

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

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5 PUBLIC HEARING:

6 TO HEAR PUBLIC TESTIMONY ON  
7 THE PROPOSED FARMWORKERS FAIR LABOR PRACTICES ACT

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8 The Seelig Theater at SUNY Sullivan  
9 112 College Road  
10 Loch Sheldrake, New York

11 Date: May 2, 2019  
12 Time: 1:00 p.m.

13 PRESIDING:

14 Senator Jen Metzger  
15 Chair, Senate Standing Committee on Agriculture

16 Senator Jessica Ramos  
17 Chair, Senate Standing Committee on Labor

18 ALSO PRESENT:

19 Senator Pete Harckham

20 Senator Robert Jackson

21 Senator John Liu

22 Senator Thomas F. O'Mara

23 Senator Shelly B. Mayer

24 Senator Diane J. Savino  
25

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1           SENATOR METZGER: Good afternoon everyone.

2           We're going to get started in, like,

3           30 seconds.

4           Just waiting for our -- here we go.

5           Senator John Liu in the house, come on up.

6           Okay, we'll get started then.

7           Thank you all for being here.

8           I'm Senator Jen Metzger, Chair of the Senate  
9           Agriculture Committee, as well as the proud  
10          representative of this fair county, Sullivan County,  
11          and parts of Orange, Ulster, and Delaware counties.

12          I'm joined today by my colleague  
13          Senator Jessica Ramos, who's Chair of the Labor  
14          Committee, and sponsor of the legislation before us  
15          today, the proposed Farmworker (sic) Fair Practice  
16          Labor Act.

17          We're also joined today by other colleagues,  
18          Senator Pete Harckham; Senator Robert Jackson;  
19          Senator John Liu is here somewhere, will be up here  
20          in a moment. And I believe Senator Shelly Mayer is  
21          on our -- her way. Senator O'Mara should be here as  
22          well.

23          I wanted to thank all of my colleagues for  
24          making the trek to our area, we really appreciate  
25          it.

1           This is the third in our series of joint  
2           hearings by the Agriculture and Labor committees.

3           It is, in my view, absolutely vital to get  
4           the direct input of farmers, farmworkers, and the  
5           public.

6           Last week we had hearings in Morrisville and  
7           on Long Island, and it was extremely helpful to hear  
8           and get the perspectives of those who stand to be  
9           most affected.

10          As Agriculture Committee Chair, and the  
11          representative of farming communities in the  
12          Hudson Valley and Catskills regions, I recognize  
13          that this proposed legislation will greatly impact  
14          farming in New York.

15          Legislators need to hear from farmers and  
16          farmworkers alike, as we weigh this legislation and  
17          learn directly from you about the realities of small  
18          and family-owned farm operations in New York.

19          New York has deep roots in farming. It  
20          represents \$4.2 billion of our economy, and it's an  
21          integral part of our rural heritage and our culture.

22          In contrast to other parts of the country --  
23          Welcome, Senator Liu.

24          -- the majority of New York's farms are small  
25          to mid-size and family-owned. Over half the farms

1 in New York State are under 100 acres.

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

10 In my view, we have to work together,  
11 collaboratively, on solutions that sustain farming  
12 in New York for the long-term, providing real  
13 economic benefit for farmworkers and farm families,  
14 and food security for all New Yorkers.

15 I want to thank all of you for being here,  
16 especially the farmers and farmworkers who came  
17 today.

18 I know how hard it is to get off of the farm.

19 I was praying for rain today.

20 I really appreciate that you're here, and  
21 that we're going to hear your testimony.

22 In addition to these public hearings, we will  
23 be accepting written testimony until the end of the  
24 day tomorrow at 5 p.m.

25 Testimony can be submitted in English or in

1 Spanish, and we look forward to listening to you and  
2 taking your input very seriously.

3 I want to take a moment to thank my staff  
4 member, Ari Mir Pontier, who is -- I can't see her,  
5 but she's over there, who will be providing Spanish  
6 translation services.

7 I also want to recognize my staff and  
8 Senator Ramos's staff who have worked very hard to  
9 put these hearings together;

10 And, thank Senate conference services for  
11 helping with logistics and for live-streaming this  
12 event so that people who could not be here can still  
13 see what we're learning today.

14 And, of course, last, but not least, I want  
15 to thank SUNY Sullivan and President Jay Quaintance,  
16 who we'll hear from in a moment, for hosting us  
17 today.

18 He also, after -- actually, I'm going to  
19 first turn it over to my colleague and Co-Chair of  
20 this hearing, Senator Ramos, to say a few words.

21 SENATOR RAMOS: Thank you, Senator Metzger.

22 Good afternoon, everyone.

23 My name is Jessica Ramos.

24 I represent District 13 in the State Senate,  
25 which is located in Northwestern Queens.

1           I am the chair of the Labor Committee in the  
2           state Senate, where we've been looking to move  
3           through a long backlog of legislation, progressive  
4           legislation, to help uplift workers across our  
5           state, which is why I feel very fortunate that I get  
6           to work with Jen Metzger as Chair of the Agriculture  
7           Committee, so that we can ensure that we are passing  
8           the Farmworker (sic) Fair Labor Practices Act in a  
9           responsible and fiscally-prudent way.

10           So we're here to ensure that we are listening  
11           to all stakeholders, and make sure that every  
12           New Yorker's voice on this matter is heard.

13           Thank you to my colleagues who are here, to  
14           SUNY Sullivan for hosting us, and to all of you for  
15           coming, testifying, and participating.

16           SENATOR METZGER: Thanks so much,  
17           Senator Ramos.

18           And I'd like to welcome SUNY Sullivan  
19           President Jay Quaintance to say a few words.

20           PRESIDENT JAY QUAINANCE: Thank you.

21           Thank you, Senators, for being here.

22           And thank everyone in the audience for being  
23           here and participating in this important topic.

24           Farming is the lifeblood of many communities,  
25           and many of those communities in Sullivan County.

1           And we're very, very pleased to be able to  
2           host this important hearing, and to be able to hear  
3           public comment and public testimony on this.

4           We have a farm here on campus.

5           If you have a little time after, I would  
6           encourage you to take a walk out back and see what  
7           we've got going on.

8           It's certainly not at the scale of some of  
9           the folks in the room, but we're proud of it  
10          nonetheless, and it provides opportunities for our  
11          students to become better educated about where food  
12          comes from, how it's produced, and how it can be  
13          prepared right out the back door.

14          So with that, I'm going to turn it over to  
15          the Senators, and have a great meeting.

16          SENATOR METZGER: Thank you so much.

17          So I just want to go over some of the ground  
18          rules for the hearing.

19          We've got a very full agenda, with many  
20          speakers, and we want to make sure that everyone is  
21          heard.

22          So we really have to keep the testimony to  
23          four minutes.

24          If you could possibly -- if you've got  
25          lengthy testimony, if you could just summarize the

1 main points, that would be best, and then we'll  
2 leave no more than three minutes between speakers  
3 for questions from senators.

4 There -- we have, well, a clock right here  
5 (indicating), you'll be able to see the time.

6 My chief of staff, Leslie Berliant, will be  
7 calling the speaker up, as well as saying the next  
8 two speakers on deck, just so you're prepared to  
9 come up.

10 And you can just come up here on the side.  
11 We'll be speaking -- we'll be speaking from right  
12 over there.

13 And, finally, I just want to -- you know,  
14 I recognize that there are strong feelings on all  
15 sides of this issue.

16 I just ask that everyone be respectful of  
17 everyone, and try to keep -- let's refrain from  
18 clapping, or anything like that, between speakers.

19 Thanks so much, and we really appreciate it.

20 ARI MIR PONTIER: Hi.

21 As you've heard, my name is Ari Mir Pontier.  
22 I'm the constituent manager for Senator Metzger, and  
23 I'm going to be translating today from Spanish into  
24 English.

25 (Speaking Spanish.)

1           LESLIE BERLIANT: So I'm going to call up the  
2 first set of speakers.

3           The clock is going to be right in front of  
4 you. You'll be able to see it counting down, so  
5 just keep an eye out. And when it hits zero, wrap  
6 up your testimony so we can stay on track.

7           Thank you.

8           So first up is Andrianna Natsoulas.

9           And then after that, on deck, will be  
10 Dr. Anu Rangarajan, and Dr. Richard Stup.

11          ANDRIANNA NATSOULAS: Good afternoon.

12          Thank you, Senators, for this opportunity to  
13 comment on the New York Farmworkers Fair Labor  
14 Practices Act.

15          I'm Andrianna Natsoulas, the executive  
16 director of the Northeast Organic Farming  
17 Association of New York, or "NOFA-NY."

18          NOFA-NY has been advocating and educating  
19 organic farmers and consumers since 1983, and is the  
20 largest USDA-accredited organic certifier in  
21 New York, certifying over a 1,000 organic  
22 operations.

23          NOFA-NY member farmers agree with the basic  
24 tenants of the 2019 New York Farmworkers Fair Labor  
25 Practices Act, and in January voted to support a

1 revised version of the FFLP if family-scale farmers  
2 and farmworkers, including residents and immigrants,  
3 can be at the table to negotiate the final language.

4 However, due to the financial burden, NOFA-NY  
5 cannot support this version of the bill.

6 This is a really hard position for us to take  
7 as we do support farmworker rights.

8 Specifically, though, we just cannot support  
9 overtime-wage calculations, housing inspections, and  
10 unemployment insurance.

11 Seven versions of this bill have failed since  
12 2006.

13 The issue of immediate implementation of  
14 overtime pay has been the most significant cause of  
15 these repeated failures.

16 Please do not make this a partisan issue, but  
17 an opportunity to support farmers and farmworkers  
18 alike.

19 Overtime pay.

20 The overtime provision of both acts would  
21 increase the cost of farm labor for New York farms  
22 significantly, impacting their economic viability  
23 and ability to compete with farms outside the state.

24 Overtime-pay provision should use the model  
25 of New York's minimum-wage legislation which

1 accounts for differences among business models and  
2 states' regional economies.

3 Any approach to farmworker overtime  
4 compensation must recognize the value of our hired  
5 farm labor as well as the challenges of family  
6 farming.

7 There are several reasonable alternatives.

8 For example, a higher seasonally-adjusted  
9 overtime-pay threshold, such as 120 hours in a  
10 two-week period;

11 And, for example, a multiyear phased  
12 implementation with extra time for small-scale farms  
13 to comply.

14 Another issue is unemployment insurance.

15 Lowering the trigger for required payment  
16 into unemployment insurance, from 20,000, to 6,250,  
17 will not benefit full-time farmworkers and will be a  
18 burdensome tax on small-scale family farms that only  
19 hire one or two part-time employees.

20 Another, to housing.

21 Requiring a permit and a department of health  
22 inspection of farm housing for even one worker will  
23 discourage small farms from providing housing.

24 Instead, all farm housing should be required  
25 to adhere to the state's sanitary code, and farmers

1 who provide on-farm housing for fewer than  
2 five employees should continue to be exempt from  
3 inspections under the public health law.

4 A 2008 NOFA-NY resolution endorses the  
5 implementation of local fair trade.

6 Everyone involved in the organic supply  
7 chain, from seed to plate, is entitled to living  
8 wages, a safe workplace, and respectful treatment.

9 Farm prices should enable farmers to cover  
10 the cost of production, sustain their families,  
11 provide a living wage for all farmworkers, and  
12 ensure the continuing development of the farm.

13 Farmworkers should enjoy the rights to  
14 freedom of association that are protected by law for  
15 other workers in other sectors.

16 Fair and transparent negotiation should  
17 provide long-term contracts between the buyers of  
18 organic productions and farmers, as well as between  
19 farmers and farmworkers.

20 Any solution to the complex issues of fair  
21 pay rates to farmworkers must be balanced with the  
22 need for fair prices to farmers for their products.

23 And I would just like to repeat, that the  
24 implementation of overtime pay is the most  
25 significant issue.

1           Until this is addressed, this bill will only  
2 hurt farmers, farmworkers, and consumers.

3           Thank you for this opportunity to present the  
4 perspectives of organic farmers, which is the  
5 fastest-growing agriculture sector in  
6 New York State.

7           And I do have copies of our full testimony  
8 for each of you.

9           Thank you.

10          SENATOR METZGER: Thanks so much, Adrianna.

11          Any questions, Pete -- Senator Harckham,  
12 I mean?

13          SENATOR HARKHAM: Yeah, thank you very much.

14          The issue of worker housing has been a vexing  
15 challenge.

16          But if your organization is saying just the  
17 sanitary code, but no inspections, how would -- you  
18 know, what -- what -- what would be the  
19 accountability in just simply saying it must be up  
20 to sanitary code without some kind of regimen of  
21 inspection?

22          ANDRIANNA NATSOULAS: Well, that's what it  
23 currently is. And if you don't trust the sanitary  
24 code, well, maybe the sanitary code needs to be  
25 relooked at.

1           SENATOR HARKHAM: But -- but who -- who is  
2 implementing the sanitary code now?

3           ANDRIANNA NATSOULAS: The State, from my  
4 understanding.

5           SENATOR JACKSON: Can I follow up?

6           SENATOR HARKHAM: Please.

7           SENATOR JACKSON: Sure.

8           Hi.

9           ANDRIANNA NATSOULAS: Hi.

10          SENATOR JACKSON: So you were saying that, as  
11 far as the sanitary code, since you were just  
12 discussing that particular matter --

13          ANDRIANNA NATSOULAS: Uh-huh.

14          SENATOR JACKSON: -- you said the State  
15 would, that's the State's obligation, in order to  
16 inspect. Is that correct?

17                 But I heard you in your earlier testimony,  
18 talked about, we should -- if it's under five, there  
19 should be no inspection. You just assume that the  
20 sanitary code is being followed --

21          ANDRIANNA NATSOULAS: It's being followed --

22          SENATOR JACKSON: Let me just finish it,  
23 please.

24          ANDRIANNA NATSOULAS: -- uh-huh.

25          SENATOR JACKSON: -- being followed by the

1 farmers.

2 ANDRIANNA NATSOULAS: Uh-huh.

3 SENATOR JACKSON: We cannot -- I cannot make  
4 that assumption.

5 ANDRIANNA NATSOULAS: Uh-huh.

6 SENATOR JACKSON: Everyone needs to be able  
7 to be housed in a sanitary, appropriate place.

8 And I heard what you said earlier in your  
9 testimony, that the farmers are providing this  
10 housing, so they don't necessarily have do that.

11 But, it's a -- it's everyone working  
12 together, in order so that farmers can handle their  
13 crops, and, also, employees of them, of the farmers,  
14 can also have a decent living arrangement, and also  
15 to be able to earn a living.

16 And so it's about a combination of  
17 everything, in my opinion, unless someone has a  
18 different opinion on that.

19 But you talked about, overtime is a primary  
20 issue, overall.

21 ANDRIANNA NATSOULAS: Yes.

22 SENATOR JACKSON: And so my question is: If  
23 the workers are not being paid overtime, what are  
24 they being paid?

25 Are they being paid, for example, whatever

1 the straight time that they're earning per hour, if  
2 they're earning per hour?

3 And, if they work in excess of the normal  
4 workday, workweek, are they being paid straight time  
5 for as many hours as they work?

6 Can you tell me?

7 ANDRIANNA NATSOULAS: Right, what we are  
8 proposing is that they are paid straight time for  
9 what they're working within a certain amount of  
10 time; so looking at the seasonality, looking at the  
11 hours.

12 So rather than, for example, 40 hours  
13 overtime -- after 40 times (sic) for the overtime to  
14 kick in, to look at 120 hours, and then the overtime  
15 kicks in, because, in the agricultural sector,  
16 you're looking at seasonality; you're looking at,  
17 you know, when crops are ripe and ready to pick;  
18 you're looking at rainy season.

19 So there may not be any work for a week, and  
20 then, all of a sudden, they're trying to get in  
21 120 hours.

22 So we're looking at moving to overtime once  
23 they hit 120 hours, for example. But a 40-hour --  
24 hitting the 40-hour point, and then going into  
25 overtime, is just economically unviable for small

1 farms.

2 SENATOR JACKSON: So -- if -- if we're  
3 talking about 40 hours is the workweek --

4 Is that correct?

5 ANDRIANNA NATSOULAS: Uh-huh.

6 SENATOR JACKSON: -- based on 40, you said  
7 120, that's like two and a half --

8 ANDRIANNA NATSOULAS: But it's not over a  
9 one-week period, necessarily.

10 You're looking at more than a one-week  
11 period.

12 SENATOR JACKSON: Yeah, you talked about  
13 120 hours.

14 And so if, in fact, a farmworker is working  
15 120 hours, when you look at, what is a workweek?

16 Is a workweek, for example, in some places in  
17 New York State, as workers in New York State,  
18 35 hours is a workweek. And some businesses  
19 40 hours is a workweek.

20 ANDRIANNA NATSOULAS: Right.

21 SENATOR JACKSON: So with respect to farmers,  
22 what is a normal workweek, if any --

23 ANDRIANNA NATSOULAS: Well, it depends --

24 SENATOR JACKSON: -- if any?

25 ANDRIANNA NATSOULAS: -- I mean, it depends.

1           It depends on the crop. It depends on the  
2           season.

3           SENATOR JACKSON: Okay?

4           ANDRIANNA NATSOULAS: And so we're looking at  
5           120 hours over a two-week period.

6           SENATOR JACKSON: Over a two-week period?

7           ANDRIANNA NATSOULAS: A two-week period,  
8           right, rather than what's typically considered a  
9           "workweek," which is 40 hours in one week.

10          SENATOR JACKSON: In order for any employee  
11          to be eligible for overtime?

12          ANDRIANNA NATSOULAS: For overtime to kick  
13          in.

14          SENATOR METZGER: So we're going to have --  
15          we have a lot of speakers.

16          This is just the first one, so we're going to  
17          wrap this one up.

18          Thank you for your testimony.

19          ANDRIANNA NATSOULAS: Thank you.

20          SENATOR METZGER: And we'll go on to the next  
21          speaker.

22          ANDRIANNA NATSOULAS: Can I give you copies?

23          SENATOR JACKSON: Sure.

24          SENATOR RAMOS: We already have them.

25          SENATOR JACKSON: Is it more than the two

1 double pages?

2 ANDRIANNA NATSOULAS: (Inaudible.)

3 LESLIE BERLIANT: Next up is

4 Dr. Anu Rangarajan, followed by Dr. Richard Stup.

5 And if Bruce Goldstein could also come up,  
6 please.

7 DR. ANU RANGARAJAN: Hello, and thank you for  
8 this opportunity to offer testimony.

9 I would like to share with you some of the  
10 efforts of the Cornell Small Farm (sic) Program,  
11 related to advancing human resource and management  
12 skills on New York State farms.

13 So while this testimony is not designed to  
14 take a position on the legislation being considered  
15 by the Committee, it's important to understand the  
16 scope of ag labor and workforce-development needs,  
17 as well as Cornell's commitment to serving both  
18 farmers and farm employees.

19 So the small-farm program and CALS  
20 (Cornell ag and life sciences) seeks to ensure that,  
21 regardless of scale, farmers have access to  
22 high-quality information, training, and proven  
23 tactics for success.

24 And so one of the programs of the small-farm  
25 program is our nationally-recognized new-farmer

1 training efforts.

2 And, we also have State-funded veterans-to-ag  
3 program that helps active duty and military veterans  
4 find second careers in agriculture.

5 And now I want to share with you a newer  
6 effort of the program.

7 Under our USDA-funded project that's titled  
8 "Labor Readiness: Pathways for farmworkers to start  
9 up, and advanced beginning farmers to scale up new  
10 farm businesses."

11 We have the two audiences that I described:  
12 New farmers wanting to improve their  
13 management skills, to be able to hire labor, and  
14 expand and grow their businesses;

15 And then the other audience is primarily  
16 Latino farmworkers, employees who are interested in  
17 improving their own management skills to advance  
18 their position on farms or, perhaps, pursue their  
19 own agricultural interests, going forward.

20 And so "labor-readiness" is defined as the  
21 ability to prepare for, manage, and retain a skilled  
22 workforce. And it's critical for any farm's  
23 successful ability to scale up, thrive, and make it  
24 to the 10-year mark that we consider an established  
25 farm business.

1           And so our project aims to create resources  
2           and training for supervisors, managers, and  
3           employees, because we understand that a farm's  
4           workforce is its most valuable resource.

5           So at the start of this project, we hosted a  
6           series of roundtable discussions with over 90 Latino  
7           farm employees from around the state.

8           And what they were able to do with us was to  
9           prioritize their own interest and needs in education  
10          and development to allow them to develop as  
11          professionals in our agriculture.

12          And based on these findings, we've created a  
13          unique educational program that we call a "master  
14          class" for bilingual farm employees.

15          It integrates an intensive management  
16          curriculum, along with English as a second language,  
17          because English-language proficiency is identified  
18          as a barrier to successful integration into  
19          agriculture activity.

20          So the classes cover a whole range of topics:  
21          Farm culture, communication, leadership, business  
22          management, conflict resolution, and team building;  
23          all of these being topics that were prioritized in  
24          the roundtable discussions that we held across the  
25          state.

1           And together, as a team, what we were able do  
2           is create an exceptionally open and comfortable  
3           classroom atmosphere in order to help these  
4           employees build their English-language confidence.

5           And, we use lecture and small groups and work  
6           scenarios for them to practice management skills.

7           Also unique and impactful was candid  
8           conversations that we had, where we invited farmers  
9           from the Western New York fruit industry to come  
10          into the classroom and sort of be on the hot seat.

11          It provided a unique opportunity for the  
12          employees to actually ask questions, and to witness  
13          the challenges of being a farm owner, as well as  
14          learn more about their own visions of agriculture in  
15          New York.

16          The active engagement and commitment of the  
17          employers has been absolutely critical to this  
18          project's success.

19          The owners were engaged weekly, and provided  
20          with discussion questions by us, to foster continued  
21          engagement and development of a different kind of  
22          management relationship with these employees.

23          And, every farmer had felt that the course  
24          provided immediate positive benefits, and was a  
25          critical opportunity that should be offered to any

1 employee who seeks to advance their own skills on  
2 the farm.

3           Developing this type of skill set and  
4 educational opportunity for employees is absolutely  
5 critical for building a pathway for a next  
6 generation of agriculturists.

7           And so what we feel is one of the key goals  
8 for our project, is to make sure that those  
9 employees --

10           SENATOR METZGER: Start to wrap it up.

11           DR. ANU RANGARAJAN: Yep.

12           -- can actually have access to education and  
13 training to pursue their own personal agricultural  
14 aspirations.

15           So, thank you.

16           SENATOR METZGER: Thank you very much.

17           SENATOR JACKSON: I have a quick question.

18           SENATOR METZGER: Go ahead.

19           SENATOR JACKSON: Doctor --

20           SENATOR METZGER: Senator Jackson.

21           SENATOR JACKSON: -- regarding this training  
22 program, how many farmers took advantage of this  
23 program, if they had the time, and how many  
24 employees of the farmworkers were there? And how  
25 long was this program?

1 DR. ANU RANGARAJAN: So we -- we built on  
2 some history in Western New York with the fruit  
3 industry, where they had started doing bilingual  
4 education previously.

5 And so we actually wanted to have a very  
6 closed group, a small group, and so we offered this  
7 and allowed for farms to nominate employees to  
8 participate.

9 We accepted 25 nominations that -- we  
10 received 25 nominations, we only accepted 15 into  
11 the class, because we knew there is an in-depth  
12 personal interaction.

13 We want to create networks among the  
14 employees, as well as a chance for them to really  
15 practice their skills in a comfortable environment.

16 SENATOR JACKSON: The nominations were from,  
17 whom?

18 DR. ANU RANGARAJAN: From the owners -- the  
19 business owners or supervisors.

20 SENATOR JACKSON: The owners.

21 Okay. And so, with respect to that, I was  
22 trying to really determine how many farm owners  
23 and/or their managers took advantage of it, since  
24 they deal primarily with the workers.

25 And so how many --

1 DR. ANU RANGARAJAN: So our --

2 SENATOR JACKSON: -- were that, and how many  
3 were workers?

4 DR. ANU RANGARAJAN: Right.

5 -- so all of the members -- all of the people  
6 who participated in our training were Latino  
7 employees, they were workers.

8 SENATOR JACKSON: Okay. And --

9 DR. ANU RANGARAJAN: And the owners, they  
10 participated, there was 12 of them that came into  
11 the room and spoke directly with the employees in  
12 our sort of workshop setting.

13 But there was a much broader conversation  
14 with, I would guess, 25 to 50 actual owners about  
15 this project.

16 We talk about it at every opportunity we can,  
17 and there's people that are asking us to repeat it  
18 so that they can have additional people participate.

19 SENATOR JACKSON: And did you come out with a  
20 report after that particular --

21 DR. ANU RANGARAJAN: Yes. I'm happy to share  
22 it.

23 I summarized some of the findings that we  
24 have in this, and I'd be happy to share that as  
25 well.

1           SENATOR JACKSON: I would like to see the  
2 report, though.

3           DR. ANU RANGARAJAN: Yeah, absolutely.

4           SENATOR JACKSON: Thank you.

5           DR. ANU RANGARAJAN: Yes, great.

6           SENATOR JACKSON: Thank you.

7           SENATOR METZGER: Any other questions?

8           Okay. Thank you very much, Doctor.

9           DR. ANU RANGARAJAN: Thank you.

10          LESLIE BERLIANT: Next up is  
11 Dr. Richard Stup, followed by Bruce Goldstein, and  
12 Wayne Marshfield.

13          DR. RICHARD STUP: Can you hear me?  
14 Thank you for the opportunity to be with you  
15 today.

16          I'm Richard Stup, and I lead the Cornell ag  
17 workforce development program.

18          I'm here to share some research-based  
19 information regarding the ag workforce in New York  
20 State which I hope will be helpful to you.

21          Farms are small businesses that operate in a  
22 competitive labor market.

23          Most farm employees are at-will employees who  
24 can move freely from one employer to another within  
25 agriculture and to other industries.

1            Farms work hard to attract and retain the  
2            best-quality employees.

3            The only type of farm employees who cannot  
4            move to another employer at will are foreign guest  
5            workers in the H-2A visa program. They work under  
6            contract with their farm employer for up to  
7            10 months.

8            New York's farm industry is diverse.

9            We have about 55,000 people, farm employees,  
10           in the state, down from about 61,000 a few years  
11           ago. More than half of them are seasonal or working  
12           less than 150 days per year.

13           Many farm employees are long-term, year-round  
14           residents of the local communities, while others are  
15           more recent immigrants or guest workers.

16           In a 2016 study of Western New York dairy  
17           farms, about one-fourth of the farms had a workforce  
18           consisting of more than 75 percent Hispanic  
19           employees, half had 50 to 75 percent Hispanic  
20           employees, and another quarter had less than  
21           50 percent Hispanic employees.

22           Of the 205 Hispanic employees in the study,  
23           their ages ranged from 16 to 77 years, with an  
24           average of 31 years of age.

25           In New York State it is legal to work on a

1 farm outside school hours beginning at 16 years of  
2 age.

3 Penalties for violating child labor laws are  
4 severe: thousands of dollars at the state level, and  
5 \$10,000 at the federal level, per incident.

6 We did a study -- a benchmark study of  
7 farm-employee compensation paid in 2017.

8 Farm employees received regular wages which  
9 must be above the New York minimums.

10 In addition, they often receive bonuses or  
11 incentive pay and a variety of benefits.

12 Front-line employees in our study, on  
13 average, had 7.2 years of tenure at their farm,  
14 earned total compensation of over 46,000. They  
15 worked about 2,787 hours, or about 54 hours per  
16 week, which comes to an average compensation of  
17 about 16.90.

18 Managers in the same study had about 11 years  
19 tenure at their farm, and earned total compensation  
20 of about \$59,000, which comes up to about 22.48 per  
21 hour.

22 H-2A guest workers have a strictly-regulated  
23 minimum wage that is set by the federal government.

24 For 2019, the New York State minimum wage for  
25 H-2A workers is 13.25 an hour, plus fully-paid

1 benefits, including housing, transportation into the  
2 U.S. and home again, and daily transportation to and  
3 from the work site.

4 In 2017, a couple of my colleagues at Cornell  
5 did an analysis of the impact of overtime and  
6 increased minimum wage on farm expenses.

7 They found that, through 2021, the planned  
8 minimum-wage increases and a potential overtime  
9 increase would increase wage expenses 52 to  
10 70 percent.

11 In a paper published earlier this year, my  
12 colleagues and I reviewed research in other  
13 industries to better understand what might happen if  
14 overtime occurred in New York.

15 And we had look at other industries to see  
16 what did happen in those situations, but, generally,  
17 farm employers will do anything they can to not pay  
18 overtime.

