9 it's pouring rain. I see Donmigi's Suburban.
10 I walk out in the orchard. There he is in his
11 yellow raincoat, he's picking apples.

12 I said, Donmigi, what you doing? It's a day
13 of rest, you can't be here.

14 "Hey, I got a mortgage to pay," he tells me.
15 "I gotta work."

16 I said, Well, it's not safe. It's a day of
17 rest. You know, I'm not here, you gotta go home.

18 He said, Fine, but I'm finishing this bin,
19 and I'm not coming back.

20 And I never saw the guy again.

21 He took a job working for my neighbor.

22 The people who work for us know the rules.

23 They've been gaming the system to their
24 advantage, deftly, for 30 years, and it's helped
25 them earn the money that they have.

1 A disruption to this system may sound like a
2 good idea, but disruption, as we know, can have
3 unintended consequences.

4 Uber moves in, now a Yellow Cab driver can't
5 afford to pay the loan for their medallion.

6 You raise the minimum wage on wait staff, now
7 people maybe stopped tipping the way they used to,
8 and that could be a big deal.

9 For us, the disruption would be, well, we
10 can't just pass the costs on to our buyers.

11 You know, I'm growing the things that fill
12 the produce shelves.

13 The disruption would be growers in
14 neighboring states will be glad to take those, that
15 sales space from us.

16 Thank you.

17 Sorry to go over.

18 SENATOR MAY: Thank you.

19 SENATOR METZGER: Thank you.

20 ZAID KURDIEH: There's a Stuart Mitchell
21 ahead of me, or are they not here?

22 ARI MIR-PONTIER: No, he was switched.

23 ZAID KURDIEH: He was switched.

24 SENATOR MAY: We have -- I have Zaid next.

25 MARILU AGUILAR: Are you Number 41?

1 ZAID KURDIEH: I'm Number 43.

2 SENATOR MAY: I think you're next.

3 ZAID KURDIEH: Okay.

4 MARILU AGUILAR: So I'm next?

5 SENATOR MAY: Yes.

6 MARILU AGUILAR: Okay.

7 Good afternoon.

8 My name is Marilu Aguilar, and I'm a member
9 of the Spiritus Farmworker Justice Committee of
10 Spiritus Kristi Church in Rochester, New York.

11 Before I begin I want to thank everyone,
12 Senator Metzger and Ramos, and all of you, for this
13 joint hearing, and for allowing me, a concerned
14 citizen, and consumer, the opportunity to speak on
15 the Farmworker (sic) Fair Labor Practices Act, a law
16 that will give farmworkers basic workers' rights for
17 the first time ever, and rights that all of us take
18 for granted and have enjoyed for that long, and, the
19 act will also guarantee that farmworkers receive the
20 same rights and protections at any farm that they
21 work on in New York State.

22 And that's important, because I'm hearing a
23 lot of good stories about farmers treating their
24 workers right, and that's great.

25 But the point is, and the bottom line, and

1 the main point, is that they're not treated like
2 that across the board.

3 You need to listen to the stories of the
4 farmworkers, and some of them are horror stories.

5 So we need to be -- we need a law to be
6 enforced, that will guarantee the same consistent,
7 proper rights and protections for the farmworkers no
8 matter where they work.

9 I urge the New York State Senate to pass the
10 bill that will give farmworkers these long-overdue
11 basic workers' rights and protections.

12 Farmworkers were deliberately, and I'll
13 repeat this, were deliberately excluded from these
14 rights because they were people of color, and here
15 we are almost 100 years still operating under
16 Jim Crow.

17 And I have to ask, if these farmworkers were
18 German, Irish, or Polish, would we here?

19 As a person of faith, I see this debate as a
20 moral issue. It's not about nickels and dimes.

21 I also see it as a black-and-white issue
22 because, when you get right down to it, nothing
23 justifies making a profit off the backs of human
24 beings, not even saving a farm or jobs.

25 To do so is immoral and inhumane.

1 We are talking about people, not chattel, who
2 work long, hard hours in all kinds of weather.

3 We can't let economics continue dominating
4 this debate.

5 Workers are suffering or struggling, not on
6 all farms, but all workers are not paid overtime or
7 given a day of rest, and many can't complain about
8 mistreatment, poor pay, or no pay, sexual
9 harassment, discrimination, et cetera, for fear of
10 being fired or experiencing other forms of
11 retaliation, including being deported.

12 So, in essence, the farmer has all the power
13 and control; they call the shots.

14 We need to give farmworkers an opportunity to
15 speak for themselves. We need to give them a voice
16 through collective bargaining.

17 What worker in America fears these things in
18 their workplace?

19 Why do we think it's okay to exclude
20 farmworkers and dairy workers from these protections
21 and rights?

22 New York's agribusiness is a multi-billion
23 industry.

24 The cost of equality and justice for
25 farmworkers who help create these profits is more

1 than justified and way past due.

2 All of us have enjoyed these labor rights, as
3 I said, no matter where we work.

4 Farmworkers do not.

5 We need to pass this farmworker bill to
6 ensure all farmworkers, no matter where they work,
7 are treated fairly across the board, no exceptions,
8 and to be consistent.

9 It is incomprehensible to me why employers
10 would want to -- wouldn't want to support a law that
11 would give their employees the same basic workers'
12 rights and protections that our children get working
13 in the pizza parlor.

14 Our children will never have to fight for
15 water and toilets in their workplace the way
16 farmworkers did just 20 years ago, and that was
17 resisted by opponents.

18 Imagine, in the late 1990s, laws had to be
19 passed to guarantee farmworkers drinking water and
20 toilets.

21 The inhumanity of this to me is
22 minds-boggling.

23 As a consumer, I have stop purchasing apples
24 grown in New York to protest the New York farming
25 industry's opposition to the farmworker bill, and

1 I will continue to boycott these apples, not
2 purchase them, until this bill is passed.

3 It appears that only the buck costs to some.

4 For the past 16 years, through the
5 association with the Justice for Farmworkers
6 Campaign, my church has initiated actions to help
7 educate the public about the bill, to thank and
8 celebrate farmworkers, and to bring them out of the
9 shadows.

10 We have protested in front of Wegman's --

11 SENATOR MAY: I need to interrupt you.

12 MARILU AGUILAR: -- public market --

13 SENATOR MAY: Marilu?

14 JESSE MULBURY: -- and gone on -- all right.

15 Thank you for the opportunity.

16 But I just want to end with this:

17 Do it at the state level, not the national,
18 because they -- we need to do this now, and we don't
19 know what we'll get at the national level.

20 And, finally --

21 SENATOR MAY: Okay, no --

22 MARILU AGUILAR: -- agriculture feared water,
23 toilets, the minimum (indiscernible), because they
24 feared they would go under.

25 They survived.

1 They will survive over time.

2 Thank you.

3 SENATOR MAY: Okay. Thank you.

4 ZAID KURDIEH: (Indiscernible) Zaid, am
5 I next?

6 SENATOR METZGER: Yes. Thank you.

7 ZAID KURDIEH: Thank you, Senators, for
8 allowing me to testify.

9 I'd like to give you a little bit of
10 background.

11 My name is Zaid Kurdieh, which is probably a
12 name you never heard.

13 I am of Palestinian origin, and I am Muslim.

14 So in terms of the talk about people not
15 being fair to people, I've seen more of that than
16 most people in this room, but I continue to be an
17 American, and a proud American.

18 I do hire, and have English and Italian and
19 Germans working on my farm, as well as Egyptians and
20 Guatemalans, and others.

21 So I do get offended when I hear this because
22 a lot of these stories are blips. They're not the
23 reality of what actually happens on farms.

24 I am a former ag economist for USDA.

25 I've worked for Cornell Cooperative

1 Extension.

2 I've farmed for 20 years.

3 And I've worked with thousands of farms
4 across the United States.

5 So I've seen it all.

6 So what I need the Senators to promise me
7 here, is that they're not just doing this as an
8 exercise in futility, because you really need to
9 understand the farming industry.

10 We are price-takers no matter where we sell.

11 I sell at the Union Square Farmers Market,
12 I do relatively well.

13 But if you pass this overtime, there is a
14 very good chance that I would either have to fold or
15 cut my business or change my practices.

16 Okay?

17 There's no way.

18 I gave you my tax returns.

19 I gave you numbers calculated.

20 \$198,000, increased, would be what I would
21 have to pay -- would have had to pay in 2018.

22 The law that was passed in New York City
23 raising the minimum wage for the restaurant workers
24 to \$15 caused the majority of my customers,
25 65 percent of my customers are New York City

1 restaurants, to come to me and say, Zaid, I need you
2 to -- I need you to cut your prices to me.