19 So, in agriculture, these strategies would  
20 likely include:

21 Decreasing hours through downsizing  
22 operations;

23 Hiring additional employees so that people  
24 didn't have to work over 40 hours as much;

25 Adopting mechanization or automation to

1 eliminate jobs;

2 And changing crop strategies to reduce labor  
3 needs.

4 I would like to share a few of the  
5 initiatives that we've been working on.

6 I see my time's almost up.

7 So one is the on-boarding project, which is  
8 getting employees started well.

9 Another is farm-employee housing, which is to  
10 make sure that employee housing is in good shape and  
11 that it's well regulated.

12 The third one is supervisor training and  
13 human-resource skills.

14 Fourth one is anti-sexual-harassment  
15 training.

16 I did want to share that the industry has  
17 really picked up on that very strongly and is  
18 pushing that hard.

19 And then the Labor Roadshow, which is all  
20 about compliance, which -- and better human resource  
21 management.

22 And I'll wrap up by saying:

23 The modern ag workforce has come a long way.

24 Consumer interest in food production,  
25 combined with the competitive labor market, is

1 leading farms to adopt increasingly progressive  
2 human-resource management practices.

3 Farms work diligently to attract and keep  
4 good people, and are often rewarded with long-term  
5 committed employees.

6 As the land-grant partner for over 150 years  
7 with the State of New York, Cornell is committed to  
8 fostering human resources, skill development, and  
9 labor-law compliance for New York State's farm and  
10 food community.

11 Thank you.

12 Thank you very much, doctor.

13 Any questions?

14 Sure, go ahead.

15 SENATOR HARKHAM: You had stated --

16 Doctor, thank you for your testimony.

17 -- that farmworkers had dropped, from 61,000,  
18 to about 55,000.

19 Is that, do you think, through automation, or  
20 was that through economic factors?

21 DR. RICHARD STUP: I'm sure it's both.

22 I'm sure there's economic factors having an  
23 impact.

24 We actually reduced the number of farms in  
25 the state as well over that period of time.

1           Some is automation, and automation is coming,  
2           but it's a few years off.

3           So automation is available.

4           You've heard of dairy robots, of course.  
5           And, you know, at some point in the future, robots  
6           will milk a lot of cows, for sure.

7           And it's coming in other sectors as well,  
8           but, again, it's still a few years off.

9           SENATOR METZGER: So I have a follow-up  
10          question to that.

11          So a lot of the farms -- the dairy farms in  
12          Sullivan County, dairy farms in Delaware County, are  
13          small farms.

14          So how likely is it that they could afford to  
15          automate?

16          It seems --

17          DR. RICHARD STUP: So dairy farms, you're  
18          talking about?

19          SENATOR METZGER: -- that cost would -- yeah,  
20          but small dairy farms.

21          DR. RICHARD STUP: With any automation, new  
22          technology is very expensive.

23          ANDRIANNA NATSOULAS: Yes.

24          DR. RICHARD STUP: And I'll just -- just to  
25          throw a few numbers out there:

1           Just the robot for a small dairy farm to milk  
2           about 65 cows is about 225,000, just the robot.

3           So if you need -- for that small farm,  
4           65 cows, would need one robot. A little bit larger  
5           farm, which is probably more economical today, is  
6           going to need at least two of those.

7           It is -- it remains very inexpensive (sic)  
8           and difficult for many farms, unless they're in a  
9           very strong financial position, and I used to be a  
10          lender as well, to bring in that technology at this  
11          point.

12          Hopefully, over time, it will become more  
13          affordable. But, right now, it's very expensive.

14          SENATOR METZGER: So one other question.

15          You mentioned that farmers would likely -- in  
16          the face of overtime, would likely, you know, hire  
17          additional workers.

18          There's currently a labor shortage.

19          DR. RICHARD STUP: Absolutely.

20          SENATOR METZGER: So how feasible, in your  
21          estimation, is that a likely, you know, scenario?

22          DR. RICHARD STUP: It would be very difficult  
23          to do.

24          There may be some opportunities for farms to  
25          share employees.

1           So, much like other sectors, where you have a  
2           person -- a person who works multiple jobs. So they  
3           maybe have a 40-hour job here, and a 20-hour job  
4           there, and maybe another 20-hour job, in order to  
5           cobble together enough income.

6           That may be a factor that comes to  
7           agriculture.

8           And, actually, that's one of the things that,  
9           right now, people who work in agriculture don't have  
10          to do that. They don't have to go to multiple  
11          employers because, often, they can get enough hours  
12          with their current employer.

13          So it's something to think about.

14          It's probably not -- that would not be a good  
15          move for the employee to have to work multiple jobs,  
16          especially those who don't want to have to be  
17          exposed to traveling too much between workplaces.

18          SENATOR METZGER: Okay.

19          SENATOR JACKSON: Can I ask a quick question?

20          SENATOR METZGER: Sure.

21          SENATOR JACKSON: Doctor, thank you for  
22          coming and giving testimony.

23          If you can tell us, the percentage of  
24          farmworkers that are not H-2A guest workers, what  
25          percentage are regular workers and what are the H-2A

1 contract workers where they are governed by the  
2 federal law?

3 DR. RICHARD STUP: Yeah, that number is  
4 actually in this publication, "The State of Ag in  
5 New York."

6 Off the top of my head, I won't look it up  
7 for time, but --

8 SENATOR JACKSON: Approximately.

9 DR. RICHARD STUP: -- it's relatively small.

10 WAYNE MARSHFIELD: 7,600 H-2A workers.

11 SENATOR JACKSON: I'm sorry, say -- help him  
12 out.

13 DR. RICHARD STUP: He said, 7,600 H-2A  
14 workers.

15 So out of that 55,000, it's a relatively  
16 small percentage, yep.

17 SENATOR JACKSON: I see.

18 Okay, very good.

19 And that's your report, and that's a -- you  
20 have the link here in your testimony?

21 DR. RICHARD STUP: Absolutely.

22 SENATOR JACKSON: Okay. Thank you.

23 DR. RICHARD STUP: And all of those things  
24 are included, including the compensation benchmark.

25 And, also, I wanted to share this.

1           This is the Labor Roadshow that I mentioned.

2           This is the book, the compliance book, that  
3 we prepared and put together, and had over 200 farms  
4 across the state involved in that program.

5           SENATOR JACKSON: Just one little quick  
6 question.

7           Of the H-2A, it says they're paid 13.25 per  
8 hour.

9           DR. RICHARD STUP: Correct.

10          SENATOR JACKSON: Is that for how many hours  
11 they work, or just a certain number of hours?

12          DR. RICHARD STUP: So that is minimum wage --

13          SENATOR JACKSON: Right, minimum.

14          DR. RICHARD STUP: -- so they're paid at  
15 least 13.25 an hour.

16          SENATOR JACKSON: I see.

17          DR. RICHARD STUP: Many are paid above that.

18          SENATOR JACKSON: So if they work 50, 60, 70,  
19 80 hours, they're paid whatever the rate they're  
20 being paid?

21          DR. RICHARD STUP: Thanks for the question.

22          Yeah, it is straight time.

23          So if you work 80 hours, it's -- and you're  
24 paid \$15 an hour, you make \$15 times 80 hours.

25          SENATOR JACKSON: But it's, the minimum is

1 13.25?

2 DR. RICHARD STUP: The minimum is 13.25.

3 SENATOR JACKSON: Okay. Thank you.

4 SENATOR METZGER: Thank you very much,  
5 Doctor.

6 LESLIE BERLIANT: Next up is Bruce Goldstein.

7 And if Wayne Marshfield and Chris Kelder  
8 could please come and line up.

9 Thank you.

10 BRUCE GOLDSTEIN: Thank you for the  
11 opportunity to testify and state our strong support  
12 for enactment of the Farmworkers Fair Labor  
13 Practices Act.

14 I am president of Farmworker Justice, a  
15 national organization based in Washington D.C.,  
16 founded in 1981.

17 Its mission is to empower farmworkers to  
18 improve their wages and working conditions,  
19 occupational safety, health, immigration policy, and  
20 access to justice.

21 Our organization engages in policy analysis,  
22 advocacy, litigation, public education, training,  
23 and corporate-responsibility initiatives.

24 Farmworker Justice collaborates with  
25 organizations throughout the country, including

1 organizations in New York.

2           There are approximately 2.4 million  
3 farmworkers in the United States, not including  
4 their family members.

5           About one-half of farmworkers are married  
6 with children.

7           More than 80 percent of farmworkers  
8 nationwide are foreign-born.

9           More than one-half of farmworkers are  
10 undocumented immigrants.

11           Today, most farmworkers do not migrate for  
12 jobs. The large majority of farmworkers are settled  
13 in communities, raising families, contributing to  
14 the economy and the society.

15           Farming is a dangerous job.

16           The agriculture, forestry, and fishing sector  
17 is ranked number one in the rate of occupational  
18 fatalities per 100,000 workers.

19           Farmworkers remain among the lowest-paid  
20 occupational group in the nation.

21           The poverty rate among farmworker families is  
22 disproportionately high.

23           In recent years, farmworkers' wages have  
24 improved modestly, slightly above the rate of  
25 inflation, but that is of little comfort when they

1 started so low, and one considers that fringe  
2 benefits are rarely paid.

3 Farmworkers underutilize the public benefits  
4 for which they are eligible, and undocumented  
5 farmworkers are generally ineligible for public  
6 benefits.

7 Many undocumented immigrants are living in  
8 fear of arrest and deportation due to  
9 highly-publicized immigration enforcement.

10 That fear discourages them from asking for a  
11 raise or to work fewer hours, from challenging wage  
12 theft, sexual harassment, and other illegal  
13 employment practices, and even from appearing in  
14 public places such as health centers and schools.

15 The exclusion of farmworkers from many  
16 federal and state labor laws limits their income,  
17 deprives them of labor protections, denies them  
18 freedom to bargain collectively for better job  
19 terms, and exacerbates their vulnerability to unfair  
20 labor practices.

21 The State should end its longstanding  
22 discrimination against farmworkers in its labor and  
23 employment legislation.

24 Consumers, increasingly, want to know how  
25 their fruits, vegetables, and dairy products are

1 produced, and how the people who produced them are  
2 treated.

3 Supermarkets and other sellers of food are  
4 responding to their consumers by investigating and  
5 reforming their supply chains.

6 An important step toward respecting  
7 farmworkers as human beings, who are contributing to  
8 our nation, and toward meeting the demands of  
9 consumers and businesses, is to pass the farm -- the  
10 Farmworkers Fair Labors (sic) Act.

11 Some employers claim that agriculture will be  
12 decimated if farmworkers are given the same labor  
13 protections that apply to other workers.

14 When these battles over overtime pay and the  
15 right to organize were fought long ago for other  
16 workers, employers in other industries said the same  
17 thing, and yet our economy is the strongest in the  
18 world.

19 California's experience shows the same thing.

20 Back in 1975, California passed the  
21 Agricultural Labor Relations Act.

22 They've also extended, basically, all labor  
23 rights to farmworkers that other workers enjoy.

24 And California's agribusiness grew, from  
25 \$7.5 billion in 1974, to \$45 billion in 2017.

1           And now California, in 2016, passed  
2           legislation to grant farmworkers overtime pay after  
3           40 hours a week by gradually phasing it in.

4           I want to stress that there are other ways of  
5           improving productivity than forcing people to work  
6           extraordinary number of -- numbers of hours.

7           Many farmworkers do not say that they don't  
8           want to work that many hours because they are afraid  
9           of being fired, and under the H-2A program,  
10          deported.

11          Employers are finding new ways,  
12          non-exploitive ways, to improve productivity and  
13          share the higher profits with farmworkers.

14          More effective labor relations also reduces  
15          business risks, including from occupational injuries  
16          to workers, and from food-borne illnesses to  
17          consumers.

18          New York should recognize that victims of the  
19          denial of equal treatment under labor laws are  
20          predominantly people of color and immigrants who  
21          have been marginalized on the basis of the color of  
22          their skin and their place of birth.

23          This discrimination has never been  
24          appropriate, and finally must end.

25          Thank you very much for this opportunity.

1           SENATOR METZGER: Thank you very much.

2           Any questions?

3           Doctor -- I mean, Senator Jackson?

4           SENATOR JACKSON: Mr. Goldstein, thank you  
5 for coming and giving your testimony.

6           So, obviously, in listening to some previous  
7 testimony, and especially in hearing from my  
8 colleague about these small farmworkers (sic) and  
9 how they're just struggling to get by themselves,  
10 have there been an analysis with respects to, if you  
11 know, for the New York region?

12           And I know that you are the president of the  
13 Farmworkers for Justice (sic) nationally, and I saw  
14 your stats for California, as far as the industry,  
15 up to 45, I think, billion, or -- 45 billion in  
16 2017.

17           Has there been an analysis of New York State  
18 with respects to that?

19           Because, obviously, no one wants to see  
20 farmers go out of business.

21           No one wants to see workers not receiving  
22 what they're rightfully due, and be treated with  
23 respect and dignity, and earn the monies and  
24 everything that they're entitled to.

25           So has there been an analysis in

1 New York State?

2 Because, obviously, we don't want to, in my  
3 opinion, pass a law that's going to bankrupt  
4 farmers, but we want to pass a law that's going to  
5 make it work for farmers and workers.

6 BRUCE GOLDSTEIN: Yeah, I'll have to rely on  
7 my friends in New York State to give you that  
8 information.

9 I would just say that, capitalism is known  
10 for its invention and for --

11 SENATOR JACKSON: Innovation?

12 BRUCE GOLDSTEIN: -- recreating --  
13 Innovation.

14 -- recreating itself.

15 We should not be discriminating against  
16 farmworkers to achieve an economically-viable  
17 agricultural industry.

18 They're workers just like anybody else.

19 SENATOR JACKSON: Thank you.

20 BRUCE GOLDSTEIN: Thank you.

21 SENATOR METZGER: Thank you very much.

22 LESLIE BERLIANT: Up next is  
23 Wayne Marshfield, followed by Chris Kelder.

24 And if Elizabeth Ryan could come up to the  
25 stage, please.

1           WAYNE MARSHFIELD: Thank you very much for  
2 allowing to us give testimony this afternoon.

3           I'm a 26-year county legislator from  
4 Delaware County, and supervisor of the town of  
5 Hamden.

6           I was raised on a dairy farm, and it's still  
7 in operation yet today up in northern New York.

8           I'm well aware of the difficulties our  
9 farmers have had for decades, and I really oppose  
10 this legislation, as did our county board of  
11 supervisors.

12           I'm here to tell you that this will devastate  
13 our farmers and will continue to run the cycle of  
14 losing farms.

15           Agriculture in New York State, as you know,  
16 is over a \$5 billion economy to New York State.

17           Given labor shortages, New York farms are  
18 continuously seeking new labor sources.

19           Farm employees typically receive a whole  
20 compensation package in addition to their regular  
21 pay. They oftentimes receive housing and a free  
22 range of products that are produced on the farm.

23           In farming, Mother Nature governs pretty much  
24 the workday.

25           A bad weather day makes for a short day, and

1 the next day means a lot longer day.

2 Equipment breakdowns, animal sickness,  
3 birthing, supply shortages, family issues, all make  
4 for an erratic workday, workdays that are, one way  
5 or another, altered in length.

6 I'm sure you've heard it before, but, in  
7 2017, front-line farmworkers worked an average of  
8 56 hours a week.

9 In 2016, a survey of Hispanic dairy employees  
10 in New York State worked on the average of 57 hours  
11 a week, but they like to work 67 hours a week.

12 That's what they needed to work to be able to  
13 survive.

14 If farmers are forced into paying overtime  
15 above the 40 hours, they will decrease the hours to  
16 their employees.

17 The same farmworker employees would now be  
18 cut to 40 hours. They will go elsewhere to work in  
19 order to be able to supply their families with the  
20 income that they need.

21 And, more than likely, they'll be working the  
22 same hours for straight time because now they're  
23 working for two different employers.

24 We also run -- have the risk of farmworkers  
25 going to other states if they're restricted to a

1 specific workday.

2 If farmers are forced to pay overtime in  
3 excess of 40 hours, a farmworker will make less than  
4 they are today, forcing them to go to states that  
5 don't have these laws.

6 Dairy farming is close to my heart.

7 This law would raise the cost to a dairy  
8 farmer 101 percent.

9 Can you imagine that happening to a dairy  
10 farmer when they're already losing profits on the  
11 farm?

12 Milk prices are pitifully low, and this would  
13 just polish them right off.

14 New York farmers will not compete nationally  
15 or globally with this law.

16 We'll have farmworker employees with all  
17 these new labor benefits, yet the farmer himself,  
18 working side by side with the farmworker, will work  
19 more hours, knowing they have to do that in order to  
20 not lose the farm.

21 My dad did what he had to keep the family  
22 farm in operation. He loved the farm.

23 And, thankfully, the farm, it's still in  
24 operation today.

25 With this proposed law, it will be doomed and

1 lost forever.

2 And for that reasons, I hope you would  
3 consider opposition to this law.

4 And I thank you again for allowing us to  
5 speak.

6 SENATOR METZGER: Thank you very much,  
7 Supervisor.

8 We really appreciate it.

9 Any questions?

10 Senator Harckham?

11 SENATOR HARKHAM: Just a very quick question.

12 Thank you, Mr. Supervisor, for being here.

13 I don't claim you have a crystal ball, but,  
14 as someone who has experience in this industry and  
15 who represents a lot of farmers, is there a middle  
16 ground that can be found between 40 hours a week and  
17 120 hours every two weeks?

18 Does such a place exist?

19 WAYNE MARSHFIELD: I don't know as I could  
20 answer that, really.

21 I've talked to local dairy farmers, and if  
22 this law goes -- they're just -- they're barely  
23 hanging on now.

24 You know what the story is out there.

25 And, of course, we're talking, our

1 Delaware County is dairy, beef, and vegetables, and,  
2 you know, they're all affected, one way or another,  
3 but dairy takes the big hit with this law.

4 I can't answer that question.

5 Sorry.

6 SENATOR HARKHAM: Oh, that's all right.

7 Thank you.

8 WAYNE MARSHFIELD: Okay.

9 SENATOR JACKSON: Mr. Marshfield, thank you  
10 for coming in, because I want to hear from everyone.

11 And, obviously, you grew up on a farm, your  
12 family still owns a farm. And you are the  
13 supervisor for the town in which, you know, you're  
14 are basically saying, based on the input from  
15 farmers and the board of Hamden, that this bill  
16 should not go forward.

17 WAYNE MARSHFIELD: Correct.

18 SENATOR JACKSON: So -- and you indicated  
19 that employees that are not on the H-2A visas, they  
20 can go anywhere they want.

21 WAYNE MARSHFIELD: Yes.

22 SENATOR JACKSON: And you said, if, in fact,  
23 this went into effect, some would go to other places  
24 in other states --

25 WAYNE MARSHFIELD: If they're limited to

1 40 hours on Farmer A, they're going to go to  
2 Farmer B, a different employer.

3 SENATOR JACKSON: You mean after 40 hours, if  
4 they --

5 WAYNE MARSHFIELD: Yeah, yeah, so they can  
6 get their 70, 80 hours, whatever.

7 SENATOR JACKSON: But if --

8 WAYNE MARSHFIELD: But farmers typically pay,  
9 they give them a package.

10 And in our area, they supply housing as part  
11 of the package.

12 SENATOR JACKSON: What else do they supply?

13 WAYNE MARSHFIELD: I don't know -- well, farm  
14 products. Milk, beef, you know, different things.

15 I know one that supplies wood for their  
16 heating.

17 And so they supply an array of things,  
18 whether it's maple syrup, or whatever.

19 SENATOR JACKSON: Oh, so it's beside the  
20 monetary aspect, they give other things which is in  
21 value; it's value to them and their families if, in  
22 fact, they're living with their families?

23 WAYNE MARSHFIELD: You got to realize that  
24 Delaware County is a very -- I love the county.  
25 It's a very poor county.

1           And we're, like --  
2           Chamber of commerce person's here today.  
3           -- but we're right on the bottom of the -- we  
4           have no industry.  
5           All we have is farming.  
6           SENATOR JACKSON: Uh-huh?  
7           WAYNE MARSHFIELD: And, yep, this would be  
8           tough.  
9           SENATOR JACKSON: Thank you, sir.  
10          I appreciate you coming in.  
11          WAYNE MARSHFIELD: Don't grill me too bad.  
12          Thank you.  
13          SENATOR METZGER: Thank you so much.  
14          SENATOR RAMOS: We're being nice today.  
15          LESLIE BERLIANT: Next up is Chris Kelder.  
16          I'm told Elizabeth Ryan is on her way in, so  
17          if Billy Riccaldo could also come up.  
18          CHRIS KELDER: Thank you, Senators, for the  
19          opportunity to speak today.  
20          My name is Chris Kelder.  
21          My family and I operate Kelder's Farm, which  
22          is a bicentennial farm in Kerhonkson, New York.  
23          My wife and I are very pleased to have had  
24          our son just come back and join the business.  
25          We grow fruits, vegetables, and livestock,

1 which we directly market to the public through our  
2 farm stand and CSA.

3 Our employees are very important to the  
4 business and to us personally.

5 Through the years, we have had many long-term  
6 employees that feel more like family than just  
7 employees.

8 We've had employees who have worked for three  
9 generations of our family.

10 One gentleman my grandfather hired, he worked  
11 for my father, and then he retired working for me.

12 So, people stay a long time.

13 But I'm also proud, the fact that  
14 Kelder's Farm, and its -- the way we do business  
15 now, has been the first job to dozens of local high  
16 school and college students.

17 Many of the young people that have worked  
18 for us have gone on into careers, such as teaching,  
19 law enforcement, corrections, and banking, to name a  
20 few.

21 Many of the students work hard and long hours  
22 for the short summer they have, so they can make  
23 money to further their education.

24 The proposed legislation would make it  
25 impossible for me to offer this opportunity to them

1 because there's not enough margin in the jobs they  
2 have skills for in order for them -- for me to pay  
3 time and a half for those type of jobs.

4 It would end up hurting the employee.

5 In agriculture, we are price-takers in a  
6 low-margin business, and have little, if any,  
7 ability to ask our buyers to raise the prices  
8 they're willing to pay.

9 We are competing with other states in the  
10 country that have lower costs of production than  
11 New York State.

12 The proposed labor legislation would put all  
13 farms and, therefore, farmworkers, in jeopardy in  
14 our great state.

15 Please consider, that if farms in New York  
16 can't pay the bills, the farmworkers will also  
17 suffer.

18 Upstate counties will shrivel on the vine and  
19 viable, productive farmland will either grow into  
20 unkept brush fields or urban sprawl.

21 The proposed overtime pay rate, coupled with  
22 rising minimum wages in New York, give farmers a  
23 very unfair disadvantage when we compete with the  
24 surrounding states that have the same access we do  
25 to our metropolitan market.

1 Farmers live with huge amounts of risk every  
2 day, like fluctuating markets, pests, diseases, and  
3 weather, all of which are out of our control.

4 Like an old farmer once told me --

5 I guess I'm getting to be an old farmer now.

6 -- but, "In agriculture, you live six hours  
7 away from a flood and six days away from a drought,  
8 all the time."

9 I'm not afraid of the risks that we take  
10 every year, but I am afraid of the future for my  
11 children who are trying to make a future in  
12 agriculture in New York State.

13 I am afraid for the farmworkers who will not  
14 be able to find future employment if farms are not  
15 here.

16 I am afraid for the rural communities with  
17 less agriculture to sustain themselves.

18 And I'm also afraid of the consumers who will  
19 find it harder to find quality New York State  
20 products.

21 This labor bill may be the beginning of the  
22 end of an industry that is the backbone of rural  
23 New York.

24 I understand that the supporters of this  
25 legislation do so with the best intentions, but

1       there will be unintended consequences to  
2       farmworkers, farmers, rural communities, and  
3       consumers.

4               Thank you very much for the time.

5               And if there's any questions.

6               SENATOR METZGER: Thank you so much, Chris.

7               Any questions?

8               SENATOR JACKSON: Chris --

9               SENATOR METZGER: I -- oh, sorry.

10              SENATOR JACKSON: Go ahead.

11              SENATOR METZGER: First of all, I just want  
12      to recognize Senator Diane Savino just joined us.

13              And also I'd mentioned Senator John Liu in  
14      his absence, but now he's present.

15              SENATOR JACKSON: Chris, let me thank you for  
16      coming in and giving testimony.

17              And, obviously, it's important to hear from  
18      everyone, and especially you and your family.

19              Obviously, we all wish your family well.

20              And I don't, and I don't think anyone, wants  
21      to see a situation where your farm or any other farm  
22      goes out of business as a result of this.

23              But, we also know that, based on reports by  
24      the farmworkers, the people that do the analysis and  
25      interviews, many farmworkers may not want to come in

1 here and give testimony for fear of retribution, and  
2 stuff like that. It's just a normal fear that they  
3 have.

4 And I just -- I'm just concerned about the  
5 fact that, I want to make sure that, whatever  
6 happens, it benefits both the farmers and the  
7 workers, and to me that's very important.

8 And I'm an urban boy. I'm born and raised in  
9 New York City. I've never worked on a farm so  
10 I don't know what it is.

11 And I know that, you know, I can't tell you  
12 because you have the experience and you know that.

13 One of the things that I was thinking about  
14 when other testimonies were being given, about the  
15 fact that, overtime, you know, whether or not, if,  
16 for example, the workers' advocates will look at,  
17 for example, the financial situation of small  
18 farmers to determine whether or not they can afford  
19 to pay X amount of dollars.

20 And I don't know if that's been done, but  
21 I just throw that out there to prove to all those  
22 that are looking to give the workers what we feel  
23 are right and just, looking at the financial  
24 situation of the farmers.

25 Any thoughts on that?

1           CHRIS KELDER: Well, you know, the market  
2           basically tells where -- you know, if -- we can't  
3           hire somebody if we're not competitive with the  
4           wage. They'll go somewhere else to work.

5           So, you have to be competitive with the wage.

6           But when you come into an hourly situation,  
7           with a fluctuating seasonality of a farm, and, for  
8           my instance, many of these kids only have two months  
9           that they can work. And they're trying to make  
10          every dollar they can, to put it away, so they can  
11          go away to school or do something else.

12          And that's going to hit them in the pocket  
13          because they're not -- they're just not going to get  
14          the hours that they may have gotten.

15          SENATOR JACKSON: Just, approximately, how  
16          many workers do you have, and whether or not those  
17          are the individual ones that can go anywhere they  
18          wish? Or --

19          CHRIS KELDER: All my workers can go anywhere  
20          they want.

21          We have --

22          SENATOR JACKSON: Approximately.

23          CHRIS KELDER: We have approximately  
24          15 seasonal people, mostly our local high school and  
25          college kids.

1 SENATOR JACKSON: Thank you.

2 SENATOR METZGER: (Microphone off.)

3 Thank you very much.

4 LESLIE BERLIANT: Next up is Billy Riccaldo,  
5 followed by Elizabeth Ryan.

6 And if Eric Ooms could come up to the stage.

7 BILLY RICCALDO: Good afternoon.

8 And I want to thank the Senators for bringing  
9 this attention to the exploitation of the  
10 farmworkers in New York State.

11 My name is Billy Riccaldo. I am here in my  
12 capacity as president of the Hudson Valley Area  
13 Federation (sic).

14 Hudson Valley Area Federation (sic)  
15 represents 13 -- 113,000 members from the public  
16 sector, the private sector, and the buildings  
17 trades.

18 Hudson Valley Area Federation (sic) is the  
19 local-affiliated New York State AFL-CIO, and the  
20 AFL-CIO of the Hudson Valley Labor Federation (sic)  
21 has advocates on behalf of the farmworkers for  
22 decades.

23 We have proudly supported the farmworkers  
24 fair labor practices since the introduction in 1999.

25 It's been 20 years since there has been any

1 meaningful, substantive improvements for the  
2 farmworkers in this state.

3 Now is the time to pass the Farmworkers Fair  
4 Labor Act (sic).

5 There is simply no justification for the  
6 State to afford farmworkers fewer and less-stringent  
7 protection and rights in the workplace.

8 There is no reason to treat them any less  
9 than any other worker in New York.

10 Their work is a matter of justice, and  
11 unconscionable that farmworkers do not have the same  
12 protection and rights of every other worker in this  
13 state.

14 This second-class treatment enshrines the  
15 state law has led to creation of subset of workers  
16 that are particularly vulnerable to exploitation.

17 Without collective bargaining rights, these  
18 workers have no voice at work.

19 Without a voice in the workplace, farmworkers  
20 are robbed of opportunity to access the few rights  
21 they have without fear of retaliation.