3 I can't -- that's the pressure that I am
4 under as a farmer.

5 I do fairly well, and I can negotiate very
6 well.

7 However, that's not the case for
8 99.99 percent of the farmers in the United States
9 who are selling commodities.

10 If you have not noticed, suicide rates among
11 farmers is at an all-time high.

12 You think people are killing themselves
13 because they can make changes as easily as is
14 proposed in this legislation?

15 I can go and work for a Fortune 500 company,
16 making three, four times what I make, but I love
17 farming.

18 But this type of legislation could be what
19 spells my last year of farming.

20 And all of the people who are dependent on my
21 farm, they will have to find work elsewhere.

22 And there's not much happening in
23 Chenango County, if you care to visit it.

24 Most farms are up for sale now.

25 Dairy farms are up for sale.

1 Okay?

2 This is not -- I don't -- I can't take this
3 lightly at all.

4 I've visited farmers in Puerto Rico to try to
5 help them. They have a hell of a time.

6 I've visited farms in Florida. They have a
7 hell of a time as well.

8 Okay?

9 They're competing in a global world; we're
10 all competing in a global market.

11 In Mexico, where the average worker makes
12 \$15 an hour versus my average of over \$150 per day,
13 how am I going to compete when you can truck in
14 tomatoes from Mexico to New York City?

15 So, please, you need to really look at the
16 facts, because there's some facts here, there's some
17 bad actors, but that is not the state of the
18 agricultural industry that I'm proud of.

19 My guys go home to Egypt with ten to
20 thirty thousand dollars in their pockets.

21 Okay?

22 So my English and American workers have been
23 able to buy houses in Chenango County, even though
24 we don't pay -- I can't pay \$20 an hour, but I get
25 close.

1 But with this overtime, you're guaranteeing
2 that I either -- like I said, there's no way I can
3 continue operating the way I am under this
4 circumstance.

5 Now, is there ways around it?

6 There may be.

7 Thank you.

8 SENATOR MAY: Thank you.

9 SENATOR MAY: Let me just ask one question.

10 Are there aspects of the bill that you are
11 supportive of?

12 ZAID KURDIEH: The problem with the bill is
13 that most of that stuff we already do anyway.

14 Unemployment insurance we pay.

15 Between unemployment and workers' --
16 workmens' (sic) comp, I pay over \$60,000.

17 That's more than the income of maybe
18 20 percent of the farms in New York, as the way the
19 statistics are.

20 I mean, the overtime bill, the only way it
21 was going to work for America, because, remember,
22 I'm in the Union Square next to a farm from
23 New Jersey, if they don't have the same burden,
24 I can't compete with them.

25 SENATOR METZGER: Is most of your -- do you

1 do mainly direct marketing?

2 Z Aid KURDIEH: Yes, I do direct marketing.

3 SENATOR METZGER: Okay.

4 Z Aid KURDIEH: Absolutely.

5 Did I answer your question, Senator?

6 SENATOR MAY: Thank you.

7 Z Aid KURDIEH: You're welcome.

8 SENATOR METZGER: Thank you.

9 BILL BANKER: My name is Bill Banker, and
10 this is my wife, Corinne.

11 Along with my brother, we milk 250 cows right
12 here in Morrisville three times a day.

13 We thoroughly enjoy what we're doing, and
14 most days we're having fun.

15 Being darn near the end of this whole
16 process, we realize that you've already heard most
17 of the facts and figures, and so we'll just tell you
18 personally what this means to us.

19 We employ three full-time workers and
20 five very part-time workers.

21 Our three full-time workers, on the average,
22 work between 60 and 65 hours a week. And we've had
23 them leave if they get less hours than that, as you
24 have heard today.

25 Our budget is barebones.

1 We do not pull a regular family draw from the
2 farm. We, literally, get what is left.

3 For our three full-time employees, we provide
4 housing, cable, Internet, heat, electricity.

5 We pay them on a weekly basis more than our
6 draw is for ourselves.

7 If we are required to move to the forced
8 overtime, we could not handle the
9 one-and-a-half-time hourly rate, so we would have to
10 lower them to 40 hours a week, and that would push
11 our workforce up to 4.5 full-times instead of the
12 three.

13 And this -- as you have heard many times
14 today, they are demanding the hours, so we would be
15 forced to look for more employees.

16 In this environment in the state, that is not
17 a very easy task.

18 New York State needs to stop regulating every
19 aspect of our business.

20 We treat our employees with respect.

21 We offer paid time off.

22 We provide yearly bonuses, as well as dinners
23 out or pizzas on a regular basis when the work for
24 that week has been particularly rough.

25 To us, they are extended family.

1 We do care for our cows. We admire our cows.
2 They are amazing animals.

3 But we do respect and care for our employees.
4 We work beside them every day.

5 On a regular basis, we ask them what they
6 need from us; what the job -- what we need to do to
7 make a better job for them.

8 We appreciate your interest in fair
9 compensation, but we don't agree with the route that
10 you are planning to take to achieve it.

11 We believe that through the additional
12 benefits, that we give them fair compensation.

13 Agriculture is a different industry.

14 We do not work by the clock.

15 Even we, the owners, we do not stop working
16 until the job is done.

17 If we aren't taking good care of our
18 employees, they do not stay.

19 They know, and appreciate, what they are
20 worth in our industry, and they're not afraid to
21 move to seek better time.

22 Thank you.

23 Are there any questions?

24 SENATOR MAY: Thank you.

25 I have a question.

1 If the overtime requirement were offset by
2 more credit, for example, for what you spend on
3 housing and other benefits for the employees, would
4 that -- could that work?

5 BILL BANKER: I suppose it could work.

6 CORRINE BANKER: Are you going to pay us what
7 we're going to be paying our employees?

8 BILL BANKER: They know what their
9 opportunities are at other places.

10 CORRINE BANKER: We have so many hours a week
11 that we need help for, and so that's a given. We
12 know exactly how many hours a week we require labor
13 for.

14 And I know what my -- I know what my budget
15 is.

16 And so I know that, if I can't hire, and
17 I can't pay my labor force time and a half on the
18 three full-time workers that I have, that's going to
19 cost me an extra \$75,000 a year.

20 I'm going to have to hire another
21 one-and-a-half workers to make up for it.

22 The three full-time people that we have right
23 now will leave. We already know that. They're not
24 going to stay at 40 hours a week. I can't afford to
25 pay them time and a half.

1 So something is going to have to give there.

2 And, unless New York State is going to pay me
3 to pay them, I don't see that happening with
4 New York State's budget crisis the way that it is.

5 SENATOR METZGER: May I ask how long your
6 workers have been with you, your full-time?

7 CORRINE BANKER: The longest one, we just
8 hired our first full-time employee in 2006. And we
9 had that one.

10 We had one full-time employee for five years.

11 And then the group that we have right now, we
12 have had since 2008, 2013, and 2014.

13 SENATOR METZGER: Thank you.

14 SENATOR MAY: Thank you.

15 BILL BANKER: Thank you.

16 JON GREENWOOD: Good afternoon, and thank you
17 for holding this hearing. It's been a long day,
18 especially for you, I'm sure.

19 My name is Jon Greenwood. Along with my wife
20 and son, I own and operate Greenwood Dairy in
21 Canton, New York.

22 I also serve as chair of the Northeast Dairy
23 Producers Association.

24 I come from a little different perspective
25 than many, in that I didn't grow up on a path, but

1 chose this career path.

2 I started out working on the farm I now own
3 while in college.

4 I worked by the hour, working up to 80 hours
5 a week.

6 After college I was offered a full-time job.
7 They could not afford to pay me by the hour, so
8 I worked for salary with room and board.

9 After several years as an employee, the farm
10 owner sold me the farm; so I went from employee to
11 owner.

12 We currently have 23 employees, both local
13 and Latino.

14 We pay everyone by the hour, and weekly.

15 Some of our employees get housing with all
16 utilities, satellite TV, trash service, Internet,
17 and more.

18 We also provide all the services required by
19 law, such as workers' comp, unemployment insurance.

20 On our farm, as an added benefit, we offer
21 disability insurance and family leave, paid
22 vacation.

23 We are flexible with additional time off.

24 We offer a retirement plan and bonuses.

25 And everyone is scheduled for at least one

1 day per week off.

2 However, during a busy week or if someone is
3 sick, someone may cover by working their scheduled
4 day off.

5 The proposed legislation is especially
6 onerous in the 8-hour-per-day requirement.

7 Other businesses subject to overtime do not
8 have this restriction.

9 This would make it even more difficult for us
10 to finish the job with bad weather coming.

11 I would ask that you understand that we
12 operate our farms in a very competitive environment.

13 We compete with neighboring farms and
14 businesses for employees, and at the same time, we
15 compete with other states and internationally for
16 markets for our milk.

17 We are already at a competitive disadvantage
18 because of the high cost of doing business in
19 New York and a higher minimum wage.