22 In the hearings last week we heard about  
23 farmworkers who have experienced sexual harassment  
24 in the workplace, wage theft.

25 While there is no question that these were

1 illegal acts under current law, it is the type of  
2 behavior that often goes unreported because the  
3 victims want to protect their jobs.

4 Totally unacceptable in this state, in any  
5 state, but in this state.

6 Other factors include language skills, race,  
7 immigration status, also makes farmworkers more  
8 susceptible to exploitation.

9 Another factor that leads to exploitation,  
10 but has not received enough attention, is farm  
11 housing.

12 There is no question that some farmworkers  
13 who live in the farm housing see it as a benefit;  
14 however, farmworkers who live on their  
15 employees' (sic) farms are more vulnerable to  
16 exploitation than anybody else.

17 Additionally, while some have portrayed  
18 provisions of housing, the Farmworkers Fair Labor  
19 Act (sic) provides overtime pay, a true day of rest,  
20 collective bargaining rights, which would put them  
21 on par with other workers in this state and other  
22 states, compensation, temporary disability  
23 insurance, and minimum wage.

24 It would also expand the application of  
25 sanitary code for all farmworkers.

1           This legislation would end state sanctions  
2           second-class treatment of farmworkers.

3           Again, on behalf of the Hudson Valley Area  
4           Federation (sic), I ask you to pass this Farmworkers  
5           Practice Act (sic).

6           I also want to say, there is no reason why  
7           this state can't get more grants out to these farms  
8           so these farmworkers can have a decent living, can  
9           earn work for their family, can earn money.

10          There's also grants out there, I believe, for  
11          machinery.

12          You know what? There should be for these  
13          farm -- for the owners, just to make it better for  
14          the farmworkers, and themselves.

15          So, I believe this act is a great thing, and  
16          I believe it is for the workers, their families, and  
17          I think they deserve that.

18          I know they deserve that.

19          Thank you.

20          SENATOR METZGER: Thank you very much.

21          SENATOR JACKSON: Sir?

22          SENATOR METZGER: There's a question.

23          SENATOR RAMOS: Make it a quick one, Bob.

24          SENATOR JACKSON: I'm trying. I mean, this  
25          is a hearing.

1           So, thank you for coming in and giving your  
2 testimony.

3           So you mentioned about wage theft from  
4 workers, and that many of them are maybe afraid  
5 or -- to report it.

6           Now, what -- give me an example of, what do  
7 you mean that -- the wage theft?

8           How are they paid?

9           Are they paid in cash? Are they paid by  
10 check?

11           And how are they stealing if somebody is  
12 stealing the wages from them?

13           BILLY RICCALDO: Well, I believe some of it  
14 has to do with, when they're living there, and, just  
15 say, and I'm just using this for example, they're  
16 making \$50.

17           You know what? They're charging them rent a  
18 lot higher than it's supposed to be. Then they're  
19 charging them more rent for their food.

20           That's what makes the lower rates  
21 (indiscernible), which is totally unacceptable.

22           And, again, under fear, they don't want to  
23 say anything.

24           SENATOR JACKSON: And is this -- is this what  
25 you have heard as a leader in -- for AFL-CIO in this

1 area?

2 BILLY RICCALDO: This is the information  
3 I got, yes.

4 SENATOR JACKSON: Okay. Thank you.

5 BILLY RICCALDO: Thank you.

6 SENATOR METZGER: So, I just want to point  
7 out that the housing that farmers provide is free  
8 housing. They're not charged for it.

9 It's required by the H-2A program, that  
10 they're not charged for that.

11 LESLIE BERLIANT: Next up is Elizabeth Ryan.  
12 If Eric Ooms and Ila Riggs could both come  
13 and get ready to testify.

14 ELIZABETH RYAN: Hi, everybody.

15 I'm Elizabeth Ryan, and I own Breezy Hill  
16 Orchard and Stone Ridge Orchard, and I operate three  
17 farms in two counties.

18 I'm a lifelong farmer. I'm from a long line  
19 of farmers.

20 I'm a founder of Greenmarket, and I consider  
21 myself a progressive activist farmer.

22 I believe in social justice. I believe in  
23 fair wages.

24 I believe that every hand that touches the  
25 apple should be fairly and appropriately treated and

1 compensated.

2 I have a long history of working with the  
3 Hudson Valley American Health Centers.

4 I sat on that board for many years, and I'm  
5 very proud that our farm has been honored twice by  
6 that organization for our contributions to  
7 developing a more just and sustainable vision for  
8 everyone in the food and agriculture system.

9 And I say that not to establish our  
10 credentials, but simply to tell you that I believe  
11 that I have a deep set of shared values with the  
12 goals of this bill.

13 But, I respectfully would echo the testimony  
14 provided by Michael Hurwitz of Greenmarket, and  
15 Maritza Owens, that I wholeheartedly endorse.

16 Agriculture is under tremendous pressure from  
17 all sides: The climate. Adulterated food coming in  
18 from offshore. Pricing pressure, there is endless  
19 downward pricing pressure.

20 If we could get \$5 a pound for apples,  
21 everyone could have shared prosperity.

22 If we could get \$10 a dozen for eggs,  
23 everyone could have shared prosperity.

24 And with respect to the previous speaker,  
25 there are a few grants, and there are little bits of

1 Band-Aid solutions.

2 But what we need is, obviously, a green new  
3 deal for food and agriculture that is holistic and  
4 encompasses the entire system.

5 We need that desperately, and I want to  
6 invite you guys to be partners in that process.

7 You've been hearing testimony from many  
8 worthy people on both sides of the issue.

9 I believe that what we have in common is  
10 greater than our differences.

11 We disagree on this bill.

12 This bill has the potential to be one more  
13 nail in the coffin.

14 It's potentially catastrophic, and it pains  
15 me incredibly to not support a bill that I think has  
16 worthy goals.

17 And I'd like to see a moratorium.

18 I'd like to see us continue this process with  
19 all of the parties who have turned out, and really,  
20 really have a radical green new deal.

21 Grants, they're de minimis for farmers.

22 There are a few of them.

23 Crop insurance? De minimis.

24 So I think, respectfully, and I say this as a  
25 founder of Greenmarket who does many farmers'

1 markets, there is a large gap in understanding.

2 We are with you.

3 And, again, with respect to the previous  
4 gentleman, I've been farming for 35 years, and the  
5 growers that I know, I know of no one who engages in  
6 wage theft. I know of no one who is not  
7 compensating their workers appropriately.

8 And at the risk of addressing one of the many  
9 elephants in the room, immigration.

10 The fact that we have a population of people  
11 who are largely undocumented, it's a system of  
12 de facto Apartheid in America, and we have to end  
13 that.

14 And we need you to help us end it.

15 So this is not, I believe, the appropriate  
16 mechanism in this minute, this way, to solve those  
17 problems.

18 Those problems are larger; and, meanwhile,  
19 farmers are struggling terribly, as you may know.

20 The perception that farmers are wealthy, it  
21 takes one hour of bad weather to wipe us out for the  
22 year.

23 Pricing is typically below the cost for  
24 production.

25 Once in a while you hit it right.

1           A lot of us are creative.

2           I see my employees as partners in my  
3 business.

4           I'm in the process of giving equity to a  
5 longtime farmworker who's worked at the farm for a  
6 long time, and making him a partner in the business.

7           So, we really believe in compensation and  
8 fairness.

9           But I do not believe, and I think you're  
10 hearing this resounding from the agricultural  
11 committee community, I do not believe that this bill  
12 is going to get us there.

13           That's the long and short of it.

14           [Applause.]

15           SENATOR METZGER: Thank you, Elizabeth.

16           First, Senator Liu has a question, if you  
17 could just answer a couple of questions.

18           SENATOR LIU: Thank you, Ms. Ryan, for your  
19 passionate testimony.

20           And, good to hear that there are progressive  
21 farmers.

22           ELIZABETH RYAN: Many of us.

23           SENATOR LIU: Farmers with progressive  
24 values.

25           You mentioned in your testimony that,

1 oftentimes, the cost of production exceeds the price  
2 that you can get on the market.

3 So, what happens?

4 I mean, how are you able to sustain the farm  
5 for 35 years?

6 Is that usually a very temporary situation  
7 that you just have to weather?

8 Or is it, oftentimes, a longer term than  
9 you'd like?

10 ELIZABETH RYAN: I thank you for the  
11 question, and it's a very profound question which  
12 doesn't have a soundbite for an answer.

13 Certainly, we need safety nets for farmers  
14 and farmworkers.

15 I believe that the cost of food should be  
16 higher.

17 And I believe that people who are low income  
18 need to be supported in every way they can to have  
19 healthy food. We need to expand every program that  
20 works with that community.

21 But, we do compete in a, quote/unquote,  
22 global economy.

23 There is tremendous amount of adulterated.

24 I mean, go to the supermarket and pick up one  
25 of those juice boxes, and ask yourself, you know,

1 what's in that juice box?

2 It's typically concentrate coming from  
3 somewhere else. It's incredibly unregulated and,  
4 often, very toxic.

5 So, we have a food system that's broken.

6 We have a social-justice system that's  
7 broken.

8 And we all share goals.

9 And I'd like to see us put down our swords  
10 and come together as a community of progressive  
11 people who want it to work.

12 There is not a simple solution.

13 I spent summers on my grandparents' farm in  
14 Iowa.

15 They survived "The Depression." They  
16 survived the '60s and the '70s.

17 And their solution was to get bigger and  
18 bigger and bigger, and they're still losing money.

19 They're now farming 2500 acres of corn.

20 So I think, without some form of government  
21 support, there are a lot of European models that  
22 work.

23 And I would invite you to convene a panel to  
24 look at some solutions.

25 SENATOR LIU: So, overall, the cost of

1 production can't possibly exceed the prices that you  
2 can garner on the marketplace for a long time.

3 ELIZABETH RYAN: It often does.

4 SENATOR LIU: It often does, but not -- it  
5 can't be that much; right?

6 It can't happen all the time.

7 ELIZABETH RYAN: I think one of the reasons  
8 that farmers go out of business is because of a  
9 chronic price.

10 We actually call it "parity."

11 A chronic gap between pricing in the  
12 marketplace, and then when the losses occur, whether  
13 they're from weather or markets, they are  
14 catastrophic.

15 So, this week it was pretty cold and rainy.

16 I'm a fruit grower.

17 We had a frost event.

18 Every fruit grower I know in the valley is  
19 wondering --

20 SENATOR LIU: Ms. Ryan --

21 ELIZABETH RYAN: -- will they have a crop at  
22 all?

23 SENATOR LIU: Ms. Ryan, Senator Metzger has  
24 been an incredible advocate for farmworkers, as well  
25 as farmers, in the state. And, you know, she does

1 give us information quite a bit.

2 One of the things that she's talked about is  
3 the fact that farmers often go into debt.

4 Is that a chronic issue? Is that --

5 ELIZABETH RYAN: That farmers go into debt?

6 SENATOR LIU: Go into debt, and continue to  
7 go into deeper debt.

8 ELIZABETH RYAN: I'm hesitant to answer that  
9 question, but as someone who has \$2 million in  
10 land-based debt right now, the answer is yes.

11 As someone who often posts a hundred- to  
12 two-hundred-thousand-dollar loss in -- in one out of  
13 every three years, at least, do we go into debt?

14 Yes.

15 Do we leverage every asset we have?

16 Yes.

17 Do I have health insurance?

18 No.

19 SENATOR LIU: Ms. Ryan, one last question for  
20 you, if you don't mind.

21 You said you grow apples on your family farm?

22 ELIZABETH RYAN: Yeah.

23 SENATOR LIU: What would be a typical cost  
24 per pound -- production cost per pound of apples?

25 ELIZABETH RYAN: Well, so -- so, again, there

1       isn't a soundbite there.

2               The obvious things, like, what does it cost  
3       to grow (indiscernible)?

4               (Indiscernible cross-talking.)

5               SENATOR LIU: Well, I mean --

6               ELIZABETH RYAN: What does it cost --

7               SENATOR LIU: -- you mentioned before, if you  
8       could get \$5 a pound, then there would be plenty to  
9       go around.

10              If you could get \$10, everybody could be well  
11      off.

12              ELIZABETH RYAN: So we've -- we've --

13              SENATOR LIU: So what is the production cost?

14              ELIZABETH RYAN: -- we've run those numbers,  
15      and I'd be happy to share them with you.

16              And when I came to the Hudson Valley, we  
17      wanted to be the better farmers.

18              We wanted to be the place where people were  
19      proud to work and earned a decent living, and could  
20      achieve their goals and dreams, every single person  
21      who worked for us.

22              And we asked ourselves: What do we have to  
23      do --

24              SENATOR LIU: I go to my supermarket, I pay  
25      1.69 for Gala.

1 ELIZABETH RYAN: Right.

2 SENATOR LIU: 1.79 for Golden Delicious.

3 ELIZABETH RYAN: Yeah.

4 SENATOR LIU: And 1.99 for Fuji.

5 ELIZABETH RYAN: And the grower doesn't get  
6 the \$1.99, do they?

7 SENATOR LIU: I understand that, which is why  
8 I'm trying to get a sense as to how hard it is for  
9 apple farmers in our state.

10 You know, I don't want to see apple farmers  
11 leave our state.

12 I happen to like apples. I happen to not  
13 like doctors.

14 [Laughter.]

15 SENATOR LIU: But, nonetheless, we want to  
16 make sure that our policies --

17 ELIZABETH RYAN: We have two issues,  
18 respectfully.

19 So if we had a full crop every year, \$3 a  
20 pound for apples all of the time would probably fix  
21 it, if we had a full crop of apples.

22 With climate change, we never have a reliable  
23 full crop of apples.

24 We now are in a model where we have to expect  
25 that we will lose our crop at least one out of every

1 three years.

2 That is the new normal.

3 And we are fighting to keep the pollinators  
4 going.

5 We are fighting for open space.

6 And we are fighting to pay our employees as  
7 much as we can, and, by the way, put them in the  
8 best possible housing.

9 And, ironically, we often don't get  
10 cooperation on housing.

11 If I had my dream, every employee that I have  
12 would live in a very nice house on the farm,  
13 somewhere.

14 We have employees that are traveling one to  
15 two hours to get to work, and living in really  
16 substandard off-farm housing, because they can't  
17 find anywhere to live in this county that they can  
18 afford.

19 And that is another piece of the holistic  
20 vision that we need to have.

21 SENATOR METZGER: Thank you, Elizabeth;  
22 thanks very much.

23 LESLIE BERLIANT: Next up is Eric Ooms,  
24 followed by Ila Riggs.

25 And if Jack Banning could come up.

1           ERIC OOMS: Thank you.

2           My name is Eric Ooms. My family and I have a  
3 dairy farm in Kinderhook, in Columbia County, where  
4 we milk 420 cows, which I don't have in my  
5 testimony, with robotics because of some of these  
6 issues.

7           My father started in this country in 1950 as  
8 a 17-year-old immigrant, with my uncle and my  
9 grandfather, and our family tradition goes back to  
10 1525 in the Netherlands.

11           I'm here to talk about the bigger picture,  
12 though, instead of my farm so much.

13           We all agree that our employees deserve to be  
14 treated with dignity and respect.

15           We cannot put food on your table without  
16 their commitment to an occupation that we all hold  
17 dear.

18           New York Farm Bureau is part of a committee  
19 led by the commissioners of agriculture and markets  
20 and labor, where we work to address worker issues  
21 side by side with farmworker advocates.

22           Also, to end the scourge of worker  
23 mistreatment in all industries, we're part of the  
24 Governor's Exploited Worker Task Force, seeking to  
25 find workable solutions.

1           The farm community has been a leader in  
2           advocating for immigration reform to bring migrant  
3           workers out of the shadows.

4           That's one of the big issues that doesn't get  
5           brought up in this whole issue.

6           For 20 years -- I didn't mention verbally,  
7           but I'm the vice president of the New York Farm  
8           Bureau.

9           For 20 years we've been advocating for an  
10          immigration solution, and we have been rather  
11          pliable, whether it be piecemeal, comprehensive, we  
12          need to do something.

13          This has been our message for 20 years.

14          That is unsaid in this whole discussion.

15          New York Farm Bureau's championed the  
16          antihuman trafficking laws, worked with New York --  
17          NYCAM, to offer safety training in Spanish to  
18          thousands of farmworkers.

19          The dairy community has worked with OSHA to  
20          implement the local emphasis program that has random  
21          safety audits on dairy farms.

22          We've also been part of a coalition with the  
23          Labor Roadshow that Dr. Stup mentioned earlier.

24          We also continue to push for funding for  
25          New York State agribusiness development program.

1           We do this because it's the right thing to  
2 do, and it's, just, we're trying to be proactive on  
3 labor issues despite what some might say.

4           Just as important, we are supportive of a  
5 myriad of laws and regulations that already aim to  
6 protect workers from wage theft, housing violations,  
7 and alleged abuse.

8           If anyone in this room knows of violations,  
9 they must be reported.

10          Accusations that farmers as a group are  
11 treating our workers unfairly is hurtful and not  
12 grounded in fact.

13          It's important to note that this legislation  
14 will not change any of that.

15          There are bad actors in every industry, and  
16 the New York State Department of Labor is already  
17 doing its part.

18          And if they need more resources, they need to  
19 be given those resources.

20          We've also heard comparisons to California  
21 agriculture, with the assumption that if overtime  
22 can work there, it can work here.

23          There are dramatic differences between  
24 California and New York.

25          And the reality is, in California, you can

1 have three growing seasons, where we have one just  
2 because of our weather.

3 And though it isn't raining right here today,  
4 it was raining at home.

5 So I appreciate you scheduling this hearing  
6 for rain at my farm.

7 [Laughter.]

8 ERIC OOMS: But this means it's just -- it's  
9 just -- you've got to take all these things into  
10 account.

11 I urge you to understand the work that is  
12 happening on farms all across the state to provide  
13 good, safe working conditions on our farms.

14 I ask you to please take into account the  
15 economic realities facing farms today, and that  
16 includes the dramatic loss of more than 2100 farms.

17 I will just close with your question,  
18 Senator Liu.

19 When we talk about being below the cost of  
20 production, there's two different costs of  
21 production.

22 You have a cash cost of production, and then  
23 you have a cost that you can actually renew the  
24 business.

25 And the cash cost doesn't dip below that as

1 much. But what happens is, people eat into their  
2 equity from previous generations.

3 Their barns start to fall apart.

4 People aren't keeping those things up.

5 So when we say "below the cost of  
6 production," that's a legit thing.

7 The question is, for everybody it's  
8 different, and the question is -- or, the answer is:  
9 The reality is, the cash cost, and what you need to  
10 actually sustain as a business, are two totally  
11 different things.

12 So, I thank you for the opportunity to be  
13 here today.

14 SENATOR METZGER: Thank you very much, Eric.

15 Any questions?

16 Senator Liu?

17 Oh, I'm sorry.

18 And we're joined by Senator Shelly Mayer.

19 Thank you so much for coming.

20 SENATOR LIU: Thank you, Eric, for the  
21 distinction between, I guess economists often  
22 call -- talk about the marginal costs and the  
23 marginal revenues.

24 And as long as the marginal revenues are  
25 slightly more than the marginal costs, then it's

1 still worth sustaining the farm, even though you  
2 either go further and further into debt, or you  
3 continue to lose the equity that's been built up in  
4 past generations.

5 ERIC OOMS: Right.

6 SENATOR LIU: What we're talking about here  
7 are a set of price controls, really, I mean, for  
8 wages. A price floor for wages.

9 There are -- and I think Elizabeth --  
10 Ms. Ryan mentioned what European countries do.

11 They either have price supports for the  
12 agricultural products.

13 Some Asian countries have price supports for  
14 their staples as well, just to make sure that  
15 there's a capacity to continue to grow the food  
16 domestically and, therefore, not rely on  
17 international assistance or trade.

18 Do the farmers, or, perhaps you yourself, do  
19 you advocate price controls, perhaps at the state  
20 level?

21 For example, we're saying, through this bill,  
22 the wages, the price of labor, should not be below a  
23 certain point. Perhaps the price of apples should  
24 not be below \$3 a pound.

25 Is there any kind of consideration there?

1           The other thing that the Europeans do, is  
2 they just buy up a lot of their apples, but then  
3 they have a lot of rotting apples that are being  
4 stored in barns.

5           ERIC OOMS: Right.

6           So, we could have a very long economic  
7 discussion.

8           When you go it into -- I'm more familiar with  
9 the area because I'm a dairy guy, so I'm not going  
10 to touch apples.

11          But, I know, with dairy --

12          SENATOR LIU: All right.

13          Well, earlier there was a comment about the  
14 price of milk being very low here.

15          ERIC OOMS: Right, no, I understand.

16          -- for instance, with dairy, we tried  
17 20 years ago to institute a dairy compact that would  
18 price milk at a higher level in the northeast.

19          We had to have -- we had the six New England  
20 states and about five mid-eastern states that were  
21 all going to work together to price milk.

22          We had to get ratification from Congress,  
23 which we never did get.

24          The point -- my point is, is if we talked  
25 about having a price control in the statewide level,

1 you're going have issues with interstate commerce.

2 And that is, we tried that, and that was my  
3 thing, that's what I came up on. That was my issue.

4 And I'm going to tell you, I love that issue,  
5 and I'm all for that issue, it's my passion, and  
6 it's not practical. We couldn't politically get it  
7 done.

8 So I'm not opposed to the concept, but it's  
9 incredibly -- I'm willing to talk.

10 SENATOR LIU: By the way, I'm not necessarily  
11 saying I'm in favor of that concept.

12 ERIC OOMS: Fair enough.

13 [Laughter.]

14 SENATOR LIU: I'm just say (sic), this is a  
15 hearing, you know, and the idea of having this  
16 hearing is to hear all ideas --

17 ERIC OOMS: I understand.

18 SENATOR LIU: -- and see where people stand.

19 ERIC OOMS: Sure.

20 Thank you.

21 SENATOR LIU: Thank you.

22 ERIC OOMS: Thank you.

23 LESLIE BERLIANT: Next up, Ila Riggs,  
24 followed by Jack Banning.

25 And if Jessica Orozco Guttlein could come to

1 the stage.

2 ILA M. RIGGS: Good afternoon.

3 Thank you, Senators, for the opportunity to  
4 voice my concerns about the Farmworker (sic) Fair  
5 Labor Practices Act.

6 I'm a first-generation farmer, starting my  
7 berry farm on a worn-out corn field in Stephentown,  
8 New York, in 1996.

9 I grow strawberries, raspberries,  
10 blueberries, diversified vegetables, and cut  
11 flowers.

12 Berry farmers are particularly vulnerable to  
13 weather events destroying our crops.

14 Most people in New York State do not know  
15 that 99 percent of the strawberries grown in the  
16 state ripen in a three- to four-week harvest window  
17 from about mid-June to the 4th of July.

18 Consumers may see strawberries 365 days a  
19 year in the supermarket, but New York berries are  
20 only available for three to four weeks.

21 Raspberries and blueberries are similar.

22 We have very short periods of time when these  
23 crops mature.

24 For this reason, the overtime pay provision  
25 in this act is particularly onerous.

1           In my situation, 70 percent of my income for  
2           the entire farm comes from the three berry farms.

3           I have a total of 8 weeks during the summer  
4           to make 70 percent of my income for the entire year.

5           I work 120 hours a week during the summer.

6           My employees understand that one heavy rain  
7           storm will turn ripe berries to mush, or moldy,  
8           making them unsaleable, and that long days are  
9           necessary to get as much harvested as possible  
10          before a rainy period sets in.

11          We have had the same employees return to our  
12          farm year after year.

13          10 Guatemalan children have received  
14          educations in Guatemala because of the wages their  
15          parents earn at the Berry Patch.

16          The overtime provision of this act would end  
17          all of that, as there is no way I can be  
18          economically competitive paying \$20 an hour for  
19          someone to pick berries.

20          In addition to their wages, we have to  
21          provide free housing and utilities, pay their travel  
22          both ways, their visa fees, and provide shopping  
23          trips once a week.

24          In 2018 we paid out over \$100,000 in wages,  
25          plus covered all the other associated costs, while

1 my husband and I, both of whom have master's  
2 degrees, lost \$2,137.

3 I know that many people refer to this as a  
4 social-justice issue.

5 I have experienced -- and I'm very --  
6 I believe very strongly in social justice.

7 I have experienced social injustices my  
8 entire life being a woman in a non-traditional  
9 field.

10 As my husband and I approach retirement age,  
11 we have been proactive about finding a young couple  
12 that can take the business that we created from  
13 nothing and take it to the next level.

14 After looking for three years, we have  
15 finally found a couple who we believe are a great  
16 fit.

17 How is it social justice, that just as we  
18 have a viable option for exiting our business, it  
19 can get snatched away from us because a young couple  
20 will not be able to afford to pay wage rates that  
21 are so much higher than our competitors?

22 So after 22 years of working to make our farm  
23 into an asset that will provide a retirement income,  
24 how is it social justice to have that option taken  
25 from us by people that have never had to make their

1 entire living in a four-month time period?

2 New York has a four- to five-month growing  
3 season. We can't change that.

4 When your entire livelihood is dependent on  
5 what is produced and sold in four to six months a  
6 year, everyone on a farm has to work more than  
7 40 hours a week.

8 Employees are often making more than the  
9 owners and getting all their living expenses covered  
10 as well.

11 As I drive along the Route 22 Corridor, I've  
12 noticed the same economic stagnation that we have in  
13 the Taconic Valley.

14 Once active dairy barns are falling into the  
15 ground, farm equipment stores and restaurants have  
16 closed.

17 The only thing that is new along the drive  
18 are the Dollar General stores in each small town  
19 selling cheap, imported products.

20 How is it social justice that rural New York  
21 State has been forgotten, and the economic wasteland  
22 that now exists in many small towns in the rural  
23 areas will be accelerated by more farms going out of  
24 business because we can't compete against much lower  
25 wages in other states and countries?

1           So, again, I thank you for this opportunity.

2           I know that people that do not grow up on  
3 farms often don't understand the impact of what  
4 weather can do to berries.

5           So I actually brought you some samples of  
6 simulated rainfall on ripe berry crops, and what it  
7 does to us economically.

8           So in here I have berries that did not get  
9 wet, and they're very edible and nice and sweet.

10          SENATOR JACKSON: Okay, don't eat all of  
11 them.

12                   [Laughter.]

13          ILA M. RIGGS: And I have berries  
14 (inaudible) --

15          SENATOR RAMOS: At least we know it's under  
16 \$15.

17          ILA M. RIGGS: -- that are moldy and  
18 collapsing, and will never be able to be sold.

19                 And that can happen in a 10-minute rain  
20 storm.

21                 So we have a short growing season here. We  
22 cannot get around that.

23                 And because of that, we have to work like  
24 hell during summer, and do our other tasks during  
25 the winter, and think during the winter about how we

1 can make things better the next year so that we're  
2 not losing money each year because of something  
3 totally out of our control.

4 So, again, thank you for the opportunity.

5 [Applause.]

6 SENATOR METZGER: Thank you very much.

7 If you could answer a question.

8 Senator Savino.

9 SENATOR SAVINO: Thank you, Ms. Riggs, for  
10 your testimony.

11 And this is the third of the hearings that  
12 we've had, and there's a recurring theme from a lot  
13 of the farmers about:

14 The concern of the overtime, particularly  
15 over 40 hours a week;

16 The fear of collective bargaining, the  
17 potential strike, particularly, because, as you  
18 pointed out, you have a four-month growing season.

19 But the other thing that keeps coming up, and  
20 I hear this over and over, is there didn't seem to  
21 be a recognition of the costs associated with  
22 providing housing and medical care.

23 That doesn't get calculated into the  
24 compensation package for farmworkers?

25 ILA M. RIGGS: No, we -- that's a

1 requirement.

2 We've done H-2A, so you're told what the  
3 hourly wage must be. And it's a requirement that  
4 you provide housing, transportation, visa fees,  
5 weekly trips to the supermarket.

6 You can't get your workers otherwise.

7 SENATOR SAVINO: And is that true for  
8 farmworkers in other states as well?

9 Because I understand, one of the other big  
10 challenges you have, and I think it might help  
11 explain the concern about the difference in pricing,  
12 is that you're competing with places like  
13 Pennsylvania and Delaware and New Jersey where the  
14 minimum wage rates are much lower.

15 Is that --

16 ILA M. RIGGS: Yes, I mean, if somebody is in  
17 H-2A, they are required to provide housing  
18 utilities, et cetera.

19 We provide free housing, utilities,  
20 et cetera, because we wouldn't get workers  
21 otherwise.

22 And we feel that if we're going to provide it  
23 for H-2A workers, we should provide it for non-H2A  
24 workers.

25 SENATOR SAVINO: Uh-huh?

1           ILA M. RIGGS: I do want to note that our  
2 former labor rep in our area actually called me a  
3 "model farm employer for New York State."