20 Our work, by its very nature, is seasonable
21 and weather-dependent.

22 So, for example, with spring planting, we go
23 like crazy with specialized equipment, and then it's
24 over.

25 If we could only have our employees work

1 8 hours a day and 40 hours a week before overtime,
2 the increased costs would be enormous, and the
3 ability to find and train additional employees for a
4 short period of time would be very difficult, if not
5 impossible.

6 At least in the dairy business, the busiest
7 periods come in spurts, so when they're over, or the
8 weather doesn't cooperate, you have downtime.

9 Many of our employees chose farm work
10 because, like other places of work, they are not
11 restricted to 40 hours or less to avoid overtime.

12 I just hired an employee who took a pay cut
13 to work on our farm because he could be close to
14 home, and not limited to 40 hours a week and then
15 spend the rest of the time in a motel.

16 Several of our part-time employees come from
17 jobs that are 40 hours a week, and some of them
18 actually take time off from their regular job so
19 they can work long hours for a short period of time
20 to make the extra money.

21 I would stress that no one is being forced to
22 work. We try to set hours to fit the employee.

23 Labor is my second-largest cost after feed.

24 And I have employees who -- as has been said
25 before, who tell me they want hours, and they will

1 leave if I don't give them at least 60 hours a week.

2 I have employees that worked in construction
3 where they could get higher pay, but less hours, and
4 more seasonal than, say, milking, and they like the
5 farm dairy work because it is steady and you can
6 more hours, equaling more pay.

7 I know our employees look forward to the busy
8 periods, getting a crop in or harvested, and then
9 getting a bigger paycheck.

10 I would love to pay more, to pay overtime,
11 but the realities we face do not allow it.

12 As I said before, we are competing with other
13 states and internationally for our markets.

14 In closing:

15 A law that requires a mandatory day of rest
16 and overtime after 8 hours a day, 40 hours a week,
17 is simply not workable on a farm.

18 The proposed legislation would hurt the very
19 people you want to help.

20 The labor market is such that a good worker
21 has no trouble finding a job and they are in
22 constant demand.

23 We as employers must treat our employees with
24 dignity and respect, or they will be gone.

25 Now, we'd just like to add, I've heard of

1 several alleged abuses here of employees today.

2 And I don't think anybody in this room
3 tolerates any of them.

4 But I fail to see how this legislation would
5 address any of those issues.

6 There's already laws in place to prevent
7 that. They just need to be enforced.

8 But nobody endorses abusing an employee in
9 any way.

10 And as I said, the labor market is so
11 competitive, that people just -- they leave.

12 If you don't treat them right, they leave.

13 SENATOR MAY: Okay. Thank you very much.

14 SENATOR METZGER: Thank you so much.

15 So I just -- I want to thank, first of all,
16 everyone who stayed.

17 This is a long afternoon.

18 But, I want to express, especially on behalf
19 of my colleagues, our gratitude to the farmers, as
20 well as the farmworkers, that came out today to
21 provide testimony directly.

22 And we know how hard to it is to get away
23 from the farm at this time of year.

24 And, you know, I called for these hearings on
25 this bill because we need to understand, and the

1 Senate -- the Legislature needs to understand, what
2 farming is in New York, and the humans that are
3 behind it.

4 And, New York is very unique in its
5 agriculture, and we have a lot that we want to keep.

6 We keep our small farms which make up most
7 of -- we've heard from a mix of large -- larger and
8 smaller farms.

9 Even our large farms in New York are small
10 compared to many farms in other parts of the
11 country.

12 We want to keep a diverse agricultural
13 economy.

14 We want our farm laborers to be treated well.

15 We want our farmers to lead a good life.

16 So we have to make sure any legislation, you
17 know, gives a really careful consideration to the
18 reality of farming, and, you know, strikes a balance
19 that makes sense.

20 So, I want to thank you again.

21 And I don't know if you want to say a few
22 words?

23 SENATOR MONTGOMERY: Yes, I would.

24 First of all, I want to thank you,
25 Senators Metzger and Senator May for inviting me.

1 And this is a very exciting opportunity for
2 me to hear from the people who actually are
3 responsible for growing our food in the state of
4 New York.

5 I appreciate that.

6 And I just want to say that this is very
7 important, and I want to caution us from this -- the
8 whole notion that this is a Jim Crow moment.

9 I'm from the south, and I know Jim Crow, and
10 this ain't Jim Crow.

11 Jim Crow is very different.

12 [Applause.]