4           We -- my employees get angry at me when I try  
5 to limit their hours.

6           There are family arguments in Guatemala about  
7 who gets to come work at the Berry Patch each  
8 summer, because they want to make the money to send  
9 home again.

10           So a lot of -- I just can't relate to these  
11 stories of people being taken advantage of, because  
12 that's not the case on so many New York farms.

13           SENATOR SAVINO: Well, I can't imagine if you  
14 were that type of employer you'd be standing here  
15 talking to us.

16           And we admire -- you know, I certainly admire  
17 your -- the way you treat your workforce.

18           I just want to go back to a couple of things,  
19 because I'm confused -- I shouldn't say confused.

20           I'm increasingly more concerned about the  
21 state of farming and agriculture in this state  
22 because, again, you look at, New York State is an  
23 agricultural state. That's our largest industry.

24           Yet, and still, I can't walk into a  
25 supermarket or a farmers' market in my own community

1 and buy produce that came from a New York State  
2 grower.

3 It's coming from somewhere else.

4 And in even the largest redistribution center  
5 in the country, Hunts Point Terminal Market, they  
6 don't have -- the majority of their products moving  
7 through there are not from New York State farmers.

8 So, independent of what we're talking about  
9 here today, I think we need to have a bigger  
10 discussion about what we can do to support farming  
11 in New York State, so that our farmers are producing  
12 goods, and then able to sell them competitively in  
13 the state that they're living in.

14 I mean, I would hope that we can continue  
15 that discussion.

16 ILA M. RIGGS: Absolutely, and I would  
17 welcome that discussion, and love to be part of that  
18 discussion.

19 Although I will say that, we are some of the  
20 farmers that are downsizing and going out of  
21 business because, we've had it, is what it comes  
22 down to.

23 It has just become too difficult.

24 I had a decade birthday last December, and  
25 I said, I'm getting too old to be working 120 hours

1 a week.

2 SENATOR METZGER: You look older than 10.

3 ILA M. RIGGS: We wish.

4 You know, luckily, we have found this couple  
5 that, hopefully, we will be mentoring them, to help  
6 them take over the farm.

7 But, we live 200 yards from Massachusetts.

8 They can drive two miles down the road and  
9 rent land in Massachusetts, at a much lower cost for  
10 their labor than what we can in New York State.

11 SENATOR SAVINO: And one final question,  
12 because it just occurred to me.

13 You said you're at a four-month season,  
14 that's where you have to make all your money. You  
15 have to grow it, you have to -- you plant it, grow  
16 it, and harvest it.

17 So do your workers leave at the end of the  
18 four-month season, or do they go somewhere else? Do  
19 they go back to Guatemala?

20 What happens then?

21 ILA M. RIGGS: With the H-2A workers, they  
22 have to go back home.

23 So our H-2A workers work three to  
24 four months.

25 People that we have that are local workers

1 will go and find other jobs during the winter,  
2 usually working in a restaurant.

3 SENATOR SAVINO: But they don't stay working  
4 for you?

5 ILA M. RIGGS: Correct.

6 SENATOR SAVINO: Okay. Thank you.

7 Thank you.

8 SENATOR METZGER: Senator Harckham, you had a  
9 question?

10 SENATOR HARKHAM: Thanks.

11 I just -- thank you for your testimony, and I  
12 thank everyone for their testimony.

13 The last speaker said something very  
14 illuminating, in that, you know, you have one  
15 season, and you've just articulated how short that  
16 is.

17 You're competing against berries from  
18 California where they have, essentially, three  
19 growing seasons.

20 So right off the bat, there's an economic  
21 pressure that you're facing.

22 And this is just the same question I have  
23 asked other people, and I'll continue to pop up  
24 with:

25 Is there any middle ground at all between

1 what's in the bill at 40 hours a week, versus what  
2 the first speaker suggested, not until 120 hours  
3 after two weeks?

4 Is there -- is there -- is there no room for  
5 coming towards some sort of accommodation?

6 ILLA M. RIGGS: I think that's probably a  
7 question for people smarter than I to figure out,  
8 because, when I have to make 70 percent of my income  
9 in 8 weeks, I don't see how it can work.

10 You know, for other farms, there may be a way  
11 to do that.

12 I personally, you know, will not let my  
13 workers work more than 65 hours a week. I don't  
14 think it's healthy for them.

15 And they get very angry with me when I do  
16 that, and threaten to go to other farms where they  
17 can get more hours.

18 So, I think it's a discussion that you need  
19 all sides involved in, because our -- a non-farmer's  
20 idea of what is "middle ground" is probably very  
21 different than a farmer or farmworker's idea of what  
22 is "middle ground."

23 SENATOR HARKHAM: Thank you.

24 SENATOR METZGER: Thank you very much.

25 LESLIE BERLIANT: Next is Jack Banning,

1 followed by Jessica Orozco Guttlein.

2 And, Beth Lyon, if you could come up.

3 JACK BANNING: Good afternoon.

4 Thank you very much, Senators, for the  
5 opportunity to come and talk here.

6 My name is Jack Banning.

7 For the record, my wife and I are the owners  
8 of Black Sheep Hill Farm in Pine Plains, New York,  
9 which is in the northeast part of Dutchess County,  
10 not far from where the last speaker was speaking  
11 about.

12 For the last 11 years we've been breeding  
13 Black Welsh Mountain Sheep for both meat and wool.  
14 We also raise pigs, as well as chickens for eggs,  
15 and work a few acres for garden vegetables in the  
16 summer.

17 We're home to one of the largest flocks of  
18 Black Welsh Mountain Sheep in the United States,  
19 because it's a labor of love for my wife to try and  
20 save this heritage breed, which eats us alive. But  
21 we'll leave that for another discussion.

22 The majority of our meat products are sold to  
23 restaurants in the northeast corner of Dutchess,  
24 restaurants which are eager to offer local products  
25 on their menus, as well as through the innovative

1 Farms-to-Tables program, which some of you may know  
2 about, which connects farmers with chefs and other  
3 end users, not just in the Hudson Valley, but in  
4 New York City as well.

5 We also sell through other farm stands in the  
6 area and through our local IGA Peck's Market.

7 Our own farm stand is open year-round.

8 It's a small family farm. We employ three  
9 full-time workers. We use temporary help in the  
10 summer when we're harvesting vegetables.

11 Everyone in our employ earns at least \$15 an  
12 hour.

13 And those summer employees, I might point  
14 out, as one other person did, are -- tend to be the  
15 local high school kids or college kids home for the  
16 summer, and we use them for two or three months.

17 I'm here today because of my longstanding  
18 commitment to the passage of the Farm  
19 Farmworker (sic) Fair Labor Practices Act.

20 I'm committed to this cause, to the extent  
21 that I have traveled to Albany, as well as met with  
22 my own legislators in their districts, on many  
23 occasions over the last several years.

24 The fact that farmworkers have, essentially,  
25 and let's be honest here, essentially, no rights

1       whatsoever, for overtime pay, disability insurance,  
2       a day off, or, in my estimation, for anything else,  
3       for that matter, is not just a travesty. It is  
4       fundamentally immoral, and is contrary to everything  
5       decent people has always stood for in our society.

6               I acknowledge that this struggle for equality  
7       for farmworkers is in some ways different from the  
8       struggles in the '60s for civil rights, yes.

9               But, just as I and many others marched,  
10       demonstrated, and suffered in that time, we must  
11       continue the fight for equality, which means  
12       fighting for the passage of this bill.

13               I'm in support of the bill as it is written,  
14       not just because I can see no reason why farmworkers  
15       should be treated differently from any other workers  
16       in our society, in our state.

17               The legislation before the New York State  
18       Senate aims for nothing more than fair and just  
19       treatment of farmworkers.

20               My reading of the proposed legislation makes  
21       it clear to me at least, that it seeks no special  
22       status, no special privileges, for farmworkers.

23               Rather, it's legislation fairly drafted,  
24       I think, by fair-minded people aimed at simple  
25       fairness.

1           And I believe this legislation would have no  
2           adverse economic effect whatsoever on farmers in our  
3           state.

4           And I know this goes contrary to what a lot  
5           of farmers will say, and I could explain it, but  
6           I only have four minutes.

7           Others testifying here today can likely  
8           address this part of the issue far better than  
9           I can. Some of them are a lot bigger than we are.

10          But as I have now said about five times, in  
11          the end, this is a moral issue.

12          Legislators should simply do what is right,  
13          and the right thing to do is pass this legislation.

14          One other point I'd like to make.

15          I'm well aware that the New York State Farm  
16          Bureau has come out against this bill, obviously.

17          They claim that they argue on behalf of small  
18          family farms.

19          Now, I am a small family farmer, and as  
20          I have said, I support this bill.

21          The arguments that they make against equality  
22          simply echo comments that have been made against the  
23          just treatment of farmworkers, and I might point  
24          out, domestic workers as well in this country, for  
25          decades.

1           In the end, I can't help but wonder how much  
2           the farm bureau, hiding behind the guise of concern  
3           for small family farms, is reality, doing nothing  
4           more than protecting the large agricultural  
5           interests in certain parts of our state.

6           That all being said, there are, of course,  
7           many obstinate challenges facing farmers within our  
8           agricultural system, this idea of a holistic  
9           solution. And many of them certainly don't have  
10          anything to do with labor.

11          I don't think, however, that our inability to  
12          solve those problems should lead to us force our  
13          farmworkers to carry an unfair burden.

14          I'd urge the Senate to vote for equality, and  
15          then we can all turn our attention to creating an  
16          agricultural system in New York that is vibrant and  
17          successful on every level.

18          Thank you very much.

19          [Applause.]

20          SENATOR METZGER: Thank you very much.

21          Senator Liu has a question.

22          Senator Liu.

23          SENATOR LIU: Yes.

24          Thank you for your courageous testimony.

25          [Laughter.]

1           SENATOR LIU: The name of your farm is -- is  
2           that the name of your --

3           JACK BANNING: "Black Sheep" --

4           SENATOR LIU: -- was that name given by the  
5           farm bureau?

6           [Laughter.]

7           SENATOR LIU: Or did you actually name that?

8           JACK BANNING: The name of the farm came  
9           before we started breeding black sheep, because my  
10          wife is the black sheep of her family, and I'm the  
11          black sheep of my family.

12          SENATOR LIU: How many employees do you have?

13          JACK BANNING: Three full-time. And in the  
14          summertime we use some kids.

15          We are not involved at all in the H-2A or, in  
16          general, the Latino immigration questions, and that  
17          sort of thing.

18          Although that's another subject that I'm  
19          happy to talk about, as you might guess.

20          But we have three.

21          SENATOR LIU: Okay.

22          Thank you.

23          SENATOR METZGER: I have to say, I don't know  
24          much about sheep farming, but how does it compare in  
25          terms of -- I mean, it's a year-round enterprise.

1 JACK BANNING: Very definitely.

2 SENATOR METZGER: -- as opposed to a seasonal  
3 enterprise.

4 And I'd just like to get a sense -- I don't  
5 know if you know this -- but how the hours compare,  
6 in terms of, like, a workweek for a farmer, for  
7 farmworkers.

8 JACK BANNING: In our case, my wife is the  
9 shepherd. I'm the swine herd, I do the pigs.

10 She's the shepherd, and she's devoted to this  
11 ridiculous breed of sheep that she's trying to save  
12 for the world.

13 [Laughter.]

14 JACK BANNING: And I confess we don't make  
15 any money on the sheep.

16 That part of our farm operation is, in fact,  
17 a labor of love, and we're lucky enough to be able  
18 to do it.

19 The swine, on the other hand, the pigs,  
20 I make a reasonably decent buck on. It's a good  
21 product.

22 The sheep farming is absolutely year-round.

23 This is lambing season, where we have two  
24 lambs -- two ewes yet left to go.

25 My wife has had probably, on average,

1 2 1/2 half hours of sleep a night for the last three  
2 weeks, because she's down there birthing lambs.

3 Now, she does it.

4 Somebody has to do it.

5 And our farm manager frequently will take a  
6 night. And sometimes we'll call up, it requires two  
7 people to pull a lamb out.

8 But the other workers are not working those  
9 kinds of hours.

10 All of our other workers work, generally, a  
11 35 to 45-hour week.

12 SENATOR METZGER: Okay.

13 Thank you very much.

14 JACK BANNING: Okay.

15 LESLIE BERLIANT: Next is

16 Jessica Orozco Guttlein, followed by Beth Lyon.

17 And if Julie Patterson could come up.

18 JESSICA OROZCO GUTTLEIN: Hello.

19 Good afternoon. I'm Jessica Orozco Guttlein.

20 I'm assistant vice president for policy at  
21 The Hispanic Federation.

22 Chairs Metzger, Ramos, Senator May (sic), and  
23 Committee members, thank you for the opportunity to  
24 testify on behalf of The Hispanic Federation and our  
25 network of 100 Latino community-based organizations.

1           The Hispanic Federation is a service-oriented  
2 membership organization that works with more than  
3 100 Latino non-profits in the northeast and  
4 nationwide to promote the social, political, and  
5 economic well-being of Latinos -- the Latino  
6 community.

7           HF does that by supporting and strengthening  
8 our Latino non-profits, conducting public policy  
9 research and advocacy, and offering our New York  
10 residents an array of community programs.

11           Farmworkers labor under harsh conditions, as  
12 many people stated, and engage in intensive physical  
13 activity to feed all of us, yet they're exempt from  
14 several fundamental rights and protections that are  
15 afforded to other workers.

16           The 2017 Census of Agriculture found that  
17 Sullivan County alone has 366 farms that span over  
18 59,942 acres, an increase of 45 farms and  
19 6,083 acres since the 2012 Census of Agriculture.

20           Accordingly, the hired farm labor in  
21 Sullivan County has increased by 10 percent between  
22 2012 and 2017.

23           That's 437 hired farm-labor workers, and  
24 305 of these laborers working more than 150 days per  
25 year.

1           Nobody, not farmers, not farm laborers, not  
2 New Yorkers, want to see farms suffer or fail in  
3 New York State.

4           On the contrary, we want to see them prosper,  
5 but not on the backs of precluding a vulnerable  
6 class of workers from basic labor laws that everyone  
7 else enjoys.

8           We've heard salaried employees say, "I wish  
9 I had overtime. You know, I work 60 hours a week."

10          These office jobs are not the same.

11          Farmers in this room will tell you that these  
12 office jobs are not the same as the jobs that take  
13 place on the farm every day, day in and day out.

14          We've heard many, many economic arguments  
15 today, but to say that New York's farm industry will  
16 collapse if people earn, rightfully earn, work these  
17 overtime hours, is embarrassing to me.

18          Are we saying that we've built this farm  
19 industry on solely exempting people from basic labor  
20 protections?

21          No, we haven't. We know that, we know that  
22 it's a lot more than that.

23          This isn't going to collapse if we provide  
24 people with basic labor protections.

25          And that's what you all are here for, to hear

1 our story and to try to fix this.

2 These exemptions create dangerous realities  
3 for farmworkers in New York State.

4 Many farmers treat their farm laborers with  
5 respect, as we've heard before. They care about  
6 them. They don't want them to work over 65 hours  
7 because of concern out of their physical safety or  
8 mental health, whatever the case may be.

9 Many of them independently already implement  
10 many of the protections that are outlined in this  
11 bill.

12 But there are farmworkers who do not treat  
13 their farm laborers well, who take advantage of  
14 them, and, many farmers in this room probably know  
15 at least one of these individuals.

16 We've heard through many of our advocacy  
17 activities that there are some farm laborers that  
18 have been threatened by their jobs, and I'm not  
19 saying it's anybody in this room, but that have been  
20 threatened by -- for their jobs if they speak out  
21 and advocate for overtime pay.

22 We know that that's a reality today as well.

23 We don't see a lot of farm laborers in this  
24 room, especially without the people/the farmers that  
25 they work on the land for. We don't see them

1 independently here.

2 Well, they're working right now. Right?

3 But we don't see them here.

4 SENATOR METZGER: (Inaudible.)

5 JESSICA OROZCO GUTTLEIN: Oh, I'm so sorry.

6 So climate change, seasonal work, that is  
7 something that we definitely agree with, that is  
8 something that is affecting our farm industry.

9 We don't want to oversee that.

10 But let's pass this bill, and then address  
11 those issues separately. They're not mutually  
12 exclusively.

13 As Senator Savino said, this is something  
14 that we do need to address, but not on the backs of  
15 farm laborers.

16 And these overtime exemptions -- or, overtime  
17 implications aren't going to fix or solve this  
18 climate change and these seasonal issues.

19 This is a separate issue that many people  
20 talk about.

21 So we are in favor of passing this bill.

22 SENATOR METZGER: Thank you very much.

23 Any questions?

24 No?

25 Thank you very much.

1           LESLIE BERLIANT: Next is Beth Lyon, followed  
2 by Julie Patterson.

3           And if Joseph Morgiewicz could come up.

4           BETH LYON: Chairwomen Metzger and Ramos, and  
5 honorable members of the Senate committees on  
6 Agriculture and Labor, I thank you for the  
7 opportunity to address this hearing in support of  
8 the Farmworker (sic) Fair Labor Practices Act.

9           My name is Beth Lyon, and I'm a clinical  
10 professor of law at Cornell Law School where  
11 I direct the farmworker legal assistance clinic and  
12 the low-income taxpayer law and accounting  
13 practicum.

14           The programs I run are teaching law firms in  
15 which students handle cases for real clients who  
16 cannot afford a lawyer.

17           Since it opened in fall of 2015, the Cornell  
18 Law School Farmworker Clinic has represented  
19 unaccompanied, undocumented child and youth  
20 farmworkers in 11 counties across several regions in  
21 New York, including Western, Central, Southern Tier,  
22 and North Country.

23           The purpose of my testimony today is to  
24 supplement the available data on child and youth  
25 farmworkers in New York State to affirm that there

1 are children and youth in New York's waged  
2 agricultural labor force, and a significant  
3 percentage of them are living without parents or  
4 parental figures.

5 There is very little government or private  
6 data on child farmworkers, and the department of  
7 labor concedes that it has failed to provide a good  
8 estimate, or state-level data, let alone county  
9 data.

10 In a report issued last year, the government  
11 accountability office estimated that, in the eastern  
12 region of the United States, 15 percent of crop  
13 workers were age 17 and under, and 7 percent were  
14 13 and under, and that 34 percent of all crop  
15 workers aged 18 and under are directly hired as  
16 opposed to being contract laborers or the children  
17 of family farmers.

18 The service providers that refer cases to my  
19 clinic report frequent encounters with young  
20 workers, including workers who did not disclose  
21 their real age at the point of hire, and a trend  
22 toward a growing number of youth employed on  
23 New York State farms.

24 This is particularly concerning, given that  
25 significantly higher incidence of injury and

1 fatality among working children on farms than  
2 children working in other settings.

3           The clinic constantly receives requests to  
4 help children that it does not have the resources to  
5 accept.

6           Our experiences, the reports from our  
7 community partners, and the available research show  
8 that farm labor is a precarious place for minors,  
9 and that many of the young people working on farms  
10 in New York State, and living with adult men in  
11 farm-labor housing, have little recourse or safer  
12 alternatives in order to generate funds for their  
13 families.

14           In the long term, this tension will continue  
15 until work on New York State farms is sufficiently  
16 desirable, professionalized, to attract an all-adult  
17 workforce.

18           In the short run what this means, is that the  
19 lives and futures of numerous young people living  
20 with few or no family members are tied to employers  
21 who control virtually every aspect of their lives.

22           Even for the young people who are living and  
23 working alongside adult family members or parental  
24 figures, those workers, the people who bring their  
25 children, nephews, nieces, godchildren, onto farms

1 to work alongside them are faced often with very  
2 difficult choices, and must balance their own  
3 significant financial needs against the unique needs  
4 of children and child workers.

5 In my written testimony, I laid out the  
6 individual stories of three child workers, two who  
7 were my clinic's clients, and one of whom was  
8 interviewed by a researcher.

9 They showed that when an employer assumes a  
10 protective role, the child's life chances advance  
11 even while still serving as a productive member of  
12 the workforce.

13 But when an employer does not assume that  
14 role, the child bounces around from job to job and  
15 does not develop as they otherwise could.

16 To tie this back to the Farmworkers Fair  
17 Labor Practices Act, the legislation under  
18 consideration gives more voice, and the potential  
19 for farmworkers to develop their own protections for  
20 the children and youth on farms. They're aware of  
21 their existence and they know best how to take care  
22 of them.

23 These are children who lack the ability or  
24 experience to negotiate on their own.

25 In the end, this legislation will improve the

1 life chances for young workers in settings where  
2 employers are not assuming this protective role.

3 I thank you for your attention.

4 SENATOR METZGER: Thank you.

5 Senator Mayer.

6 SENATOR MAYER: Thank you for your testimony.

7 Would the clients that you get through your  
8 program, young people, perhaps undocumented, working  
9 on a farm, what is the preferred outcome, from your  
10 perspective; what is it that you are trying to  
11 achieve for them?

12 And are you successful?

13 BETH LYON: The reason why anyone would  
14 surface the fact that there is a child working on a  
15 farm is because there is an issue, there's a crisis.

16 And, typically, the reason why I'm called in  
17 is because the child is in deportation proceedings  
18 and removal proceedings, usually in the Buffalo  
19 Immigration Court.

20 So what the community providers have asked my  
21 students and I to learn to do, is to take the  
22 children through a process, which is a very  
23 time-consuming and sensitive process, of getting a  
24 protection order from the local family or  
25 surrogate's court, walking the protection order into

1 the department of homeland security to get a special  
2 immigrant juvenile visa status for them, and then  
3 terminating their removal proceedings in the  
4 immigration court.

5 So these are children who have been  
6 identified by immigration as people who are targeted  
7 for deportation.

8 So children who are working undocumented, but  
9 are not actively in deportation, are much more  
10 likely to surface themselves or to bring themselves  
11 to our attention.

12 SENATOR MAYER: So just to clarify, those  
13 children are no longer working?

14 They are subject to deportation hearings?

15 They're in the custody of ICE or some other  
16 federal agency at the time they come to your  
17 attention?

18 BETH LYON: No, these are children who have  
19 been identified in crossing the border. They've  
20 been held in detention.

21 We've seen the conditions, and the family  
22 separation, and the other issues at the border.

23 They are released to family members, and wind  
24 up working on farms all over the country, but  
25 including Upstate New York.

1           So in that moment, they are working, often  
2 full-time. Sometimes they're able to go to school,  
3 again, depending on the attitude of the particular  
4 employer. But also under pressure of removal  
5 proceedings at the same time.

6           So we're brought in to help them maintain  
7 stability and stop their removal proceedings.

8           SENATOR MAYER: Okay.

9           Thank you.

10          SENATOR METZGER: Could I ask, so, it's  
11 already illegal to hire child labor.

12          So how would this bill impact this issue?

13          BETH LYON: The way that the bill would  
14 support these children is that workers know who the  
15 children are that are on the farm. They know what's  
16 going on.

17          These are children who are living in  
18 farm-labor housing with many unrelated men. There  
19 are safety issues for them.

20          And the adults who care for them can try to  
21 make sure that certain things happen.

22          Maybe they get migrant education to tutor  
23 them.

24          Maybe they actually get to go to school, and  
25 they work shifts that are around school.

1           And maybe they have a safer living situation.

2           My students, as I mentioned in my written  
3 testimony, are often going out to farms, and we  
4 become locksmiths.

5           We're putting locks on the doors of  
6 children's rooms so that they're safe at night.

7           And then we can show the family court system  
8 that this is a child who is in a safe setting in  
9 order to continue the process for them.

10          SENATOR METZGER: I'd just -- I would like to  
11 point out that we -- there's a great program,  
12 ABCD Schools in New York, a program in New York that  
13 we funded, but that needs a lot more support.

14          SENATOR JACKSON: Quick question.

15                 These young children that are working in  
16 order to earn money, some of them may be with an  
17 uncle or a relative at a farm, how are they paid?

18                 Do they pay, for example, the child, or do  
19 they pay the uncle for whatever the child's wages  
20 are, if you know?

21                 And I'm going to ask that question also for  
22 farmers.

23                 So, just, somebody tell me.

24                 BETH LYON: Well, my experience here in  
25 New York State is three years.

1           But, in my experience, most of my clients  
2           don't have anyone on the farm who is living with  
3           them in a parental role, and they're just paid as  
4           workers.

5           SENATOR JACKSON: They're paid in cash or by  
6           check, or what?

7           BETH LYON: It's a mix.

8           SENATOR JACKSON: Excuse me?

9           BETH LYON: It's a mix of cash and check.

10          SENATOR JACKSON: Okay.

11          BETH LYON: Uhm -- yeah.

12          SENATOR JACKSON: Okay.

13          BETH LYON: And to be clear, most of the  
14          people that I'm encountering, that my community  
15          partners are encountering, they're more in the  
16          14- to 18- to 19-year-old range.

17                 Here in New York State, and other states,  
18          I have encountered children who are younger than 14.

19                 Thus far in my experience I have not  
20          encountered any children under 14.

21          SENATOR JACKSON: They have not -- I'm sorry,  
22          say that again?

23          BETH LYON: I have not encountered children  
24          under 14 --

25          SENATOR JACKSON: Under 14.

1           BETH LYON: -- thus far in my experience.

2           Although, the GAO data does suggest that, in  
3 the eastern United States, that 7 percent of the  
4 children working, at least on the crop side, are  
5 under 13.

6           SENATOR METZGER: So just to --

7           SENATOR JACKSON: But you have not -- between  
8 14 and 18 are the ages that you have seen in this  
9 area here --

10          BETH LYON: Yes.

11          SENATOR JACKSON: -- in New York State?

12          BETH LYON: Yes, Senator.

13          SENATOR JACKSON: Okay. Thank you.

14          SENATOR METZGER: I just -- so -- but just to  
15 clarify, in your testimony, there isn't any data  
16 on -- existing data on New York on underage hiring  
17 practices?

18          BETH LYON: No, at this point, the GAO is  
19 able to break out the northeast. That's -- or, the  
20 eastern region is the region that it has broken out,  
21 which is why I came with, essentially, the anecdotal  
22 data from myself and from the many agencies that  
23 refer cases to me, to share that these children are  
24 out there.

25          SENATOR METZGER: Okay. Thank you.

1           LESLIE BERLIANT: Thank you.

2           BETH LYON: Thank you.

3           LESLIE BERLIANT: Next is Julie Patterson,  
4 followed by Joseph Morgiewicz.

5           And if Ken Migliorelli could come up.

6           JULIE PATTERSON: Good afternoon, Senators.

7           I appreciate your time today.

8           Yes, I'm challenged, height-wise.

9           SENATOR JACKSON: (Inaudible) in the back,  
10 they need hear you.

11          JULIE PATTERSON: Sure, thank you.

12          Everybody can hear me okay now?

13          I appreciate the opportunity to speak today.

14          My name is Julie Patterson.

15          Together with my husband, John, and our three  
16 children, we farm in Auburn, New York, in  
17 Cayuga County.

18          We are a sixth-generation family farm.

19          Personally, though, I am a first-generation  
20 farmer.

21          John and I married 24 years ago, and at that  
22 time, the farm was managed by his mother, Connie, a  
23 single mother to four children.

24          Connie was also a high school business  
25 teacher, and worked long after the school day ended

1 on the farm to ensure the opportunity for the  
2 sixth-generation to continue farming.

3 We learned to work hard, be good stewards of  
4 the land, and have empathy for all people, but most  
5 importantly, our employees who work with us every  
6 day.

7 Our team is proud of the work that they do.

8 They enjoy their work, and they don't farm --  
9 you don't farm unless you enjoy the work you do  
10 every day, because it's hard.

11 If somebody has a better opportunity, they  
12 can leave. And we've had several employees that  
13 have left, and come back, after pursuing other  
14 options.

15 Today we employ 20 full-time people,  
16 6 part-time, and 10 additional employees during the  
17 cropping season.

18 Our employees range in service of years  
19 between 1 and 38 years.

20 Together, our team -- our team, we milk  
21 1500 cows and crop 2500 acres of land.

22 Our average worker salary is \$50,250 per  
23 year, well above the median household income of our  
24 area of \$40,700.

25 Although New York State law only allows us to

1 charge \$5 each day for housing, which we don't  
2 charge, we provide housing to our employees -- 13 of  
3 our employees.

4 We pay for the utilities, give our employees  
5 paid vacation, retirement plan, bonuses, pay  
6 workmen's (sic) compensation, unemployment  
7 insurance, time and a half for four major holidays,  
8 monthly payments towards health insurance, and  
9 weekly time off.

10 At the time of hire, our employees receive  
11 safety training in English and Spanish, depending on  
12 what language they speak, and, sexual harassment  
13 training, also in English and Spanish. And that's  
14 annually they have to receive those trainings.

15 We participate in the farm program, which is  
16 the farmers assuring responsible management.

17 This newest initiative of the farm program  
18 provides guidance and best management practices for  
19 human-resource management, which we follow these  
20 practices.

21 Our milk cooperative, who we sell our milk  
22 to, has a representative come to our farm to do  
23 quarterly audits of our employee housing and  
24 workplace to ensure safe work environment and  
25 housing standards.

1           We also grow and develop our employees  
2 through professional training initiatives and  
3 workshops.

4           At time of hire, our employees also have to  
5 sign a worker agreement. Laid out in that agreement  
6 is their hourly wage, their days off, what benefits  
7 they're entitled to.

8           They sign that work agreement. That's in  
9 Spanish and English.

10          Our responsibilities as employers of choice  
11 extend well beyond the typical employer-employee  
12 relationship.

13          I have taken the employees to necessary  
14 appointments.

15          I have taken them to the hospital when they  
16 are in labor.

17          In rare times of injury, John or I take the  
18 employees to the hospital and comfort them, never  
19 leaving their side until they are released.

20          We have cared for their children.

21          None of this is being said because I'm  
22 looking for accolades, but it is being said because  
23 we treat the people who work with us every day like  
24 they are part of our family.

25          You have heard it before, many farms are

1 struggling, but we do invite you all to visit our  
2 farms and gather facts instead of trying to decipher  
3 what testimony to believe.

4 Bottom line: Farms of all sizes, not just  
5 small farms and medium-size farms, are struggling.

6 And I've included budgets in my written  
7 testimony so you can see there's -- it doesn't  
8 really -- it's not just small farms, it's large  
9 farms.

10 And the majority of farms provide competitive  
11 wages, offer benefits, and good quality of life that  
12 many do not understand.

13 "We," meaning all industries, need your help  
14 to better integrate the 4.5 million immigrants that  
15 reside in New York State.

16 We need your help at providing funding for  
17 more programs to educate foreign workers on this  
18 country's cultures, access to public services.

19 People coming here from less-developed  
20 countries do not know our laws.

21 They don't know that 911 is just a phone call  
22 away and they won't be discriminated against when  
23 they call.

24 What they do know is, they are leaving a  
25 corrupt environment where the gross national income

1 is \$2,740 per year, to take advantage of  
2 opportunities for them to provide for their families  
3 with quality, well-paying jobs, in turn, providing  
4 New York State families with affordable, safe,  
5 nutritious food.

6 Again, enough laws exist to protect those who  
7 are here in this country.

8 What we do need is immigration reform so  
9 people don't feel they need to live in the shadows.

10 SENATOR METZGER: Thank you so much for your  
11 testimony.

12 JULIE PATTERSON: Thank you.

13 LESLIE BERLIANT: Next is Joseph Morgiewicz  
14 followed by Ken Migliorelli.

15 And if Kira Kinney could please come up.

16 JOSEPH MORGIEWICZ: Good afternoon, all.

17 And I'd like to thank all of the Senators  
18 here today, and those who have left;  
19 Senator Harckham; Senator Jackson; Metzger; Ramos,  
20 who is someplace in the area; Senator Liu;  
21 Senator Savino, and, I'm sorry, I did not catch the  
22 last.

23 SENATOR MAYER: Mayer.

24 SENATOR JACKSON: Mayer.

25 Mayer.

1           My name is Joseph Morgiewicz, and together  
2           with my mom and brothers, we operate 170-acre mixed  
3           produce farm in Orange County in the "Black Dirt  
4           Region" in the Lower Hudson Valley.

5           We are a fourth-generation farm, and my two  
6           sons and niece are staged and ready to become the  
7           fifth generation to operate our business; that is,  
8           if there is a business left to operate in the next  
9           few years.

10          This legislation will be pivotal in that  
11          decision.

12          I'm also speaking as the chairman of the  
13          Farmer Community Advisory Committee of GrowNYC,  
14          which I'm sure that all of the downstate  
15          representatives are familiar with.

16          We are a volunteer, elected committee made up  
17          of producers, community members, city dwellers, and  
18          GrowNYC staff, and we're tasked with ensuring that  
19          the green markets in New York City are vibrant,  
20          fair, and integral parts of the communities they  
21          serve by providing the freshest produce that our  
22          consumers -- customers can buy at the best price.

23          Our customers, your constituents, demand it.

24          Many of the green markets in your districts  
25          will be severely affected if and when this bill is

1 passed.

2 I'm already aware of several farms that are  
3 dropping some of the markets they attend because of  
4 already high costs that takes -- that it takes to  
5 produce our crops.

6 We will not be able to survive in those  
7 markets and compete with our neighbors from  
8 New Jersey, Pennsylvania, and Connecticut.

9 I struggled with what I was going to say in  
10 this testimony today.

11 You have my written testimony.

12 And I've also heard repeatedly the stories of  
13 many farmers and employees, so I wanted to try and  
14 say something different.

15 This issue is complex, and I don't know where  
16 to begin or which issue is the most important or  
17 more important than the other.

18 There's a butterfly effect to this bill that  
19 will take another generation to be realized, so what  
20 good was four minutes going to do?

21 I'd like to focus my comments more on the  
22 statements from previous hearings.

23 In opening statements made at the  
24 April 26th hearing, it was mentioned how the  
25 manufacturing industry has the type of protections

1 that this bill offers in place, and has had for many  
2 years.

3 That it was the duty of the elected officials  
4 to figure out how to mesh the guidelines that the  
5 manufacturing industry uses with the agricultural  
6 industry.

7 My question is, how, and why?

8 They're very different from each other and  
9 have different needs.

10 We are not even the same as California  
11 agriculture, but yet they are used as the example to  
12 follow.

13 We have, at best, six months of good weather  
14 to grow and harvest a crop.

15 They have eight to ten.

16 Ask a farmer in California how they are  
17 dealing with overtime since it has been implemented.

18 When was the last time you heard of a factory  
19 losing its entire income in a 15-minute hailstorm,  
20 or a company like Benjamin Moore losing the  
21 materials used to make paint because it rotted in  
22 the back?

23 We produce a life-giving, highly perishable  
24 commodity.

25 You have all had vegetables rot in your

1 refrigerator because you didn't use them in time, or  
2 had the melon on the counter ripen faster than you  
3 expected it to, and I'm sure that you were ticked at  
4 the fact that you spent good money on something you  
5 couldn't use.

6 Imagine that that \$2.00 you spent on that  
7 melon or a bunch of cilantro is actually \$200,000  
8 that you had invested in an entire farm, and the  
9 hailstorm with ice the size of marbles cuts it down  
10 in a matter of seconds.

11 That scenario has happened to every farmer at  
12 some time in their careers, and it will happen  
13 again, I guarantee it.

14 And guess what?

15 Most of us brush it off, we figure out how to  
16 do it again, because we know that our job is a  
17 higher calling.

18 In 2011 "Hurricane Irene" hit our valley in  
19 late August.

20 We had just begun harvesting many of our main  
21 cash crops. It was late season because of the  
22 weather earlier.

23 The nearly \$400,000 that we, my farm, had  
24 invested in manhours, seed, fuel, chemical,  
25 fertilizer, and packing supplies sat under 10 feet

1 of water for almost a month.

2 Eight years later we're still paying for  
3 that.

4 Fall of 2018 saw devastating losses again for  
5 area farmers because of the excess rain.

6 Many of the fall crops never made to it  
7 harvest because of too much rain.

8 Crops that were ready to be harvested before  
9 the rain could not be harvested and rotted in the  
10 field.

11 The result, again, expense and no income.

12 These are not made-up stories to try and gain  
13 sympathy, but they are the realities of farming in  
14 the northeast and in New York where it costs more to  
15 grow a crop.

16 As farmers, we don't expect anyone else to  
17 understand this.

18 My wife grew up in Southern California with  
19 parents who had, pretty much, 9-to-5 jobs.

20 We have been married 25 years, and she still  
21 can't understand why or how we do what we do, or why  
22 my kids want to follow me.

23 We don't expect elected officials who have  
24 the power to put us out of business with this bill  
25 to understand, or the advocates who state that this

1 is a civil and moral issue, and that it's not about  
2 the money, but the money will make all the bad  
3 things go away.

4 Another testimony given by a labor advocate  
5 or economist of some sort truly believes that a farm  
6 can be run as 8-to-5 like any other business, and  
7 can't understand how we have not figured that out  
8 yet.

9 I wonder if he's interested in buying a  
10 170-acre farm in Orange County because I'd like to  
11 give him my contact info.

12 In another testimony, the speaker  
13 congratulated farmers for being entrepreneurs and  
14 savvy business people, and that we would figure this  
15 out and survive.

16 We have survived for 40 -- four generations,  
17 but when do we get to prosper also?

18 In agriculture, it's a morbid fact that we  
19 silently hope for another area to have a bad season  
20 so that we can have a good one, and then the tables  
21 turn.

22 The fact that many advocates for this  
23 legislation would have you believe that most farmers  
24 are prospering on the backs of our employees and  
25 that we exploit them for our own gain is infuriating

1 and makes the issues personal for me.

2 My employees make more per hour for the time  
3 they work than I do, and believe me, I wish I could  
4 pay them more.

5 We believe in the sanctity of human life and  
6 that every person deserves to be treated with  
7 dignity and respect, and we do.

8 There are bad actors in every industry and  
9 profession, politics and religious orders included.

10 SENATOR METZGER: I'm sorry, (inaudible).

11 JOSEPH MORGIEWICZ: The perpetrators --

12 SENATOR METZGER: I'm sorry, you need to  
13 (inaudible).

14 JOSEPH MORGIEWICZ: In closing:

15 This legislation is bad for everyone; there  
16 are no winners.

17 There's a reason why in the last 20 years  
18 this bill fails to pass.

19 It would do more to destroy agriculture in  
20 New York than it would do good.

21 Most of the portion of this bill is fluff,  
22 and in my opinion, because we're already doing those  
23 things.

24 The right to collective bargaining would be  
25 worked with some tweaks.

1 Overtime, as it is written, though, has no  
2 place in New York agriculture.

3 So I want to ask you all, where do you want  
4 your food to come from?

5 SENATOR METZGER: Thank you very much.

6 Does anyone have any questions?

7 SENATOR SAVINO: In his testimony -- you  
8 didn't mention it, but in your testimony you  
9 actually have some suggestions for things that we  
10 can do to help the farming industry.

11 I just want thank you for that.

12 SENATOR METZGER: Sir.

13 JOSEPH MORGIEWICZ: All of those were  
14 things -- would be things that would need to be  
15 worked out.

16 SENATOR SAVINO: Obviously.

17 JOSEPH MORGIEWICZ: And I am not the person  
18 to go to for that.

19 I'm speaking with two hats.

20 In my farm, at this point in time, overtime  
21 would not work for me.

22 Speaking on behalf of the members in the  
23 FCAC, which is an entire group of 200 farmers, a lot  
24 of them could work with 60 hours, but, it will be  
25 devastating.

1 My payroll went up \$50,000 alone last year.

2 Adding overtime to that would increase it by  
3 another \$80,000, just on the hours put in last year,  
4 which was not a typical year.

5 SENATOR RAMOS: That's assuming the 40 or the  
6 60?

7 JOSEPH MORGIEWICZ: That's at the 40, because  
8 that's what is discussed.

9 Even at 60, it's still a crawl.

10 I lost over \$200,000 on my farm.

11 The losses last year would have been close  
12 \$100,000 on my farm, just in crops alone and the  
13 manhours that I had.

14 Recoup, or try to put on, another \$80,000, if  
15 that bill were in place last year, would not have  
16 been possible.

17 And I still don't know if it would be  
18 possible this year because I'm still recouping from  
19 the costs last year. I lost last year.

20 SENATOR METZGER: Thank you very much,  
21 appreciate your testimony.

22 LESLIE BERLIANT: Thank you.

23 Ken Migliorelli is up next, followed by  
24 Kira Kinney.

25 And Maritza Owens, if you could come up.

1           And just to remind everybody to please keep  
2 your eye on the clock.

3           We are already going over, and we want to  
4 make sure everybody has time to testify.

5           Thank you.

6           KEN MIGLIORELLI: Hi.

7           Good afternoon, Senators.

8           My name is Ken Migliorelli. I'm the current  
9 owner of Migliorelli Farm, LLC.

10          My family and I have been farming for almost  
11 a century in New York State.

12          Our farm began in The Bronx in the late  
13 '20s, and is currently located in Reddick,  
14 New York, which is in northern Dutchess County.

15          We currently farm approximately 1,000 acres  
16 of fruits, vegetables, grain, and hay.

17          We direct-market through farmers' market,  
18 roadside stands, and wholesale accounts.

19          During peak season, which is May to November,  
20 we employ 70 to 80 employees.

21          I'm wanting to discuss the farmworker bill  
22 proposed by you, Senators.

23          There's a part of this bill which we have  
24 little or no effect -- it would have little or no  
25 effect on my farm operation.

1           Other portions would be extremely detrimental  
2 to the survival of not only our operation, but to  
3 other agricultural entities, such as dairy,  
4 livestock, poultry, greenhouse production,  
5 et cetera.

6           We have been and have always provided the  
7 following:

8           One day off a week;

9           Workmen's (sic) comp;

10          Unemployment insurance, which is an issue.

11          Now that we're in the H-2A program, they  
12 can't benefit from unemployment, so it would be nice  
13 to have that eliminated;

14          Available housing with proper sanitation  
15 conditions. And it's checked monthly by the  
16 Dutchess County Health Department.

17          The part of the bill that I'm concerned  
18 about, collective bargaining.

19          I guess I've been doing collective bargaining  
20 for years.

21          I talk to my employees, I find out their  
22 issues, and I make changes.

23          Probably 20 percent of my employees have  
24 families, wives and children. So there's school  
25 events, so we work things out. And, you know,

1 sometimes they need off certain parts of the week.

2 And, so -- but it's the labor strikes that  
3 I'm concerned about.

4 You know, during peak season, you know,  
5 I can't afford to not have a workforce.

6 But the biggest thing, as you heard, is the  
7 time and a half.

8 I feel it should be eliminated.

9 This would be the most detrimental action  
10 brought against agriculture in decades.

11 Agriculture is currently running at such a  
12 tight profit margin, and this action would put the  
13 nail in the coffin for many farmers.

14 Agriculture is not like any other industry or  
15 business.

16 We are dependent on many facets that control  
17 our profitability: Insects. Disease. Weather.  
18 Market share, which is changing.

19 Senator?

20 I'd like your attention.

21 Thank you.

22 My production crew, during peak season, takes  
23 home \$800 to \$1,000 a week, and they don't have to  
24 pay for rent, and they don't have to pay for  
25 utilities.

1           Now, I feel that's a pretty fair wage.

2           So -- and this year we have to pay, you  
3 heard, 13.25. That will come out to \$19.88 over the  
4 40 hours.

5           It's not happening, not here.

6           And I don't have the capacity to put on  
7 another 30 or 40 employees to keep it at 40 hours.

8           So I'm going to -- we have already made  
9 changes, but I will be, if this gets passed, laying  
10 off 70 to 80 percent of my employees.

11           I'm looking -- we're looking to cut back on  
12 fruits and vegetable production because it's such  
13 high inputs go into that, and just do more grain and  
14 hay.

15           But what concerns me more is, you're making a  
16 law that, how many of you sitting at this table have  
17 ever been in business for yourself?

18           SENATOR METZGER: Not me.

19           KEN MIGLIORELLI: Nobody?

20           Nobody at this table's never been in  
21 business.

22           So you don't know what it is to wake up every  
23 day and worry about the bottom line.

24           You know, so it's -- you know --

25           (Audience member claps.)

1 KEN MIGLIORELLI: Thank you.

2 -- it's just, you know, when you wake up at  
3 3:00 in morning because an alarm goes off, because  
4 the greenhouse heat is down, and you got to get  
5 there because, you know, you'll lose the whole --  
6 you know, you're whole tomato crop or peppers or  
7 eggplant in one night.

8 So, you know, you're making laws that, you  
9 know, you don't know.

10 You may think you know what it is to be in  
11 business, but until you're living it every day, and  
12 wake up every morning worrying about the bottom  
13 line.

14 So...

15 [Applause.]

16 SENATOR METZGER: Thank you.

17 Does anyone have any questions?

18 Diane -- or, Senator Savino.

19 SENATOR SAVINO: Thank you for your  
20 testimony.

21 You said that you employ about 70 to  
22 80 employees.

23 How many of them are H-2A?

24 KEN MIGLIORELLI: Half.

25 SENATOR SAVINO: Half of them.

1           And so because there's no exemption on the  
2           requirement of overtime -- of unemployment insurance  
3           coverage, what does that cost you, just you, on  
4           average, every year?

5           KEN MIGLIORELLI: Well, it's, I think  
6           unemployment runs, I want to say, 8 to 9 percent.

7           SENATOR SAVINO: And these are workers who  
8           could never qualify to --

9           KEN MIGLIORELLI: No.

10          SENATOR SAVINO: -- collect it, those  
11          particular workers?

12          KEN MIGLIORELLI: Correct.

13          And we have to pay for their travel in and  
14          out of the country.

15          I mean, they're going home with a chunk of  
16          money at the end of the year.

17          I mean, just like it was stated before, you  
18          know, they're sending home money to buy farms, to,  
19          you know, put their kids through school.

20          You know, you said that this was a  
21          responsible bill.

22          I think that part is irresponsible.

23          SENATOR RAMOS: I said that we would pass the  
24          bill in a responsible and fiscally-prudent way.

25          KEN MIGLIORELLI: Well, if you allow time and

1 a half, that's irresponsible.

2 SENATOR RAMOS: Okay.

3 Thank you opinion.

4 SENATOR SAVINO: Thank you.

5 SENATOR METZGER: Thank you; thank you for  
6 your testimony.

7 LESLIE BERLIANT: Kira Kinney, followed by  
8 Mr. Maritza Owens.

9 And if Mark Doyle could please come up.

10 KIRA KINNEY: Thank you for having us, and,  
11 truly, I hope you're listening, because there's a  
12 lot that's really riding on this, and I'm not sure  
13 that I get that you get it.

14 Like, I have these stress reactions.

15 One, I cry.

16 One, I yawn.

17 Or, two, like, I basically run away.

18 So, I'm sorry, but, trying, I'm trying.

19 So I want to also extend my sincerest  
20 gratitude to Senator Montgomery, who was at  
21 Morrisville, because when she stated in her closing  
22 remarks, that she grew up in the south, and that  
23 she's seen Jim Crow, and this is no Jim Crow, what  
24 she's seeing and hearing from us.

25 Like, it means a lot to me, because farmers,

1 in the media and through the advocacy testimonies,  
2 like, we're terribly maligned as exploiters of other  
3 human beings, and it's said that it's basically  
4 common and accepted practice.

5 Which is entirely false.

6 Like, the statement that farmworkers are  
7 afraid to speak out, mine were afraid to speak out  
8 because, as immigrants, to stand in front of you,  
9 the government, who has supreme authority, in  
10 reality, over their being or not being here, was the  
11 fright.

12 We have talked about this legislation.

13 I actually had someone help me translate it  
14 to Spanish, the main provisions.

15 I gave it to them on Easter Sunday. Said, if  
16 you have time, we need to talk about this tomorrow,  
17 so please read it up.

18 Our water cooler is behind the market trucks  
19 that are parked in the driveway.

20 So we meet up there in the morning to decide  
21 what we're doing.

22 We had to do that first, talk about this.

23 We go over it step by step.

24 Pedio (ph.) is off to my left, and he says,  
25 Kira, can't we just go chueco?

1           Which is "crooked," "outside of the law," if  
2 you pass it.

3           I said, Pedio, we can't do that. You know  
4 the inspectors come here every year.

5           You know, like, my heart swells because he's,  
6 like, let's keep it the same and do what we're doing  
7 because it's a good and decent thing.

8           But at the same time, it breaks, because  
9 I can't come up with 22,440 extra dollars to pay  
10 them, and each of them is going to lose \$9,010 over  
11 the season.

12           Like, their hours have to be capped.

13           My farmers' market is in Brooklyn, New York.  
14 I sell next to producers.

15           Like I actually paced out the market this  
16 past Saturday.

17           24 1/2 farm spaces --

18           I take keep the bakers and the fishermen, and  
19 whatever, because they don't have the same rules.

20           -- 24 1/2 are New York State ag producers.

21           20 -- I think it was 20 were farms from  
22 New Jersey, Pennsylvania, and Connecticut.

23           That's who I have to compete against to come  
24 up with that \$22,000 to pay them.

25           You know, yesterday we're talking about this,

1 I say, Here's the plan for tomorrow. I have to go  
2 do this thing.

3 Blass (ph.) tells me, "Tell them to leave us  
4 alone."

5 I'm, like, Okay, Blass.

6 Blass is 55 years old, the most decent, like  
7 quiet, respectful person, and he's telling me to  
8 tell you, "to leave us alone."

9 And I'm, like -- I'm really at a loss.

10 There's a lot in this testimony that isn't  
11 even anything I'm telling you.

12 And I just would rather, if you have  
13 questions, ask them.

14 I'm dead honest.

15 I mean --

16 SENATOR METZGER: She is.

17 [Laughter.]

18 KIRA KINNEY: I don't cry.

19 SENATOR JACKSON: So I thank you for your  
20 testimony, and from your experience in talking to  
21 the workers that work for you.

22 I say to you that, I believe you, that your  
23 relationship with your workers are what you say it  
24 is, and in the way you treat them.

25 But I do know that, as an employer, some

1 people will not say certain things to their  
2 employer, and especially those individuals that are  
3 most vulnerable.

4 I know that.

5 I'm an employer myself as a state Senator.

6 I employ, through the system, about  
7 11 employees.

8 And they will talk to me about certain  
9 things, but I know other things they won't, they  
10 just won't, because I'm the employer.

11 KIRA KINNEY: Right?

12 SENATOR JACKSON: So I just say to you, with  
13 all due respect, I do understand, and I -- based on  
14 your communication here today, I truly believe you.

15 But I do know that employees that are very  
16 vulnerable may not say anything and just go along in  
17 order to do what they have to do, in order to, the  
18 bottom line, is to get the money so that they can do  
19 what they need to do wherever they live, and  
20 I understand that.

21 KIRA KINNEY: I got that.

22 SENATOR JACKSON: I think that that's why --

23 KIRA KINNEY: Do you realize, though, that,  
24 in New York State, like, the department of labor has  
25 the division of immigrant policies and affairs with

1 ag-labor specialists?

2 It's the only part of the department of labor  
3 with a specific unit working for a specific  
4 population. And they're out in the field doing the  
5 inspections.

6 And that, from all of us who are doing right,  
7 we would much prefer you increase the funding to  
8 have the inspections go up and bring the others in  
9 line.

10 This legislation will do nothing to bring  
11 anybody who isn't doing right to do right.

12 They might end up doing more wrong.

13 SENATOR JACKSON: And I think that that's why  
14 the hearings are being held --

15 KIRA KINNEY: Right.

16 SENATOR JACKSON: -- so we can hear from  
17 farmers and workers, and try to bring together  
18 something, as I said earlier when I spoke, I don't  
19 want to see any farmer go out of business.

20 I don't -- and I want to see employees earn  
21 the money that they need in order to take home to  
22 their families.

23 So we're looking for a solution, and  
24 everything that people are saying is being taken  
25 under consideration.

1 KIRA KINNEY: Sure.

2 In the back of my testimony there's a  
3 compromise that you can see.

4 SENATOR JACKSON: Thank you.

5 KIRA KINNEY: Uh-huh.

6 SENATOR METZGER: Any other questions?

7 SENATOR MAYER: I'm sorry I missed your  
8 testimony in Morrisville.

9 KIRA KINNEY: No, no, I wasn't there.

10 I watched it.

11 SENATOR METZGER: She watched it.

12 SENATOR MAYER: Oh, you watched it.

13 KIRA KINNEY: Yeah.

14 SENATOR MAYER: Okay.

15 Oh, you're talking about Senator Montgomery.

16 Do you have both H-2A and non-H-2A employees?

17 KIRA KINNEY: Well, four of my guys that are  
18 on H-2A. There are five employees. One is from  
19 Mexico, also, and travels back and forth.

20 He's on the same wage base as the H-2A.

21 Like, you have to treat everybody the same unless  
22 they're doing separate jobs.

23 SENATOR MAYER: And during a harvest season,  
24 or peak harvest season, approximately how many hours  
25 do these folks work?

1           KIRA KINNEY: We'll work, like, in July,  
2           August, September, around 70.

3           I work a bit more because I do the farmers'  
4           market, so that one day alone for me is 18.

5           SENATOR MAYER: Right.

6           Do they have their one day off?

7           KIRA KINNEY: Yep, we take Sundays off.

8           I mean, last -- no -- well, this past week on  
9           Sunday, I had to go knock on their door and ask a  
10          couple guys to come help me cover up the  
11          strawberries because a frost was coming.

12          But, in general, nobody works on Sunday.

13          I mean, we've had other weird weather things.  
14          That's really the only thing that would make us  
15          have to do a Sunday.

16          SENATOR MAYER: Okay.

17          KIRA KINNEY: I mean, they have the option.

18          And sometimes I'll catch somebody out  
19          weed-whacking around the pond because they want to  
20          go fishing, but, I'll just pay them for it.

21          SENATOR MAYER: Okay. Thank you.

22          KIRA KINNEY: Uh-huh.

23          Anything else?

24          SENATOR METZGER: Thanks so much, Kira.

25          KIRA KINNEY: Sure.

1           LESLIE BERLIANT: Next is Maritza Owens,  
2 followed by Mark Doyle.

3           And if Mark Rogowski could come up, please.

4           MARITZA OWENS: Good afternoon.

5           Thank you so much for this opportunity.

6           I'm way out of my wheelhouse, but I'll do my  
7 best.

8           I am the founder and CEO of Harvest  
9 Home Farmers' Market, a non-profit organization in  
10 New York City.

11           Since 1993 we have operated farmers' markets  
12 in low-income neighborhoods.

13           Our mission was driven by my determination to  
14 provide low-income neighborhoods with access to  
15 farm-fresh local produce and the education to  
16 achieve healthier lifestyles.

17           Our markets are located in neighborhoods  
18 where there are minimal -- where there's minimal  
19 access to fresh fruits and vegetables. On average,  
20 there are 18 to 25 bodegas for every supermarket in  
21 these neighborhoods.

22           I am here today not to testify against the  
23 bill, but to share another often obscured point of  
24 view that I hope will help to round out the  
25 discussion and impact the decision-making.

1           We always say that there are two sides to  
2 every story; however, in this case, I think that  
3 there are three sides: the farmworkers, the farmers,  
4 and the consumers.

5           Since the early 1900s, we are all aware that  
6 laws and policies have supported and perpetuated a  
7 farming economy built on the backs of people of  
8 color who are socially marginalized, primarily  
9 racially-oppressed immigrants from the Caribbean,  
10 Mexico, and Central America.

11           These policies have excluded farmworkers from  
12 fundamental federal and state labor protections  
13 across the country and in New York State.

14           As an immigrant, yes, I am also an immigrant,  
15 born in Cuba, and my parents migrated to the  
16 United States in 1971.

17           A minority and a target of discrimination,  
18 I clearly understand the need for better wages, and  
19 strongly believe that this bill is long overdue.

20           However, for the farmers, farmers like  
21 Morgiewicz produce, Migliorelli, R&G, and many of  
22 the farmers that come to our markets and work with  
23 operators like Harvest Home and GrowNYC, they rely  
24 on -- we rely on these small and mid-scale family  
25 farms for fruits and vegetables.

1           These farms produce 49 types of fruits and  
2           vegetables considered specialty crops.

3           Go figure, the notion that nourishing food is  
4           considered a specialty crop.

5           These farms have narrow profit margins and  
6           limited ability to influence the market for their  
7           products.

8           Hired farm labor represents a significant  
9           amount of their operational costs.

10          In order to keep costs down, family members  
11          provide much of the labor, working side by side with  
12          hired farmworkers.

13          For the consumer, New Yorkers are  
14          increasingly struggling with food insecurity and are  
15          falling farther and farther behind.

16          The WIC FMNP program connects over  
17          1.5 million low-income families to  
18          17,000 independent farmers, and provides 67 million  
19          servings of fruits and vegetables annually to  
20          low-income pregnant women and children, produce that  
21          otherwise would not have been put on their tables.

22          If costs increase and farmers go out  
23          business, already food-insecure families will fall  
24          far behind.