13 SENATOR MONTGOMERY: So I just want to make
14 sure we don't go too far down that path.

15 The other thing is, of course, farming is a
16 major economy industry in our state, and I'm
17 concerned that we want to do whatever we need to do
18 to make sure that that part of our economy is
19 supported in the same way that we try to support
20 other parts of the economy.

21 And I know that we've talked a lot -- I'm
22 from the city, quote/unquote, and we've done quite a
23 bit of subsidizing people that we want to do, for
24 housing, making housing affordable; for education,
25 making sure our young people can be able to go

1 attend college; and so forth and so on.

2 So we in our state have tried to look at what
3 is important to our people, and to subsidize that by
4 helping those economies.

5 And I just want to make sure we're doing all
6 that we can to help the farming industry.

7 And I didn't hear that today, but I think we
8 can be talking about that a lot more since you're
9 there.

10 Now that you're onboard in our conference, we
11 all depend on that happening a lot more.

12 SENATOR METZGER: She means that I'm a new
13 Senator.

14 SENATOR MONTGOMERY: She's a new Senator, and
15 we've been waiting for her for many years, so we're
16 so happy that you're there, as well as Senator May.

17 And so this really, for me, is an important
18 moment for us to look at the farming industry in
19 ways that we have not been necessarily able to, and
20 to actually do something about it, because we have a
21 new majority in the Senate, and we want that to mean
22 something to every part of our state.

23 And so I think we, certainly I do, and I know
24 that the new Senators here also, do speak for the
25 new leadership and the State Senate, that we want to

1 do more to be helpful, to be supportive, and by --
2 definitely, by no means, do we want to hurt the
3 farming communities and industry in our state.

4 So we thank you for taking this time, it's
5 very important to us.

6 And we will all do our homework, and we will
7 do the right thing.

8 [Applause.]

9 SENATOR METZGER: I just want to mention that
10 Senator Montgomery has been in the Senate for a long
11 time, and she has been a longtime champion of
12 agriculture, on the Agriculture Committee, and for
13 food security, and for getting food to schools, to
14 New York -- our -- the food we grow in New York into
15 those markets in the city.

16 SENATOR MONTGOMERY: Absolutely.

17 SENATOR METZGER: So I want to thank her for
18 her work.

19 SENATOR MONTGOMERY: Thank you.

20 Thanks, everybody.

21 I can't say have a good day, but I'm having a
22 great day.

23 SENATOR MAY: Good.

24 Well, I just want to reiterate my thanks to
25 everybody who came, who has stayed through this long

1 afternoon, who has testified.

2 From my perspective, we've heard very
3 powerful testimony about the basic human rights that
4 are embodied in this bill.

5 And I think, as New Yorkers, all of us want
6 to affirm those rights.

7 And we also have an obligation to our farmers
8 and our farm economy to make sure that whatever
9 comes out of this bill is balanced and fair to
10 everyone.

11 And that's my commitment here.

12 The bill has enough sponsors to pass as it
13 is, but we are holding these hearings so that we can
14 make sure that all viewpoints are heard, and that we
15 can embody in the bill what -- what makes sense,
16 exactly.

17 So I just deeply appreciate all, the many,
18 perspectives that we have heard here today.

19 And I hope everybody here heard something
20 that challenges maybe the way you've been thinking.

21 I know I have.

22 And, that we all come away with a richer
23 sense of the whole -- the whole panoply of issues
24 that are embodied in this bill, and in the kinds of
25 decisions that we are trying to make wisely and well

1 in the Senate now.

2 So, thank you very much for being part of
3 this process, and we look forward to hearing from
4 you in the future as well.

5 Thank you.

6 [Applause.]

7 SENATOR MAY: Oh, yes.

8 And I -- we need to thank the people from the
9 Senate who came here to record this.

10 This will be available online for anybody to
11 watch any part of this proceeding.

12 And I need to thank my staff who worked
13 incredibly hard to make this run smoothly; who put
14 together the program, who made sure that we all had
15 the testimony that we needed, who secured this
16 place, who made everybody welcome.

17 And I would love it if we could give them a
18 hand because they have put in a lot of hours for
19 this.

20 [Applause.]

21 SENATOR METZGER: Yes, I would give a
22 shout-out as well to my staff who has been
23 organizing all three hearings, working on all three
24 hearings.

25

1 And, Ari Mir-Pontier for providing
2 translation services when we need it.

3 So thank you so much.

4 SENATOR MAY: Thank you, all.

5
6 (Whereupon, at approximately 3:34 p.m., the
7 joint committee public hearing concluded, and
8 adjourned.)

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