25          Since 2009, federal, state, and local

1 organizations, both government and philanthropic,  
2 have invested millions, if not trillions of dollars  
3 to increase access to healthy food as a way to  
4 reduce astronomical medical costs resulting from  
5 nutrition-deficient diets.

6 Only this week alone, the USDA announced  
7 four grants to support the consumer side.

8 The FMPP grant from USDA is investing  
9 11.5 million;

10 The local food promotion is investing  
11 11.5 million;

12 The new-entry sustainable farmer is investing  
13 4.8 million;

14 And the nutrition incentive program, which my  
15 organization is a recipient of, is investing  
16 41 million.

17 That is a total of \$68.8 million invested in  
18 consumer access to healthy food products.

19 But if you notice, for farmers, it was only  
20 4.8.

21 I'm done?

22 I'll stop.

23 SENATOR METZGER: Thank you.

24 It's a very important perspective to bring.

25 I wanted to see if any of my colleagues.

1 Senator Liu.

2 SENATOR LIU: I want to thank you for your  
3 testimony, but are you in favor of or against this  
4 bill?

5 MARITZA OWENS: I'm in favor of the bill, but  
6 I think that it can't be done in a vacuum. It needs  
7 to consider all sides.

8 I think that one of the things that I have  
9 observed over the 25 years that I've been doing  
10 this, is that we've been very good at investing  
11 dollars in the consumer -- on the demand side, but  
12 not on the supply side.

13 So we get grants for, you know, a lot of  
14 consumer-access programs, but farmers don't have  
15 access to grants.

16 They get access to tax credits or they get  
17 access to loans.

18 Most of the farms are already overextended in  
19 debt.

20 So, how do we balance the equation?

21 And so that's really why I'm here, because,  
22 if you -- if farms go out of business, all of the  
23 investments that you have made in access to healthy  
24 food; all of the programs that have been started, to  
25 reduce the cost of -- medical costs, we are going

1 backwards.

2 So the pendulum is going back to the left if  
3 we don't consider what the impact of this  
4 legislation would not only have on the farmworkers,  
5 the farmers, but also those of us who have to eat.

6 SENATOR LIU: You have to eat?

7 MARITZA OWENS: Yes, I think we all do, don't  
8 you?

9 SENATOR LIU: I do my share.

10 [Laughter.]

11 SENATOR METZGER: Thank you so much.

12 So we're going to hear from two more  
13 speakers, then we're going to take a five-minute  
14 break.

15 We're just a little over halfway through the  
16 testimony.

17 Thank you.

18 LESLIE BERLIANT: Okay, so next up is  
19 Mark Doyle.

20 MARK DOYLE: Senators Ramos, Metzger,  
21 Senators, ladies and gentlemen, thank you very much  
22 for the opportunity to speak and provide testimony  
23 on an issue so vitally important to our state.

24 Quality of life and the food we eat are  
25 inseparable.

1 I was born in South Africa, and studied  
2 agricultural management before immigrating to the  
3 Hudson Valley 30 years ago, farming since then.

4 I have or continue to serve on the boards of  
5 Dutchess, Putnam, and Westchester farm bureau;  
6 Hudson Valley Agribusiness Development Corporation;  
7 Dutchess IDA; Cornell Cooperative Extension; and  
8 have chaired the town of Amenia Comprehensive Plan  
9 Committee.

10 This is my 12th year working at  
11 Fishkill Farms where we grow about 120 acres of  
12 fruits, berries, and vegetables, and sell to,  
13 roughly, 80,000 Piquant customers and 300 CSA  
14 members.

15 The heart of our workforce is a group of  
16 11 men on H-2A visas from Jamaica, many whom are in  
17 the 11th year of employment with us, and whose  
18 sons have joined them more recently.

19 We also employ 16 people year-round, and  
20 during the peak season we employ over 100 people, in  
21 total, many of whom are high-schoolers.

22 Overtime pay.

23 The farmers I know support the goal of your  
24 proposed legislation of providing the opportunity  
25 and supportive environment for employees to advance

1 their careers and lead successful lives.

2 It makes good business sense.

3 And that said, I'm extremely concerned that  
4 the proposed overtime rule for our cultural workers  
5 contradicts those goals, for these reasons:

6 Number one: Food is a price-elastic  
7 commodity, and we're simply not able to pass  
8 increased business costs along to consumers who are  
9 primarily price-driven, and will choose products  
10 from other states or countries.

11 And this means that we will have to take  
12 measures to curb labor costs, including constraining  
13 workers' hours to overtime thresholds.

14 Number two: It will be necessary to hire  
15 additional part-time employees, adding costs of the  
16 coordination, training, housing, transport, and  
17 productivity.

18 Number three: As a result, workers will not  
19 have the opportunity to take sole charge of tasks  
20 and see them through to completion.

21 They will have to clock out and leave, and  
22 this leads to a cascade of effects: The loss of  
23 income, the loss of opportunity to show one's  
24 talent, drive, and loyalty; and, therefore, the loss  
25 of career-advancement opportunity.

1           Advocates of the proposed Farmworker (sic)  
2 Fair Labor Practices Act postulate that farmworkers  
3 have been unfairly and uniquely singled out by this  
4 exemption.

5           That is not the case.

6           There are several other categories of exempt  
7 employees, including government interns, for  
8 example.

9           The New York State Department of Labor  
10 criteria for the eligibility of professional  
11 employees contains key phrases that easily fit  
12 agriculture, but, are limited to the fields of  
13 science and learning, including the professions of  
14 law, medicine, accounting, teaching, as well as  
15 technology and creative arts.

16           Are we to deduce that these people with the  
17 means and opportunity to study and qualify in  
18 those -- in these fields are the real cream of crop;  
19 ambitious, intelligent, knowledgeable, and decisive?

20           No.

21           It seems much more likely that the  
22 legislative rationale for granting this group  
23 exemption from overtime laws was that their hard  
24 work would foster success and they would willingly  
25 work long hours to accomplish their goals.

1           Farming is the essence of creativity,  
2 science, and the consistent exercise of discretion  
3 and judgment.

4           Why place a cap on opportunity for  
5 advancement of agricultural workers?

6           In summary:

7           Overtime pay will result in unsustainable  
8 expense for -- in a very competitive marketplace,  
9 and create constraints to farmworkers' opportunity  
10 for advancement.

11           Limited time requires me to end, but if  
12 I may, in my opinion, a balanced policy of  
13 farmworker advancement would also include the right  
14 to individual and collective bargaining for  
15 employees.

16           If you wouldn't mind, please, look at my  
17 written testimony for the rest of my comments on the  
18 other aspects of this legislation.

19           SENATOR METZGER: Thank you very much.

20           MARK DOYLE: Thank you.

21           SENATOR METZGER: Any questions?

22           Thank you very much.

23           LESLIE BERLIANT: Next is Mark Rogowski,  
24 followed by a quick five-minute break.

25

1           MARK ROGOWSKI: Thank you, Senators, for  
2 allowing me to speak.

3           My name is Mark Rogowski, and I'm a  
4 fourth-generation farmer in Pine Island, New York.

5           I raise about 120 different varieties of  
6 vegetables, and I supply New York City farmers'  
7 markets, as well as Orange County farmers' markets,  
8 on about 600 acres.

9           I currently employ about 25 domestic workers,  
10 as well as about 50 H-2A visa workers.

11           In New York State the current minimum wage in  
12 Orange County is 11.10 an hour.

13           I pay all my workers a minimum of 13.25 an  
14 hour.

15           And all my workers are given an optional day  
16 of rest.

17           My workers choose to work as many hours as  
18 I can give them, which is around 70 to 80 hours a  
19 week. They gross between 900 and 1100 dollars a  
20 week.

21           In addition, they receive free housing.

22           Housing is nice. In fact, some of the  
23 housing is the house I grew up in as a child.

24           If this law passes, I don't even know where  
25 to begin.

1           I'll have to hire more help, cut my workers'  
2 hours, come up with a plan to try to stay in  
3 business.

4           I'm not going to be happy because I will not  
5 able to supply the vegetables to the farmers'  
6 markets that we're used to.

7           My workers aren't going to be happy because  
8 their hours of going to be cut. They come here to  
9 work as many hours as they possibly can.

10          And the constituents that we supply our food  
11 to are going to suffer as well.

12          I'll have to give up farmers' markets in  
13 neighborhoods where we offer discounted produce,  
14 lower-income neighborhoods, because the margins  
15 won't be there anymore.

16          And I'll have to significantly raise my  
17 vegetable prices at other remaining markets.

18          This is going to force people to shop for  
19 vegetables at supermarkets, destroying the buy-local  
20 that we've been promoting as a state for so long.

21          And when people buy vegetables at  
22 supermarkets, you're promoting your carbon  
23 footprint, because vegetables come from supermarkets  
24 from other states and other countries.

25          Doing business in New York is tough enough as

1 it is, and many of us family farms are hanging on by  
2 a thread.

3 This may be the icing on the cake for a lot  
4 of us.

5 Before you vote for this bill, please  
6 consider not only the impacts that it's going to  
7 have on the farmers, but on my workers, and on your  
8 constituents.

9 Thank you.

10 SENATOR METZGER: Thank you, Mark.

11 Any questions?

12 Thanks so much.

13 MARK ROGOWSKI: Thank you.

14 SENATOR METZGER: Okay, we're going to take a  
15 five-minute break, and then finish up.

16 Thanks so much for everyone's patience.

17 (The public hearing stands in recess.)

18 (The public hearing resumes.)

19 LESLIE BERLIANT: If everybody could please  
20 sit down and quiet down, we need to get started  
21 again.

22 If Jacinto Carino, Patricia Smith, and  
23 Carlos Gutierrez could please come up.

24 Actually, and Ray Pucci.

25 I'm sorry, I promised Ray.

1 Ray is up next.

2 SENATOR METZGER: Acknowledged, and express  
3 my appreciation for -- to Matt Martine for being  
4 here from New York State Comptroller DiNapoli's  
5 Office.

6 Thanks for joining us.

7 LESLIE BERLIANT: So next up after Ray will  
8 be Jacinto Carino and Patricia Smith, followed by  
9 Carlos Gutierrez.

10 RAY PUCCI: Good afternoon.

11 I am Ray Pucci, president of the Delaware  
12 County Chamber of Commerce, and I speak today on  
13 behalf of hundreds of small-business owners,  
14 including farmers in Delaware County.

15 We believe the legislation as currently  
16 proposed in both the Senate and the Assembly bills  
17 will have serious negative consequences for the  
18 viability of agriculture, our local economies, the  
19 sustainability of our communities, and the security  
20 of our food supply.

21 Let me share with you a few facts about farms  
22 in my rural neighborhood.

23 The USDA Census of Agriculture, released a  
24 little bit more than a week ago, identifies 689 farm  
25 operations in Delaware County.

1            Nearly 60 percent are owned in full or part  
2            by women.

3            Labor-related costs are a major component of  
4            the overall cost of production on many of our farms,  
5            due in part to the labor-intensive nature of our  
6            agricultural products, including dairy, vegetable,  
7            and grass crops.

8            According to USDA, farm-labor expense was  
9            about 12.3 percent of the value of gross receipts,  
10           compared to the national average of 9.5 percent.

11           Net income to individual farm owners, who  
12           often work without paying themselves, in  
13           Delaware County is less than \$16,000 annually.

14           Now, these are not large corporate-owned  
15           enterprises; rather, our farms are more likely to be  
16           small, multi-generational operations.

17           The more fortunate ones enjoy having next  
18           generations of family members learning that craft  
19           and willing to carry their farms into the future.

20           Illustrative of this entrepreneurial spirit  
21           is Kyle Clark.

22           Kyle is a 24-year-old, fifth-generation dairy  
23           farmer in Delhi.

24           In a note to me, Kyle notes, quote here now:

25           It is important to realize that farm labor is

1 compensated proportionately to the economic  
2 viability of the business itself.

3 As an owner and manager, I want nothing more  
4 than to pay a better wage to the people who dedicate  
5 their lives to the well-being of the animals that  
6 make this business possible.

7 He adds, again I'm quoting:

8 The priority must to be save farms first, as  
9 the jobs they create stretch far beyond those who  
10 are employed on-site.

11 Additionally, he points out, quote:

12 The nature of agriculture does not lend  
13 itself to a traditional 40-hour workweek.

14 Weather conditions, harvest readiness, animal  
15 health, and other factors often limit or extend the  
16 workday.

17 The Delaware County Chamber of Commerce  
18 agrees with Kyle that a better solution is a broader  
19 plan, developed in partnership with farmers and  
20 national policymakers, to stabilize prices our  
21 farmers receive for their efforts that are based on  
22 actual regional market conditions.

23 More profitable farms will result in higher  
24 wages to all farmworkers.

25 One more time to quote Kyle:

1           The legislation threatens the entire dairy  
2 industry and all the jobs it creates, not because  
3 farmworkers do not deserve a fair wage, but because  
4 it is lazily constructed, premature, and places an  
5 undue burden on a struggling industry that cannot  
6 bear its weight.

7           Additionally, mandating overtime pay in  
8 New York may shift agriculture to less-intensive  
9 activities and away from putting food our on tables.

10           We will become more reliant on food sources  
11 from other states and countries.

12           Local food that we all enjoy may become  
13 little more than just a memory.

14           Rushing through legislation without a full  
15 discussion, and holding more hearings such as  
16 today's, in all regions of New York, and likening  
17 current farm practices to the  
18 racially-discriminating policies of  
19 post-Reconstruction southern confederacy, is  
20 disingenuous, and diminishes the seriousness of the  
21 reality confronting many areas in Upstate New York.

22           Instead, let's work toward creating solutions  
23 to the causes of the distress on our farms rather  
24 than a selected symptoms.

25           My neighbors in my communities deserve

1 nothing less.

2 SENATOR METZGER: Thank you, Ray.

3 Any questions?

4 Thank you very much.

5 LESLIE BERLIANT: Next up is Jacinto Carino,  
6 followed my Patricia Smith.

7 And if Carlos Gutierrez could also please  
8 come up.

9 JACINTO CARINO: Good afternoon, all the  
10 Legislators.

11 My name is Jacinto Carino.

12 I am the Soons Orchard foreman and manager of  
13 the farm, more than 30 acres of fruit trees and  
14 vegetables and garden.

15 This is my co-workers (indiscernible) with  
16 me, Fausto (ph.), Roberto, and Miguel.

17 I have worked with Soons Orchards since  
18 1990 -- '89, a very long time.

19 I come to U.S. from Mexico in 1983.

20 In 2010 I become a resident.

21 January 15, 2019, I become a United States  
22 citizen.

23 OFF-CAMERA SPEAKER: Congratulations.

24 JACINTO CARINO: Thank you.

25 I still visit my family in Mexico every year

1 for about -- during the winter season.

2 We (indiscernible) and live in Brooklyn.

3 I have working in different restaurant as a  
4 cook.

5 I also did some construction jobs.

6 And other at one point, tour around to the  
7 USA, play and singer with my Mariachi band.

8 After a few years I learned English in  
9 New York (indiscernible).

10 (indiscernible) Soons Orchard found me and my  
11 brother on (indiscernible) of local restaurant.

12 He asked if we wanted to work for him, and we  
13 said, yes, of course.

14 Of all the jobs that I have had, I prefer  
15 working on the farm because I have always been a  
16 farmer.

17 As a (indiscernible) boy in Mexico, my father  
18 was a farm (indiscernible) worker in the field.

19 That how I was raised, always working hard.

20 So when this opportunity was offered, how  
21 could I say no.

22 I come to work at Soons, almost feel like  
23 being back home in Mexico.

24 My daughter read the next page, please.

25 DAUGHTER OF JACINTO CARINO: I'm just going

1 to continue on. His English is a little -- I'm just  
2 going to continue on for his reading.

3 He says:

4 I have raised two daughters here, now 31 and  
5 23, both of whom worked in Soons Farms' stores as  
6 teenagers.

7 I also have family members that travel here  
8 every other year on H-2A visas. Together we work as  
9 a team.

10 We do pruning, planting, vegetables, and  
11 trees, harvesting and picking fruit, and many other  
12 tasks that takes over six months to bring good crops  
13 to the market at Soons.

14 My fellow workers and I receive free housing,  
15 utility, and good wages.

16 As a full-time, year-round employee, I also  
17 receive paid time off.

18 Some days I only work a few hours. For  
19 example, if there is rain half of the day or it's  
20 very cold in the winter.

21 Other days we'll work 10, or even 11 hours.

22 It all depends on what is ready and what the  
23 weather allows.

24 We take most Saturdays off, but sometimes  
25 we'll work half a day and continue picking apples.

1           It all depends.

2           I talk to Jeff Soons, and we decide what's  
3 most important to get picked and when.

4           Many people don't want apples that will fall  
5 off the trees if you don't pick them when they are  
6 ready. Once they fall, we can't sell them.

7           And other vegetables will get overripe, rot,  
8 or otherwise spoil if you don't pick them when  
9 they're ready.

10          I do not support this bill because it is  
11 unneeded.

12          My coworkers and I (indiscernible) and enjoy  
13 our jobs, and we are doing very wells for ourselves;  
14 otherwise, we would not be here for almost 30 years.

15          We take great pride in what we grow here:  
16 25 acres of apples, 5 acres of peaches, 10 acres of  
17 pumpkins and squashes, and several acres of mixed  
18 vegetables, including garlic, which I suggested  
19 planting a few years ago, and it's been very  
20 successful.

21          We are doing very well, and we do not want to  
22 risk losing hours because farms cannot afford  
23 overtime.

24          And I know the farm is just breaks even each  
25 year.

1           Ours makes just enough to get another used  
2 tractor or overdo upkeep.

3           Art Soons fixes everything and doesn't ever  
4 buy anything new.

5           And since I'm doing so well, I also see no  
6 reason to pay out of our paychecks for a union,  
7 which is also unneeded. And I know my fellow  
8 workers and I feel the same.

9           Thank you for your chance to share my  
10 experience and views with you.

11           I hope you will do everything right for  
12 New York farmers like me.

13           Let us continue to do what we do best, grow  
14 great food.

15           Thank you.

16           SENATOR METZGER: Thank you very much.

17           Any questions?

18           SENATOR RAMOS: Yes, I have a few.

19           One, did you register to vote?

20           JACINTO CARINO: Yes, he did.

21           SENATOR RAMOS: Very good.

22           Excellent.

23           And the second is: Did you and/or your  
24 father write this testimony?

25           DAUGHTER OF JACINTO CARINO: Well, he -- it's

1 his words, and I helped him put them together as --  
2 as I could.

3 SENATOR RAMOS: Thank you.

4 SENATOR MAYER: I have a question.

5 SENATOR METZGER: Okay.

6 Senator Mayer.

7 SENATOR MAYER: So does your father, or if  
8 you live together, live on housing provided by  
9 Soons Orchards?

10 DAUGHTER OF JACINTO CARINO: Yes, they do.

11 SENATOR MAYER: They provide the housing?

12 DAUGHTER OF JACINTO CARINO: Yes, they do.

13 SENATOR MAYER: And does he pay -- do you pay  
14 for the housing?

15 DAUGHTER OF JACINTO CARINO: No.

16 SENATOR MAYER: And is that where he's lived  
17 for all these years?

18 DAUGHTER OF JACINTO CARINO: He has lived  
19 there for so many years.

20 I was raised there.

21 SENATOR MAYER: You were raised there?

22 DAUGHTER OF JACINTO CARINO: Yes.

23 SENATOR MAYER: Okay. Thank you.

24 DAUGHTER OF JACINTO CARINO: Thank you.

25 SENATOR METZGER: Senator Jackson.

1           SENATOR JACKSON: So, Senior, let me thank  
2 you for coming in and giving testimony.

3           It's important for us as legislators to not  
4 only hear from farmers, but to hear from the  
5 workers.

6           And as you know, when I was sitting up there,  
7 I had an opportunity to talk to you, and the farmer  
8 who employs you, along with the other three  
9 gentlemen up there that work the farm.

10          And it clearly appears, based on your  
11 testimony, and I believe 100 percent of what you're  
12 saying, that you're being treated with all decency  
13 and respect, and given the time off.

14          And as I've heard testimony, sometimes you  
15 may work a half a day, sometimes you have to work  
16 10, 11, 12 hours.

17          The most important thing I've heard is that,  
18 workers like yourself, you want to earn enough money  
19 in order to send home to family members, and to do  
20 what you have to do.

21          I understand that.

22          My wife's family is in Tanzania, East Africa,  
23 in which we, my wife and I, send \$500 every single  
24 month to family members in East Africa, along with  
25 her sister who is a retiree who lives in

1 Connecticut. She sends money home to family.

2 That's what family is supposed to do, is to  
3 help one another.

4 So I thank you for your testimony.

5 I think that what's important, overall, we  
6 need to address the issue of the fact that employees  
7 are not being paid overtime; address the issue that  
8 they're not being treated, at least some of them,  
9 and I don't know about all of them because I'm not  
10 there in all of the farms, and how the farmers are  
11 treating all of their employees, but we hear  
12 testimony from workers themselves that they're not  
13 being treated with the ultimate respect and dignity,  
14 and all of the things.

15 So we have to -- we held a hearing, this is  
16 the last one, and we're trying do come up with the  
17 solution that works for everyone.

18 And I hope that you can understand that.

19 SENATOR RAMOS: I'd also like to point out  
20 with -- in your testimony you said that there's no  
21 reason to pay out of your paychecks for a union.

22 There's no one that is going to force a union  
23 upon you.

24 What the bill does is grant you the right to  
25 collectively bargain if you so choose.

1           So just to be clear, that, you know, there's  
2 no one forcing it upon you.

3           It's if the workers feel that they need to  
4 organize, that they can.

5           SENATOR METZGER: Thank you.

6           By the way, Soons Orchard has great apples.  
7 Great cider. Been there before.

8           [Laughter.]

9           LESLIE BERLIANT: Next is up Patricia Smith,  
10 followed by Carlos Gutierrez.

11           And if Paul -- oh, you told me how to say it,  
12 I'm going to butcher it -- Ruszkiewicz could come  
13 up, please.

14           SENATOR METZGER: Just, we're going to have  
15 to be mindful. You have very long testimony, so  
16 I just -- written. So I just want to make sure --

17           PATRICIA SMITH: I have four minutes.

18           SENATOR METZGER: Right, okay.

19           PATRICIA SMITH: I always follow the rules.

20           SENATOR METZGER: You've got four minutes,  
21 very good girl.

22           PATRICIA SMITH: Senators, thank you.

23           My name is Patricia Smith. I'm currently a  
24 senior counsel at the National Employment Law  
25 Project.

1 I've spent over 30 years in state and federal  
2 government working on labor issues.

3 From 2007 to 2010, I was commissioner of  
4 labor here in New York.

5 And I think that this act gives lawmakers the  
6 opportunity to rectify an 80-year-old unjust  
7 exclusion, and to reaffirm that all workers deserve  
8 basic protections, no matter what their job, no  
9 matter what their race.

10 Although the -- both the state Labor  
11 Relations Act and the state minimum-wage law  
12 originally excluded from its coverage a number of  
13 occupations.

14 Today, farmworkers are really the only  
15 blue-collar category of workers in New York State  
16 that are excluded from these basic protections.

17 They need the right to advocate for  
18 themselves without fear of retaliation.

19 And one thing I want to point out is that  
20 collective bargaining rights give them that  
21 protection; to be able to speak up, to be able to  
22 speak to their fellow workers, without fear of  
23 retaliation, even if there is no formal agreement or  
24 if there is no union.

25 Currently, farmworkers can be retaliated

1 against, and even fired, for speaking to their  
2 fellow workers, for asking for a raise, for pointing  
3 out either unsafe or some other working condition  
4 that they think is bad.

5 And it's not a theoretical concern.

6 Their stories abound of farmworkers in this  
7 state who have been fired or retaliated against for  
8 speaking out.

9 Farmworkers are generally low-wage workers.

10 According to the New York State Labor  
11 Department, their medium (sic) income is 28 --  
12 between 28,000 and 30,000. Their entry-level wages  
13 can be as low as 21,000.

14 Now, I know that the overtime provisions of  
15 this act are controversial.

16 However, every time the Legislature has tried  
17 or considered improving labor rights or wages of  
18 farmworkers, it's been controversial.

19 Frankly, every time the Legislature has  
20 considered bringing in occupations that had been  
21 excluded from overtime protections, it's been  
22 controversial.

23 So -- and while the opposition to the  
24 overtime requirements focus on the costs, one thing  
25 you have to understand is that farmers are already

1 paying for long working hours in the form of lost  
2 productivity, in the form of increased injuries.

3 And farming is one, really, of the most  
4 dangerous and injury-prone occupations that there  
5 are.

6 I don't think that the arguments against  
7 paying any overtime to farmworkers stand up.

8 Farm work is not unique.

9 Yes, it's seasonal.

10 Other occupations, like landscaping,  
11 construction, and retail are also seasonal, but  
12 those workers are entitled to overtime.

13 Yes, farm products can be perishable, but  
14 other workers who work with perishable items, like  
15 in the food-supply chain, are -- cannery workers are  
16 entitled to overtime.

17 Yes, hours can be unpredictable and can be  
18 influenced by the weather.

19 A construction worker's schedules are also  
20 seasonal and unpredictable and influenced by the  
21 weather, but they're entitled to overtime.

22 I think it's impossible to predict what the  
23 cost of overtime will be on any individual farm  
24 owner or any individual farm, because farm owners  
25 will have certain flexibility if there are overtime

1 requirements, and how to respond to that.

2 But I do want to point out, that I know that  
3 a number of opponents to this bill have cited the  
4 Farm Credit East report as showing that the costs of  
5 overtime, at 40 hours, would be entirely  
6 unmanageable in this state.

7 But, actually, if you look at the report and  
8 analyze the report --

9 Oh, I'm sorry --

10 SENATOR METZGER: If you can (inaudible).

11 PATRICIA SMITH: -- it's much -- it is much  
12 lower.

13 And you can look in my written testimony to  
14 talk about that.

15 And, finally, four other states successfully  
16 have overtime requirements, and it's not just  
17 California that has three seasons.

18 Minnesota has an overtime requirement for  
19 farmers of 48 weeks, and I'm sure their growing  
20 season is just as short as New York's.

21 SENATOR METZGER: Senator Savino.

22 SENATOR SAVINO: Good to see you again, Pat.

23 I remember, when you were the commissioner of  
24 the department of labor here, you left in 2010, that  
25 was when we finally passed the Domestic Workers'

1 Bill of Rights.

2 And I want to thank you for your efforts on  
3 that, and working with me on it.

4 But when you were commissioner of DOL, what  
5 was the experience of the department of labor with  
6 respect to inspections on farms in New York?

7 What -- what -- as the commissioner, what did  
8 you see as the state of farmworkers across the  
9 industry, if you recall?

10 PATRICIA SMITH: Well, immigrant workers in  
11 this country tend to be vulnerable and oppressed,  
12 and farmworkers tend to be vulnerable and oppressed  
13 no more than any other immigrant.

14 I'm not saying that farm owners are -- are --  
15 are anything else.

16 But, just sort of the nature of the system  
17 and the exclusion from protections.

18 So, you see many farm owners who treat their  
19 workers very well, and you see farm owners who don't  
20 treat their workers very well, and that's --  
21 that's -- that's just a fact of the life.

22 But what you do see is a system where  
23 farmworkers aren't able to protect themselves as  
24 well, and just because they are denied these basic  
25 rights.

1           And because, as the farm owners are talking,  
2           and they're true, that they have seasonable -- they  
3           have seasonable work, and that they're making a lot  
4           of their money in a very short period of time, the  
5           same thing is true of farmworkers.

6           I mean, those farmworkers who are working  
7           80 hours a week, or 60 hours a week, during the  
8           growing season probably aren't making any income at  
9           all, or very little income, outside of that season.

10          So, I mean, the situation for farm owners and  
11          farmworkers in that way is compatible.

12          Yes, they're making -- well, unless they're  
13          dairy farmers and they're year-round, but many of  
14          the growers are making their income, including the  
15          farmworkers, in a very short period of time.

16          But they're working long hours, but they're  
17          still getting the same amount of pay for hour 1 than  
18          for hour 51.

19          SENATOR SAVINO: Right.

20          And you mentioned four other states that  
21          right now provide overtime at time and a half.

22          Do they do it at 40 hours?

23          PATRICIA SMITH: Minnesota does it at 48.

24          California will eventually get to 40, but  
25          they are phasing it in.

1           And I can't remember the other two, but it's  
2           in the report.

3           SENATOR SAVINO:   Okay.

4           And do you -- off the top of your head, do  
5           you know if minimum wage in those states?

6           I'm assuming California is probably as close  
7           to New York.

8           PATRICIA SMITH:   California is, probably,  
9           actually higher than New York.

10          It may not be higher in New York in  
11          four years, but we don't know what California will  
12          be in four years.

13          And Minnesota is more than the federal  
14          minimum wage, but I don't know exactly what it is.

15          SENATOR METZGER:   I believe one of them was  
16          60 hours, maybe.

17          SENATOR SAVINO:   Okay.   Thank you.

18          [Applause.]

19          LESLIE BERLIANT:   Next up is  
20          Carlos Gutierrez, followed by Paul Ruskiewicz, and  
21          Rhode Dolrlus, I think.

22          CARLOS GUTIERREZ:   Good afternoon, and thank  
23          you for being here after so many years of trying to  
24          have this bill through the Senate.

25          So it's nothing new that we've been seeing

1 lately.

2 My name is Carlos Gutierrez, and I work for  
3 the Tompkins County Workers' Center. I've been  
4 there for eight years. My title there, basically,  
5 what I do is, occupational safety and health  
6 training.

7 I do outreach to workers in many places.

8 Lots of them to dairy farms, restaurant  
9 workers; basically, workers that are most  
10 vulnerable, to train them in occupational safety and  
11 health, and see how they're doing.

12 The other part that we do at the workers'  
13 center is that we have a hotline, and people call us  
14 on the phone every single day. We receive about  
15 400 average calls or visit at the workers' center.

16 Basically, we live in Ithaca, we are in  
17 Ithaca. It's a small community, 100,000 in  
18 population, but, we have a strategic plan.

19 We support, advocate, educate, train, to  
20 develop what we call "empowerment," so the  
21 individual, the workers, can feel in some way that,  
22 you know, has the basic tools, or basic knowledge,  
23 to, basically, stand for himself, or with the help  
24 of others.

25 Farmworkers are -- or, things that I have

1 learned through that is, lots people get injured at  
2 work.

3 And what I have learned is, that many people  
4 are taken to the hospitals, and employees are  
5 failing to file for unemploy -- for workers'  
6 compensation.

7 I have heard of cases where workers have been  
8 going -- have been hospitalized after working  
9 injured, and then coming back to work to be,  
10 basically, deducted money as from their paychecks as  
11 wage advancement.

12 All right?

13 The average that I know is 72 hours a week.

14 In calculating, imagine, you know, if they  
15 were paid time and a half after 32 hours, it  
16 amounts, at least for a worker in New York State, to  
17 not being paid \$9,000 a year for that little amount  
18 of -- the half of the -- of the one time and a half.

19 Think about it, when you have a farm that is  
20 minimum 10 workers. That is not under the  
21 jurisdiction of OSHA.

22 And I come up with exorbitant number,  
23 millions of dollars, that, basically, looks like an  
24 in-kind contribution that the farmworkers are  
25 give -- making to the agricultural industry, to our

1 state, to the country, and to the consumer.

2 You know, this -- if you do the calculations  
3 yourself, you are going to see that millions of  
4 dollars that, basically, the industry is saving, all  
5 right. And you have a job (indiscernible). I hear,  
6 you know, the situation in the farms.

7 But, you have to understand that farmworkers,  
8 basically, are being exploited, regardless of why  
9 they come to this country.

10 In the words of a worker that -- a former  
11 dairy farmworker, I asked him about this, and he  
12 said:

13 I like the passage of this bill because --  
14 (speaking Spanish) -- to be like the citizens, to be  
15 paid the same way.

16 Our labor is worth much more than the minimum  
17 wage. And we are the ones that work 12 hours a  
18 days, 6 days a week, 7 days a week.

19 We are who do the work. It is only just that  
20 we get paid.

21 And, of course, the workers' (indiscernible)  
22 in support of the bill.

23 Thank you very much.

24 SENATOR METZGER: Thank you.

25 [Applause.]

1           LESLIE BERLIANT: Next we have  
2 Paul Ruskiewicz, followed by Rhode Dolrlus.

3           And, Caesar Arenas, if you could come up,  
4 please.

5           PAUL RUSZKIEWICZ: Thank you.

6           I really appreciate the fact that you're  
7 taking the time to listen to all these speakers.

8           My name is Paul Ruskiewicz.

9           I'm a fourth-generation onion grower from  
10 Pine Island, New York.

11           My father and I farm approximately 225 acres  
12 in the "Black Dirt Region" of Orange County.

13           In addition to onions, we also produce winter  
14 squash, pumpkins, corn, and soy beans.

15           In addition to farming, I also serve as the  
16 president of the Orange County Vegetable Growers  
17 Association, and I'm here representing over  
18 50 growers from Orange County.

19           I also serve as an Orange County legislator.

20           And I would like to say that Orange County  
21 also passed a resolution, opposing this legislation,  
22 as well as a number of other counties.

23           Yeah, I have submitted my written testimony,  
24 so I'm not going to read it word for word. I'm  
25 going to deviate a little bit, but I'll try to stay

1 within the four minutes.

2 You know, other speakers already talked about  
3 the -- you know, the overtime and how that's going  
4 to affect our businesses.

5 Collective bargaining, it's also not  
6 something that's appropriate for agriculture.

7 Senator Metzger, I think you mentioned,  
8 currently, agriculture, one of our other labor  
9 challenges is we have a labor shortage right now.

10 It's tough for us to find workers.

11 Workers on our farms, if they're not happy  
12 with their working conditions or the wages they  
13 receive, they can leave. They can go down the road  
14 and easily get a job at another farm.

15 One of our biggest challenges of labor is  
16 labor retention.

17 We do everything we can to provide for our  
18 workers and make it so they want to come back.

19 We have one employee who has been with us  
20 30 years.

21 And I think you'll find that's similar in a  
22 lot of other operations.

23 You know, other speakers have also talked  
24 about some of the other benefits.

25 Housing, transportation, we all provide that.

1           One of the other benefits that we're able to  
2 provide is, because of the seasonal nature of our  
3 work and the short amount of time we have to get the  
4 work done, we're able to offer the amount of hours  
5 that these workers want to work.

6           They come here because they know that they  
7 can get those hours.

8           If we're unable to provide those hours,  
9 they're going to go to other states that don't have  
10 those requirements.

11           It's going to be, you know, harmful to our  
12 businesses, it's going to be harmful to our workers.

13           Also in Orange County, a lot of our growers  
14 go to the green markets in New York City. They have  
15 to compete with growers in other states who have  
16 lower minimum wages, fewer requirements.

17           And I know a lot of growers that I talk to,  
18 that do go to the green markets, they've had to cut  
19 back on the number of markets that they attend, just  
20 because of the increase in minimum wage and other  
21 costs.

22           I mean, if those costs continue to go up,  
23 they're going to have to continue to cut back on the  
24 markets or stop doing the markets all together.

25           Again, you know, agriculture is unique.

1           You know, we're not factories. We're not  
2 producing widgets where we can control the quality  
3 or the quantity of the product.

4           We're subject to Mother Nature.

5           You know, what we produce is what we have to  
6 sell.

7           I mean, whether it's -- I mean, we hope for a  
8 bumper crop with excellent quality at high market  
9 price, but that's not always the case.

10          A lot of times we're devastated by weather,  
11 we have poor quality.

12          We have to do the best we can to market that  
13 product.

14          Again, I'd like to thank you for hosting  
15 these hearings, getting feedback from farmers, from  
16 farmworkers, community members, but I think this has  
17 to be just the beginning of the conversation.

18          I would like to encourage you to do further  
19 research. You know, we're coming into our growing  
20 season right now.

21          This upcoming growing season, excellent  
22 opportunity for you to come out, visit our farms,  
23 you know, see what we do. See what challenges we  
24 face.

25          Talk to our workers, see what they want.

1           You know, I'd be -- the Orange County  
2           Vegetable Growers would be more than happy to  
3           organize a tour for any legislators who want to come  
4           out and -- to our area, to our farms.

5           Also, Senator Metzger has my contact  
6           information.

7           If any of you individually want to come out  
8           and see the farm, see what we do, I'd be more than  
9           happy to take the time to do that.

10          So, again, I know your session ends in June,  
11          and there may be some urgency to get this passed,  
12          but I would encourage you to take more time.

13          You know, extend the conversation, come out,  
14          see what we do.

15          Hear from more farmers, more farmworkers,  
16          and, you know, gather as much information as you can  
17          to fully understand how this is going to impact our  
18          businesses, and our employees, and consumers.

19          Thank you.

20          SENATOR METZGER: Thanks very much, Paul.

21          Any questions?

22          SENATOR JACKSON: I have a quick question.

23          SENATOR METZGER: Senator Jackson.

24          SENATOR JACKSON: First, thank you for coming  
25          in, appreciate it.

1 I may take you up on that, as far as visiting  
2 your farm.

3 But, how many employees do you employ?

4 And you talked about that they try to get as  
5 many hours.

6 How many hours, on average, do you think  
7 during the season do they work, per week?

8 PAUL RUSZKIEWICZ: Well, yeah, that varies a  
9 lot --

10 SENATOR JACKSON: Of course.

11 PAUL RUSZKIEWICZ: -- with, you know,  
12 different operations, different commodities.

13 I do -- everything I do is wholesale, so  
14 I don't have the labor requirements that some of the  
15 green-markets' growers do, where they're working,  
16 you know, 60, 70, 80 hours a week.

17 On our farm, you know, at one point, when my  
18 uncle was still in the business, we were growing,  
19 I think, one year, 265 acres of onions.

20 We had eight seasonal workers that year.

21 You know, we've downsized quite a bit, and  
22 diversified a little bit.

23 So, currently, we have three seasonal  
24 workers.

25 SENATOR JACKSON: Seasonal workers?

1 PAUL RUSZKIEWICZ: Seasonal workers, right.

2 Not H-2A.

3 We're not at the size where we can afford the  
4 H-2A --

5 SENATOR JACKSON: Orange County, what's the  
6 minimum wage in Orange County?

7 PAUL RUSZKIEWICZ: The minimum wage is the  
8 same as it is with the state. I think it's --

9 SENATOR JACKSON: No, it's different based on  
10 regions.

11 New York is \$15 an hour.

12 I think yours would be 11 --

13 PAUL RUSZKIEWICZ: Oh, yeah, like, 11 -- one  
14 of the speakers --

15 SENATOR JACKSON: What do you pay your  
16 employees?

17 PAUL RUSZKIEWICZ: We pay them minimum wage.

18 SENATOR JACKSON: Okay. And how many  
19 hours --

20 PAUL RUSZKIEWICZ: Well, on our farm, a  
21 typical week is 55 hours. You know, 10 hours a day,  
22 5 hours (sic) a week. We do half a day on Saturday,  
23 and they'll work on Sunday.

24 SENATOR JACKSON: They work on Sunday, or --

25 PAUL RUSZKIEWICZ: No, no work on Sunday.

1           They have Saturday afternoon and Sunday off.

2           SENATOR JACKSON: And the housing you provide  
3 for them?

4           PAUL RUSZKIEWICZ: We provide housing, yes.  
5 We provide transportation. That's usually  
6 me.

7           SENATOR JACKSON: At no cost?

8           PAUL RUSZKIEWICZ: No cost, nope.

9           SENATOR JACKSON: When you say  
10 "transportation," you don't have housing on your  
11 farm, no?

12           PAUL RUSZKIEWICZ: Oh, no, we have housing on  
13 the farm.

14           But as far as transportation, you know, once  
15 a week, it's usually Saturday afternoon or Sunday,  
16 either my father and I will drive them to the  
17 grocery store, to Walmart, wherever they want to go  
18 to do their shopping, and whatnot.

19           You know, sometimes they'll have a doctor's  
20 appointment, and we'll transport them there, and  
21 whatnot, so -- as far as the transportation.

22           And, you know, I mentioned a typical week is  
23 55 hours.

24           Last year we had an extremely glut-growing  
25 season, and we struggled right through harvest

1       trying to get our crop.

2               I mean, we still have 8 acres in the  
3 ground -- 8 acres of onions in the ground that we  
4 couldn't harvest last year, just because we couldn't  
5 get into the field to get them out.

6               And, you know, we had extensive, you know,  
7 weather delays, harvesting.

8               And then, when we could get in, had a break  
9 in the weather, you know, I think some weeks last  
10 year we worked 70-plus hours a week, just trying to  
11 catch up and get our work done.

12              SENATOR JACKSON: Try to get in and do as  
13 much as you can with the time --

14              PAUL RUSZKIEWICZ: Right, right.

15              SENATOR JACKSON: Okay. Thank you.

16              PAUL RUSZKIEWICZ: So, yeah, it varies.

17              So -- you know, but thank you for having this  
18 conversation.

19              I hope you continue to have it.

20              SENATOR RAMOS: Thank you.

21              PAUL RUSZKIEWICZ: Thank you.

22              SENATOR METZGER: Thanks very much.

23              LESLIE BERLIANT: Next up is Rhode Dolrlus,  
24 followed by Caesar Arenas.

25              And if Douglas Davenport could please come

1 up.

2 RHODE DOLRUS: Good evening, everyone.

3 My name is Rhode Dolrlus.

4 SENATOR JACKSON: (Inaudible.)

5 RHODE DOLRUS: Okay.

6 My name is Rhode Dolrlus. I'm from Haiti.

7 I came to the United States in 1997, and

8 I have been working at Mead Orchard since 2014.

9 When they was hired me, they was hired me for  
10 packing house, like packing apples, stuff like that.

11 And later on, I learning more skill, I'm  
12 working on the farm.

13 And, bushing, after they do pruning, I'm  
14 behind the guys from the H-2A worker, and follow  
15 them.

16 And then I working in the cider.

17 I'm working everywhere they need me. I will  
18 be able to do whatever he need me to do.

19 And since thens I went to the farmers'  
20 market, White Plain, Westchester, Tarrytown,  
21 (indiscernible), Blazenville.

22 My -- I see what's going on on the farm.

23 I got a good boss.

24 Things getting hard.

25 I can see that myself, it's getting hard for

1       them.

2               I see it.

3               We go to the farm, we (indiscernible) and  
4       vegetables. By the end of the afternoon, we came  
5       back with half of it.

6               And when we came back with half of it,  
7       sometimes we give some to food pantry.

8               And then when we get back home, we got local  
9       church, we give them like donation.

10              And later on you put it in compost.

11              And we leave at the market, like -- we leave  
12      the packing house 3:00 in the morning. Get to at  
13      the market, like, I would say 6:00, 7:00, get set  
14      up, and came back for 5:00. By the time, 6:00,  
15      that's when we pack up with everything together, and  
16      then we, like, go to do our thing.

17              But, selling or not, they have to pay us.

18              Sometime we feel bad, but they have to pay  
19      us.

20              We leave early. We keep late.

21              I don't have no problem. I would take time  
22      and a half, no problem with it.

23              But when I take the time and a half, how  
24      (indiscernible) for this season, for next season?

25              I will think to myself, what am I going to

1 pay my kids tuition for next season?

2 How am I going to pay it?

3 Because I know they can't afford me for time  
4 and a half.

5 We work every -- not every day.

6 Today is raining, no work.

7 Tomorrow, nice day out.

8 We work all that we can because we don't know  
9 tomorrow. We don't know what is going to happen  
10 tomorrow.

11 I will love you to understand:

12 I love my co-worker. We like a team, we like  
13 a family.

14 We got H-2A worker, Jamaican, Haitian. Local  
15 people we work with. We work like a team, like  
16 brothers and sisters.

17 But we see what's going on with the owner of  
18 the farm. They struggle.

19 They struggle.

20 We don't mind to work whatever we can do.

21 But time and a half, like I said, I will  
22 enjoy time and a half.

23 But this week, yes, good for us.

24 Next week, yes, good for us.

25 For next season, they might not call me

1 because they cannot afford me.

2 SENATOR METZGER: Thank you very much.

3 Can I ask, how many years have you been at  
4 Mead Farm?

5 RHODE DOLRUS: I been in 2014.

6 SENATOR METZGER: Oh, 2014. You did say  
7 that.

8 Okay. Thank you.

9 RHODE DOLRUS: 2014.

10 And we got a new manager here. And we got a  
11 good -- we have a plan, we work on it.

12 We want to work on it.

13 But, I don't think for this time and a half  
14 is going to be good for the farmers.

15 SENATOR JACKSON: Wouldn't you like to be  
16 paid time and a half?

17 RHODE DOLRUS: I would love to.

18 SENATOR JACKSON: I know. I would --

19 RHODE DOLRUS: But they can't afford it.  
20 They can't afford it.

21 SENATOR JACKSON: I guess that's the issue.  
22 tho: That's the struggle.

23 You know, even we -- I talk to other  
24 co-worker like mine, yes, but we see what's going  
25 on. We see how struggle they are.

1           SENATOR JACKSON: That's why we're listening  
2 to testimony, and I asked you a very simple  
3 question, and of course you answered it yes.

4           Who wouldn't want to be paid overtime.

5           RHODE DOLRUS: Yes, but, they cannot afford  
6 it.

7           They cannot.

8           SENATOR JACKSON: Okay. We're looking at all  
9 of those things then.

10          And let me just say that we appreciate your  
11 testimony; your coming up here, giving testimony as  
12 a worker.

13          And I don't know if you came on your own  
14 accord or your employer asked you to come --

15          RHODE DOLRUS: I came on my own.

16          When I hear --

17          SENATOR JACKSON: -- but the bottom line is,  
18 you're here.

19          RHODE DOLRUS: -- when I heard that, I go to  
20 the office. I asked (indiscernible), what's going  
21 on? How you think about it?

22          And then they say, We don't know. What do  
23 you think?

24          They say, "What do you think?"

25          I say, I don't think so, because I want to be

1 able to retire.

2 I want to be able to work the next year after  
3 the next year after the next year.

4 SENATOR RAMOS: What's currently your  
5 retirement plan?

6 RHODE DOLRUS: Oh, when my kids finish on  
7 college, I'm going to go back home, enjoy my  
8 retirement, and then come and visit United States  
9 all the -- you know, most of the time.

10 SENATOR RAMOS: And how -- and your savings  
11 so far towards that ideal life that you would like,  
12 you're on pace?

13 RHODE DOLRUS: Excuse me?

14 SENATOR RAMOS: Are your savings on pace to  
15 be able to provide you with the retirement that  
16 you're seeking?

17 RHODE DOLRUS: Yes.

18 I go to my country every -- after season,  
19 I go to my country every December.

20 SENATOR JACKSON: And you work in  
21 Orange County? Or --

22 RHODE DOLRUS: I work Mead Orchard, Tivoli,  
23 New York.

24 SENATOR JACKSON: And how much are you paid  
25 an hour, if I may ask, if that's not asking too

1 much?

2 RHODE DOLRUS: 13.25.

3 SENATOR METZGER: It's the H-2A wage.

4 SENATOR JACKSON: You're H-2A?

5 RHODE DOLRUS: Yes.

6 SENATOR JACKSON: Okay. So, H-2A, you're  
7 meeting whatever the requirements of the federal  
8 government say that, you know, H-2A workers have.

9 Okay, thank you. I appreciate it.

10 SENATOR RAMOS: You live between  
11 New York City and Tivoli?

12 Where in New York City do you live when you  
13 live there?

14 RHODE DOLRUS: I live in Brooklyn.

15 But my family is in Brooklyn, because I can  
16 get more work up here than Brooklyn.

17 I just come in, and go back and forth  
18 sometime. But, most of the time I stay up here.

19 But I go to visit my family.

20 Like, if it's raining tomorrow, I know they  
21 have no work, I go to the city and see my family.

22 SENATOR JACKSON: Very good.

23 Thank you very much.

24 SENATOR RAMOS: Thank you.

25 SENATOR METZGER: Thank you very much.

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[Applause.]

LESLIE BERLIANT: Next up is Caesar Arenas,  
followed by Douglas Davenport.

And if Sarah Dressel could please come up.

(Ari Mir Pontier now translating Spanish  
to English/English to Spanish on behalf of  
Cesar Arenas.)

CESAR ARENAS: (Speaking Spanish, English  
translation.)

Good afternoon.

My story and my history, is that I am  
Caesar Arenas, originally from Mexico.

(Speaking Spanish, English translation.)

I came to this country 20 years ago with  
goals and aspirations --

(Speaking Spanish, English translation.)

-- like the others that came from our  
countries.

(Speaking Spanish, English translation.)

I am very blessed to be in this great  
nation --

(Speaking Spanish, English translation.)

-- that which gives us the opportunity --

(Speaking Spanish, English translation.)

-- to prosper --

1 (Speaking Spanish, English translation.)

2 -- since, in our country, the labor is scarce  
3 and poorly paid.

4 (Speaking Spanish, English translation.)

5 That is the reason that I am here in front of  
6 you today --

7 (Speaking Spanish, English translation.)

8 -- to express my opinion about the law that  
9 you wish to implement --

10 (Speaking Spanish, English translation.)

11 -- with the goal to help us, which we  
12 appreciate very much.

13 (Speaking Spanish, English translation.)

14 But in the livestock sector, the goal of  
15 eight hours is basically impossible --

16 (Speaking Spanish, English translation.)

17 -- some of which requires more time.

18 (Speaking Spanish, English translation.)

19 We understand that some employers exploit  
20 their workers.

21 (Speaking Spanish, English translation.)

22 During the time that I have worked on the  
23 farm, I can attest to --

24 (Speaking Spanish, English translation.)

25 -- that with 10 hours per day of work --

1 (Speaking Spanish, English translation.)  
2 -- which would be 50 hours a week --  
3 (Speaking Spanish, English translation.)  
4 -- would be enough to sustain our families.  
5 (Speaking Spanish, English translation.)  
6 My family consists of six members --  
7 (Speaking Spanish, English translation.)  
8 -- of which I am the only provider.  
9 (Speaking Spanish, English translation.)  
10 And just like me, there are many families  
11 that find themselves in the same situation --  
12 (Speaking Spanish, English translation.)  
13 -- because, if you implement 40 hours and  
14 overtime pay --  
15 (Speaking Spanish, English translation.)  
16 -- it would be a decision that would affect  
17 the employers.  
18 (Speaking Spanish, English translation.)  
19 They would be forced to invest in  
20 technology --  
21 (Speaking Spanish, English translation.)  
22 -- and the jobs that we now have --  
23 (Speaking Spanish, English translation.)  
24 -- would disappear little by little, and we  
25 would be forced to --

1 (Speaking Spanish, English translation.)  
2 -- to find other sources of employment --  
3 (Speaking Spanish, English translation.)  
4 -- or to move out of the state.  
5 (Speaking Spanish, English translation.)  
6 I have the duty and responsibility --  
7 (Speaking Spanish, English translation.)  
8 -- to hand in this petition --  
9 (Speaking Spanish, English translation.)  
10 -- that have been signed by my co-workers.  
11 (Speaking Spanish, English translation.)  
12 Please analyze the advantages and  
13 disadvantages --  
14 (Speaking Spanish, English translation.)  
15 -- that this law would regulate into  
16 eight hours.  
17 (Speaking Spanish, English translation.)  
18 Ten hours would be sufficient to do a good  
19 job --  
20 (Speaking Spanish, English translation.)  
21 -- and have a healthier life.  
22 (Speaking Spanish, English translation.)  
23 We also ask you to use your conscience to  
24 pass a law --  
25 (Speaking Spanish, English translation.)

1           -- called "Green Light" --  
2           (Speaking Spanish, English translation.)  
3           -- so that, in this state, all immigrants can  
4           have driver's licenses.  
5           (Speaking Spanish, English translation.)  
6           Thank you very much, and God bless you.  
7           SENATOR METZGER: Muchas gracias.  
8           Any questions?  
9           Senator Mayer?  
10          SENATOR MAYER: You work on a dairy farm; is  
11          that correct?  
12          (Speaking Spanish, English translation.)  
13          CESAR ARENAS: Yes.  
14          SENATOR MAYER: And are you year-round, all  
15          year-round? Not seasonal, year-round?  
16          CESAR ARENAS: Uh-huh.  
17          SENATOR MAYER: Right.  
18          And you say in your testimony that if it was  
19          10 hours a week (sic), and then overtime, that would  
20          be okay because you could do the work in 10 hours a  
21          day?  
22          Am I understanding that correctly?  
23          (Speaking Spanish, English translation.)  
24          CESAR ARENAS: It could be just 10 hours and  
25          not extra hours.

1           SENATOR MAYER: Right, that's what I thought  
2           you meant.

3           Okay, thank you very much.

4           SENATOR METZGER: Thank you.

5           [Applause.]

6           LESLIE BERLIANT: Next up is Douglas --

7           Sorry.

8           If you guys could hold your applause, we're  
9           really trying to get through the whole program.

10          Next up is Douglas Davenport, followed by  
11          Sarah Dressel, and Reverend Richard Witt.

12          DOUGLAS DAVENPORT: Good afternoon.

13          SENATOR METZGER: Good afternoon.

14          DOUGLAS DAVENPORT: My name is  
15          Doug Davenport, and I'd like to thank the Senators  
16          for giving me the opportunity today to speak.

17          My brother Bob and I are here to represent  
18          our fifth-generation vegetable farm located in  
19          Hudson Valley.

20          We have a strong connection with our land and  
21          the people who work beside us.

22          We are proud of our 150-year stewardship of  
23          the land and indebted to the labor force that has  
24          enabled us, enabled our farm, to remain viable.

25          We employ 40 H-2A workers.

1           The bulk of our harvest season takes place in  
2           12 to 15 weeks.

3           Our workers come with expectations that there  
4           is enough work on our farm to provide up to a  
5           60-plus-hour workweek.

6           Workers want the options to work seven days a  
7           week.

8           We offer a weekly day of rest, but many  
9           choose to work instead.

10          I broke down our labor costs for 2018.

11          If our farm paid overtime based on a 40-hour  
12          workweek, our payroll costs would increase, from 30,  
13          to 42 percent, of our overall expenses.

14          Average margins in farming are between zero  
15          and 15 percent. Many times these margins dip into  
16          the negative range.

17          If we have a 1 to 2 percent rise in an  
18          expense category, it becomes a major concern, and at  
19          that point my brother and I sit down to figure out  
20          if this cost increase can be offset elsewhere.

21          With this proposed legislation, our labor  
22          costs would increase 12 to 15 percent. Coupled with  
23          the annual rate hike for H-2A workers, this  
24          percentage would -- increase will rise each year.

25          There is no room for negotiation on the

1 revenue side.

2 We cannot come close to absorbing the cost of  
3 this labor increase. We are competing with growers  
4 in Georgia, North Carolina, Florida, Virginia,  
5 New Jersey, Pennsylvania, Ohio, Massachusetts,  
6 Vermont, Michigan, Colorado, California,  
7 Connecticut, and Canada.

8 Many of these states will offer similar  
9 commodities and more competitive prices.

10 This will result in our farm going out of  
11 business in one year.

12 In the last 35 years our farm has endured  
13 floods, droughts, heatwaves, hurricanes, and  
14 tornadoes.

15 The frequency and intensity of these events  
16 has noticeably heightened in the last 10 years.

17 This added burden of climate change directly  
18 increases our labor costs and is an unpredictable  
19 expense.

20 We know that these expenditures will continue  
21 to rise in the future.

22 We appreciate land-preservation organizations  
23 that protect farmland, but this proposed legislation  
24 will spike labor costs so high that it will reduce  
25 the overall number of farms in New York State.

1           As a result, there will be open land with no  
2           one to farm it.

3           This proposed legislation impact does not  
4           just affect our farm. It's about the economic  
5           prosperity of rural communities across New York  
6           State.

7           Operational farms allow New York State  
8           residents to fully interact with the land by  
9           visiting local farm markets, you-pick operations,  
10          and farm-to-table experiences.

11          New York State residents reap many health and  
12          recreational benefits.

13          I urge lawmakers to sit down with  
14          professionals who run farms, dairies, and other  
15          agribusinesses, along with their employees, and  
16          reevaluate the components that set farmers apart  
17          from other industries where an 8-hour day, 40-hour  
18          workweek, is the norm.

19          Let's further collaborate and draft a bill  
20          that would be fair to all parties involved.

21          In conclusion:

22          Farms work -- farmer -- farms require work  
23          hours outside the normal business day and workweek.

24          The failure to modify this proposed  
25          legislation to align itself with the reality of the

1 day-to-day farming will permanently change the  
2 landscape of New York State agriculture.

3 New York farms that produce enough fresh  
4 produce and other farm products to supply local  
5 retail markets, wholesale markets like Hunts Point,  
6 and the green markets in New York City will be gone.

7 This legislation creates an impenetrable  
8 barrier for those entering the agricultural industry  
9 within our state.

10 First-generation farmers will choose to start  
11 their operations outside of New York.

12 There will be too much to lose and nothing to  
13 gain.

14 Thank you.

15 SENATOR METZGER: Thanks so much.

16 And, questions?

17 Okay.

18 We appreciate your testimony.

19 Thank you.

20 DOUGLAS DAVENPORT: Thanks.

21 LESLIE BERLIANT: Next is Sarah Dressel.

22 If Reverend Richard Witt and Roberto Herrera  
23 could come up as well.

24 SARAH DRESSEL-NICHOLS: Good afternoon.

25 Good to see you again, Senator Metzger.

1           She was out at our place about a month ago,  
2           taking a walk around to see, in the mud.

3           It was really fun.

4           My name is Sarah Dressel-Nichols, and my  
5           family owns and operates Dressel Farms in New Paltz.

6           We grow approximately 350 acres of apples,  
7           along with about 5 acres of strawberries, some  
8           peaches, and other fruits.

9           The majority of our operation is wholesale  
10          apples that make their way into grocery stores  
11          around the country, but we also have a retail  
12          operation open, virtually, year-round so we can  
13          interact with our community face-to-face.

14          We employ, roughly, 30 people year-round, and  
15          add another 20 or so via the H-2A program each fall,  
16          depending on how plentiful the harvest is.

17          Most of those people that we hire are  
18          families. We do have several families that  
19          live (sic) for us, and I can name all 20 children  
20          that live on the farm -- well, 19. There's one  
21          that's new, and I'm not positive on his name yet.

22          But I can name 19 out of the 20 children that  
23          live on our farm.

24          This is an incredibly busy time for farmers.

25          Fruit growers have a lot of disease pressure,

1       courtesy of all the rain.

2               We're trying to get new orchards planted and  
3       established.

4               Greenhouse growers are looking at  
5       Mother's Day coming up, and trying to get plants  
6       into stores as quickly as they can.

7               Folks with livestock never stop caring for  
8       their animals and are always busy.

9               Sorry, guys.

10              The fact that these hearings have been filled  
11       with farmers and farmworkers should show you just  
12       how impactful this bill would be to all of us,  
13       because we have a lot better things to do.

14              But, this is the most important thing to be  
15       doing.

16              This bill, as it's written, would put most of  
17       us out of work, and that means, by default, that all  
18       of our employees would also be out of work, because  
19       agriculture is not your usual 9-to-5.

20              We're at the mercy of the weather and really  
21       do have to make hay when the sun shines.

22              For example, earlier this week we had a frost  
23       advisory.

24              With blossoms just starting to pop, that  
25       means that we needed to think about using our wind

1 machines in the cooler orchard spots to protect the  
2 apple blossoms that were just starting to begin.

3 My father, and my grandfather, who is 83,  
4 spent all day on Sunday in the rain, getting the  
5 wind machines ready and trying to get them as  
6 prepared as we possibly could.

7 At midnight my mother woke my father up  
8 because we were quickly approaching the freezing  
9 mark.

10 And once you dip below 32, anything below 27  
11 is catastrophic.

12 So the two of them went out and found that  
13 one of the propane tanks was empty, and there was a  
14 snafu with one of the other engines. And it took  
15 them four hours in the cold, wet, to get them up and  
16 running, so then they could go back home just before  
17 5 a.m.

18 My grandfather went back out at six to turn  
19 them off when we had, you know, exceeded 33 degrees.

20 By 7:30 both my parents were back at work.

21 Dad was in the sprayer, mom was in the office  
22 doing payroll and other such things.

23 My dad and I were at work until seven that  
24 night.

25 My point is, that Mother Nature really is the

1 one calling the shots, and we don't have much of a  
2 say in what she does.

3 We just have to find ways to work with her.

4 We cannot help the fact that one workday is  
5 longer than the next, so punishing us with an  
6 8-hour day overtime is unrealistic.

7 Even a 40-hour workweek is heavily  
8 restrictive for overtime.

9 We're done packing and shipping our apples,  
10 which means that our weekly influx of checks from  
11 our distributor are just about over, but our bills  
12 don't stop.

13 We have spray bills.

14 We have to pay the electric for the housing  
15 for those 30 employees and their 20 children.

16 We have general upkeep of the orchard.

17 We still have to payroll.

18 We are on a tight budget, and if we had to  
19 make a 40-hour overtime right now, we would be  
20 forced to cap our employees at 38 hours just to be  
21 safe.

22 But what happens, if, like what happened this  
23 morning?

24 When I left this morning, my grandfather and  
25 one of our senior managers were working at digging

1 up a septic tank because someone in the seasonal  
2 housing had clearly been dumping grease down their  
3 kitchen drain all season, and it finally congealed  
4 enough to block some septic for some of the  
5 year-round employees.

6 We need his help.

7 My 83-year-old grandfather cannot dig up a  
8 septic tank by himself.

9 But, if we had to pay our senior manager,  
10 who's been there for over 25 years, to do that  
11 overtime, we would be in dire straits.

12 There's no -- I'm sorry.

13 Right now, with just the payroll we have  
14 right now, this bill would cost us over \$800,000,  
15 because there is a way to calculate what the  
16 overtime would cost.

17 We would have extra workmen's (sic) comp, we  
18 would have extra insurance, we would everything to  
19 pay for, and we probably wouldn't be able to afford  
20 to bring up the H-2A employees that we normally do.

21 I'm the fourth-generation on my family farm.

22 I graduated from Cornell 2011 with a degree  
23 in agricultural sciences.

24 I'm the chair of the New York Apple  
25 Association, the chair of the New York Farm Bureau

1 Labor Committee. I sit on the board of directors  
2 for the Hudson Valley Research Lab, and I'm the  
3 secretary of my county farm bureau.

4 We all own family businesses, because most of  
5 New York farms are family-owned and operated, for  
6 now.

7 As this bill stands, we will either be  
8 eliminated or we will have to create those so-called  
9 "corporate farms" that people so greatly fear.

10 Either way, this could be the demise of the  
11 New York family farm, and with it, the upstate  
12 economy.

13 I would like to conclude with a quote from  
14 President Dwight Eisenhower from 1956.

15 "Farming looks mighty easy when your plow is  
16 a pencil and you're a thousand miles away from the  
17 cornfield."

18 Thank you.

19 SENATOR METZGER: Thank you very much.

20 Questions?

21 SENATOR RAMOS: Thank you.

22 Thanks so much.

23 [Applause.]

24 LESLIE BERLIANT: Next is

25 Reverend Richard Witt, followed by Roberto Herrera.

1                   And if Beatrice Stern could please come up.

2                   REVEREND RICHARD WITT: Senators, thank you  
3 for this the opportunity to speak before you today.

4                   My name is Richard Witt, and I am an  
5 Episcopal priest, and I have served as executive  
6 director of Rural Migrant Ministries since 1991.

7                   The ministry is an upstate organization that  
8 works with hundreds of farmworkers and their  
9 families.

10                  The task of the New York State Senate in  
11 deciding the future of the Farmworker (sic) Fair  
12 Labor Practices Act is not an easy one, but the path  
13 before you is clear.

14                  The children, women, and men who labor on our  
15 farms have the inherent and unalienable right to  
16 equality.

17                  Every generation before us has found a way to  
18 deny these basic human rights, utilizing an array of  
19 justifications.

20                  At first glance, the roots of this injustice  
21 can be found in historic racism, as we have heard  
22 through many testimonies.

23                  The basis of opposition for the equal  
24 treatment of farmworkers, however, has been and  
25 continues to be economic.

1           We have built an agricultural system in this  
2 state that depends upon the use of subjugated labor.

3           Many of us recoil at such a description, as  
4 it offends our sense of propriety and our sense of  
5 self, and yet here are the facts:

6           We have written into law in New York State  
7 that farmworkers shall be exempted from the rights  
8 afforded others;

9           And, two, almost all farmworkers in New York  
10 are brown-skinned and poor.

11           To protect their interests throughout our  
12 history, and even today, farmers have had greater  
13 access to our ear.

14           We go to church with them.

15           They sit on our town boards.

16           They speak our language and share our mores.

17           We run into them in our CSAs and our farmers'  
18 markets.

19           Their voices are magnified through the  
20 powerful Farm Bureau and Cornell's College of  
21 Agriculture and Cooperative Extension, and countless  
22 other organizations.

23           I have listened to the voices of the farmers  
24 throughout these hearings and they appear to be good  
25 people.

1           I can't imagine a bad person would come and  
2           testify, though one farmer who did testify had in  
3           their employ people who were convicted of  
4           enslavement of workers.

5           Tragically, the voices of the workers are not  
6           a part of the fabric of our communities, nor part of  
7           our consciousness.

8           Many are temporarily residing in our  
9           communities, many don't speak the same language,  
10          they don't know our community, or find that they are  
11          not welcome, except to work.

12          They work long hours, so they can't  
13          participate in town meetings, school functions, and  
14          community dinners.

15          By and large, they have not been able to be  
16          present and testify at these hearings, save for  
17          those who have been dragged in by their bosses.

18          Thus, when we are faced with making decisions  
19          about their well-being, their future, and their  
20          livelihood, as you are, Senators, it becomes all the  
21          more easy to hear only one side of the discussion.

22          That one side would have you focus on the  
23          personal plight of farmers, and ignore the historic  
24          and systemic and personal plight of the thousands of  
25          men, women, and children who farmwork.

1           That one side would tell you there is only  
2 one way to work things out, and that is not to pass  
3 this bill.

4           That one side would have the audacity to  
5 speak for the workers and tell you that the workers  
6 will suffer if there is justice.

7           These hearings appear to come down to a  
8 simple and personable argument laid out by the  
9 farmers and the agricultural industry: We cannot  
10 afford to have a just system.

11           To accept the belief that we cannot afford to  
12 give farmworkers equal treatment under law is also  
13 to say that the agricultural industry has a  
14 different moral agency which allows it to claim  
15 different relationships to workers than the rest of  
16 New York.

17           What gives the industry this moral  
18 difference?

19           Are farmers different than the family who  
20 owns the local diner, or the ones who own the corner  
21 market, or the family who runs the ag-and-feed  
22 store, all of whom I'm sure would welcome the  
23 opportunity to be excluded from having to pay  
24 overtime and disability insurance.

25           Senators, you have arrived at a point in

1 history that rests on the legacy of shame.

2 You have the power to change the arc of  
3 history and create a harvest of hope.

4 I urge you to pass the Farmworker (sic) Fair  
5 Labor Practices Act.

6 [Applause.]

7 SENATOR METZGER: Thank you.

8 LESLIE BERLIANT: Next is Roberto Herrera.

9 And if Beatrice Stern and Shannon Kelly could  
10 please both come up to the stage.

11 (Ari Mir Pontier now translating Spanish to  
12 English/English to Spanish on behalf of  
13 Roberto Herrera.)

14 ROBERTO HERRERA: (Speaking Spanish, English  
15 translation.)

16 Good afternoon.

17 (Speaking Spanish, English translation.)

18 I appreciate the opportunity to be here.

19 I'm an H-2A employee.

20 (Speaking Spanish, English translation.)

21 I am a farmworker that maintain vegetables so  
22 that others can enjoy them.

23 (Speaking Spanish, English translation.)

24 I'm very happy to work for the company that  
25 I work for now.

1 (Speaking Spanish, English translation.)  
2 My employer and my co-workers are a great  
3 team.  
4 (Speaking Spanish, English translation.)  
5 I came here to share my opinion about the law  
6 that you wish to implement.  
7 (Speaking Spanish, English translation.)  
8 For me, it would be like cutting off my  
9 hands.  
10 (Speaking Spanish, English translation.)  
11 Because I explain to you --  
12 (Speaking Spanish, English translation.)  
13 -- if we work 40 hours and our boss has to  
14 pay overtime --  
15 (Speaking Spanish, English translation.)  
16 -- he would need to find other workers to  
17 keep up with the work.  
18 (Speaking Spanish, English translation.)  
19 They would remove my hours and the money that  
20 I need for my family in Mexico.  
21 (Speaking Spanish, English translation.)  
22 If this legislation is passed --  
23 (Speaking Spanish, English translation.)  
24 -- I would have to find another form of work  
25 in another state.

1 (Speaking Spanish, English translation.)  
2 I feel very happy with my employer.  
3 (Speaking Spanish, English translation.)  
4 They give us a beautiful home.  
5 (Speaking Spanish, English translation.)  
6 They provide transportation so that we can go  
7 to the store to buy what we need.  
8 (Speaking Spanish, English translation.)  
9 Would simply like to beg you --  
10 (Speaking Spanish, English translation.)  
11 -- that you analyze this possibility --  
12 (Speaking Spanish, English translation.)  
13 -- because those affected would be us as  
14 employees.  
15 (Speaking Spanish, English translation.)  
16 That is all.  
17 Thank you very much, and think about it.  
18 [Applause.]  
19 SENATOR METZGER: Gracias.  
20 LESLIE BERLIANT: Next up is Beatrice Stern,  
21 followed by Shannon Kelly.  
22 And if Jesus Lorenzo Robles could please come  
23 up.  
24 BEATRICE STERN: Hi, my name is  
25 Beatrice Stern.

1 Thank you for this opportunity.

2 I live in Orange County, New York, where my  
3 grandfather was a dairy farmer.

4 Please note that I'm testifying today as an  
5 individual; however, it is through my work that I've  
6 learned about agriculture and food-system change  
7 over the last several years.

8 I'm president of a private family foundation,  
9 and one of our areas of interest has to do with land  
10 rights, food sovereignty, and food-system change,  
11 and we've supported numerous local, national, and  
12 international groups who are working in this area.

13 In 2014 I became deeply involved in the  
14 founding of the Chester Agricultural Center in  
15 Orange County, an organization set up to provide  
16 affordable access to "Black Dirt" farmland for  
17 beginning organic farmers.

18 In addition, our mission is to increase  
19 diversity among farming, and create opportunities  
20 for underrepresented groups to enter the farming  
21 business.

22 We are now beginning our fifth growing  
23 season, and I've learned an enormous amount from our  
24 farmers and partners about issues facing small  
25 farmers in Orange County and throughout the

1 Hudson Valley.

2 In addition, through this work, I've been  
3 part of many meetings, national and local, having --  
4 and organizations that have to do with farming.

5 So suffice it to say, that I'm an advocate  
6 for farming, particularly for small farms, and  
7 building strong local food systems.

8 And that is why I am testifying today in  
9 support of the Farmworker (sic) Fair Labor Practices  
10 Act.

11 For many reasons, we should all be working  
12 toward building a robust, resilient, and equitable  
13 local food system in New York.

14 As we look toward how to best address climate  
15 change, small farms, regenerative practices, and  
16 local markets are the best way to overcome  
17 environmental damage from industrial agriculture.

18 Many farms in New York are small and are  
19 using sustainable practices that are good for soil,  
20 water, and health.

21 So how is it that so many of us in New York  
22 cannot afford fresh, healthy food?

23 And how is it that farmers, particularly  
24 small farmers, are in such a precarious financial  
25 situation that they see this bill as a threat to

1 their livelihoods?

2 And how is it that we have somehow normalized  
3 a system that excludes farmworkers from fundamental  
4 labor protection under the law?

5 And how is it that racial diversity that  
6 exists in our farming system is so often overlooked,  
7 and I would say, very much linked to the fact that  
8 our farm labor is excluded from protection under the  
9 law, and really becomes an invisible but completely,  
10 you know, very important part of the system?

11 So, obviously, we have a broken system, and  
12 there is much work to be done.

13 That being said, I'm really -- it's painful  
14 to hear over and over again that farmers will go  
15 under if this bill is passed.

16 Farmers are in a very precarious situation,  
17 but the system must truly be broken if farmers  
18 themselves are scared of providing their  
19 farmworkers, who are the backbone of our  
20 agricultural system, these basic protections under  
21 the law.

22 In my opinion, nothing will improve for  
23 farmers, or certainly farmworkers, or even  
24 consumers, if this bill does not pass.

25 Year after year, farmworkers have borne the

1       burden of helping sustain, even subsidizing, this  
2       broken system.

3               And every year there is an outcry against  
4       this bill perpetuating the same system.

5               Nothing is changing.

6               Farmers are, for the most part, an invisible  
7       part of our food system. The reasons behind this  
8       are complex, but their exclusion from normal  
9       protection under New York law is a factor keeping  
10      farm laborers apart and out of the system, and  
11      promotes the paternalistic relationships that we see  
12      on so many farms where farmworkers are dependent on  
13      the beneficence of farm owners.

14              This is not right and it's not sustainable.

15              In order to change the food system for the  
16      better, we need to understand how agriculture really  
17      works and who is growing our food.

18              We cannot make things better for our farm  
19      owners by continuing to exclude farmworkers from  
20      labor laws. They deserve equal protection under the  
21      law.

22              Passing this act, I believe, is a necessary  
23      first step in creating a more equitable food system  
24      for everyone in this state.

25              I think you've probably seen throughout the

1 hearing process that farmers are pretty good  
2 advocates.

3           Wouldn't it be great to let farmers advocate  
4 for the support they really need to thrive, instead  
5 of having to focus, year after year, thinking that  
6 blocking this bill will help keep them solvent for  
7 one more season.

8           Let's create the conditions for real change  
9 in our food system by passing this law.

10           [Applause.]

11           SENATOR METZGER: Thank you very much.

12           LESLIE BERLIANT: Shannon Kelly, followed by  
13 Jesus Lorenzo Robles.

14           And if Morse Pitts could please come up.

15           SHANNON KELLY: Good evening, and thank you  
16 for the opportunity to testify on this important  
17 legislative issue facing our state.

18           My name is Shannon Kelly, and I'm the chief  
19 operating officer for Catholic Charities of Orange,  
20 Sullivan, and Ulster.

21           As one of the human-service agencies of  
22 Catholic Charities of the Arch Diocese of New York,  
23 our agency is committed to building a compassionate  
24 and just society.

25           Catholic Charities of Orange, Sullivan, and

1 Ulster serves the homeless, hungry, those with  
2 emotional and physical disabilities, as well as  
3 immigrants, marginalized and vulnerable, of the  
4 tri-county region.

5 Last year we served more than  
6 42,000 individuals regardless of race, religion,  
7 or the ability to pay.

8 I speak today on behalf of our regional  
9 agency, as well as for Catholic Charities agencies  
10 across New York State, and in solidarity with the  
11 New York State Catholic Conference which represents  
12 the Catholic bishops of New York State.

13 Catholic Charities and the Catholic  
14 Conference have been advocating for the passage of  
15 the Farmworkers Fair Labor Practices Act for more  
16 than two decades.

17 At the same time, the church has been working  
18 on the ground to meet the spiritual, material, needs  
19 of farmworkers and their families, through Catholic  
20 Charities, Catholic parishes, and individual clergy,  
21 religious and lay.

22 It is through this lens that I deliver my  
23 remarks today.

24 Let me begin by making one thing clear:  
25 Support for basic rights for farmworkers is not

1 anti-farmer, at least it need not be.

2 Our organization serves farm families and  
3 farmworkers alike.

4 We are in this community, and we are well  
5 aware of the unique nature of farming, and the  
6 challenges facing farmers from the uncontrollable  
7 weather factors, to the pressures of modern economy,  
8 injuries, the high cost of maintenance, distribution  
9 of perishable product, and competition from foreign  
10 markets.

11 We need our family farms for our local  
12 economy, and for our very subsistence.

13 But at the same time, just as farming has  
14 evolved technologically, it must also evolve to a  
15 twenty-first-century understanding of fair working  
16 conditions for farmworkers.

17 We must ensure that farmworkers are treated  
18 humanely and with dignity.

19 I think we've heard from a lot of farms today  
20 that do that.

21 And in the same way, we work to ensure that  
22 other workers of our state are treated.

23 This is not about putting farmworkers ahead  
24 of farms. You can't support the farmworker without  
25 supporting the farms, and vice versa. Both need and

1 depend on the other.

2 Justice and human dignity demand, however,  
3 that changes come to the industry in terms of worker  
4 treatment.

5 It is important to remember that farmworkers  
6 do not seek special rights. They seek only the same  
7 rights guaranteed to workers in every other sector:  
8 the right to overtime pay, the right to a day of  
9 rest a week, the right to worker compensation, the  
10 right to sanitary housing conditions, and the right  
11 to collectively bargain.

12 We hear and appreciate the concerns of those  
13 who argue that providing fair treatment to this  
14 population will raise prices for consumers, but can  
15 we truly make the -- we can truly make the same case  
16 about any other sector of the workforce, and we do  
17 not allow that from stopping us to doing what is  
18 right.

19 If New York is truly the progressive state  
20 that we say we are, how do we justify this continued  
21 unfair playing field?

22 We can't -- we have an opportunity, we must  
23 grab the chance, and not let it slip away yet again.

24 I hope and pray that the Legislature will  
25 work collaboratively with farmworkers and family

1 farms to create meaningful reform this year, one  
2 that recognizes the unique contributions of our  
3 farmers and the human dignity of our farmworkers.

4 Thank you again for the opportunity to speak.

5 SENATOR METZGER: Thanks so much, Shannon.

6 LESLIE BERLIANT: Next up is

7 Jesus Lorenzo Robles.

8 (Ari Mir Pontier now translating Spanish  
9 to English/English to Spanish on behalf of  
10 Jesus Lorenzo Robles.)

11 JESUS LORENZO ROBLES: (Speaking Spanish,  
12 English translation.)

13 My name is Jesus Lorenzo Robles.

14 I work at Gade Ranch for 12 years.

15 I like this ranch.

16 I have great friends.

17 (Speaking Spanish, English translation.)

18 They give us a house. We have privacy. We  
19 have a kitchen and a living room.

20 (Speaking Spanish.)

21 ARI MIR PONTIER: He talks a lot faster than  
22 me.

23 I'm sorry.

24 (Speaking Spanish.)

25 SENATOR METZGER: It's late in the day.

1           (Speaking Spanish, English translation.)  
2           I live with three men from my town and we get  
3 along very well.  
4           (Speaking Spanish, English translation.)  
5           My American employers appreciate us and we  
6 get along well.  
7           (Speaking Spanish, English translation.)  
8           We come for 7 to 8 months to work and, with  
9 40 hours, it would not be enough.  
10          (Speaking Spanish, English translation.)  
11          They give us cable.  
12          We have our own room.  
13          (Speaking Spanish, English translation.)  
14          They don't treat us badly, and they take us  
15 where we need to go.  
16          (Speaking Spanish, English translation.)  
17          For me, it would be very sad to leave the  
18 ranch if they don't give me more than 40 hours.  
19          (Speaking Spanish, English translation.)  
20          We regularly work 50 to 70 hours every week,  
21 so it would not be good.  
22          (Speaking Spanish, English translation.)  
23          I'm one of those that came here to work, and  
24 we're good people, and we just want to make money  
25 for our families.

1 (Speaking Spanish, English translation.)

2 And I am opposed to this.

3 Gracias.

4 (Senator Ramos and Mr. Robles converse in  
5 Spanish, with no English translation.)

6 SENATOR RAMOS: Gracias.

7 SENATOR METZGER: Gracias.

8 [Applause.]

9 LESLIE BERLIANT: And our last speaker is  
10 Morse Pitts.

11 SENATOR RAMOS: But not least.

12 MORSE PITTS: We shall see.

13 So I got to listen to this whole thing, so  
14 I'm going to try to answer a couple of questions  
15 that I've been jumping out of my seat, trying to  
16 say, "isn't that obvious?"

17 Because one of the big questions was, how do  
18 you operate as a loss?

19 And my answer is, it's a farm.

20 You know, that's the definition.

21 How can you not know that farms operate at a  
22 loss?

23 And I want to start -- I'll try to be quick,  
24 but, to say -- there was also a question, what can  
25 we actually do to help farms?

1           I want to tell you what you've actually done  
2           for mine.

3           Between New York State and a whole bunch of  
4           other organizations, American Farmland Trust, seeing  
5           the cuts in Orange County land trust, equity trust,  
6           and GrowNYC, I get to keep my farm for as long as  
7           I can because you helped preserve it.

8           But, I'm one of 100 farms that needs this  
9           help.

10          That's what you've already done to help.

11          Please do 100 times more of it, then you  
12          might get to keep farms.

13          But the second thing that allow a farm to  
14          operate at a loss, is farms work -- farmers work  
15          infinite hours for no pay.

16          And I'm getting old, and there's this thing  
17          called "law of diminishing returns."

18          I can't keep doing this.

19          I'm trying to pass my farm on to the people  
20          that work there, and to new farmers.

21          But as they realize this means no more wage,  
22          but lots of debt and risk and liability, and endless  
23          paperwork, taxes, and insurance, they go, Oh, we  
24          can't do this right away.

25          Please don't pass this law.

1           It's just another nail in the coffin of being  
2           able to employ people on a farm.

3           My farm is preserved. I can work there the  
4           rest of my life and be happy.

5           But I can't employ people, paying them more  
6           than the farm can produce.

7           I tried to scratch out most of the things  
8           I wanted to say because I know this is a long day  
9           and we're at the end time.

10          But something else you could do, is if you  
11          can find a way to regulate imported food into  
12          New York more than you regulate food grown in  
13          New York, it would be fantastic.

14          It's just, like, it's cheaper to grow apples  
15          in China.

16          And New York State apple farmers, a lot of  
17          whom are my friends -- and I just want to say one  
18          thing.

19          One of my friends who testified here didn't  
20          say, when she started when her farm, she and her  
21          husband felt, like, farmworkers get 5 cents a bushel  
22          to pick apples. That's ridiculous. We're going to  
23          pay them 50 cents a bushel.

24          At the end of their first season, they were  
25          deep in debt, and went, Oh, my God. That's why

1 they're only paid 5 cents a bushel.

2 And two more little quick things:

3 Farm labor is not unskilled labor.

4 If you can find somebody that can do this  
5 work on your farm, you pay them as much as you  
6 possibly can to try to keep them there.

7 And that's something else about farms people  
8 don't understand.

9 And the last thing I decided I needed to say  
10 is, this law would be great if it provided a minimum  
11 wage for farmers as well as farmworkers.

12 If you can find a way to do that, I'm on  
13 board, the people that work on my farm are on board;  
14 we're all on board.

15 But just forcing the farmer to pay more money  
16 and not be able to farm is not a solution.

17 And thanks very much for listening.

18 SENATOR METZGER: Thank you.

19 MORSE PITTS: And aren't you glad I'm the  
20 last one?

21 [Laughter.]

22 [Applause.]

23 SENATOR METZGER: Thank you very much.

24 So I just want to thank all of you for coming  
25 and staying this afternoon.

1 I really, really, want to express my deep  
2 appreciation to the farmers and the farmworkers who  
3 came here.

4 You know, a number of the farms that --  
5 farmers that testified today, you know, they're  
6 families -- farm families from my neck of the woods,  
7 that I've been -- you know, I've been a parent along  
8 with them. Our kids go to school together.

9 I eat their food. I go to their farm stands.

10 And now I'm representing a much larger  
11 community of farmers, the entire state of New York.

12 But I wanted to be the chair of the  
13 Agriculture Committee because I know how important  
14 farming is to my community.

15 I know how important it is to strong --  
16 keeping, create -- making sure we have strong  
17 communities in rural New York.

18 I'm a lifelong environmentalist, and I know  
19 how important it is for us to keep a small -- a  
20 diverse farming economy in New York, and an economy  
21 in which we can feed ourselves.

22 I'm also a lifelong fighter for workers'  
23 rights.

24 And, you know, it's this -- it's not -- the  
25 world -- this is not a black-and-white situation.

1 You know, it's a very nuanced situation.

2 And these hearings have been -- you know,  
3 have been exactly what I wanted them to be, which  
4 was -- which was, you know, to really hear from  
5 everyone, just, the challenges that people face,  
6 everyone, on a daily basis; the opportunities we  
7 have, so that we can all work together,  
8 collaboratively, with all the information we need on  
9 this legislation.

10 I want to express some real gratitude to my  
11 colleague Senator Ramos for holding these hearings  
12 with me, and for -- she's been going out and  
13 meeting, going to visit farms.

14 And even though she's from the city, she's  
15 been getting out there and doing the work that you  
16 have to do when you're considering this kind of  
17 legislation.

18 We also -- I want to thank Senator Mayer and  
19 our other Senators.

20 We had a great turnout, actually, for this  
21 hearing.

22 It's hard at this time of year for  
23 legislators to make this kind of time, because  
24 they're -- they have face-competing demands.

25 So, I really appreciate that.

1           And, thank you for being here.

2           I don't know if, Senator Ramos, if you would  
3 like to say a few words.

4           SENATOR RAMOS: Sure, very quickly.

5           I, of course, also want to thank everyone who  
6 testified, and even those who attended but didn't  
7 testify, for participating in our hearing, for  
8 hearing everybody else out.

9           I can tell you that your testimonies will be  
10 taken into consideration as we move the bill  
11 forward.

12           I appreciate the stories of the farmers and  
13 how hard you work.

14           I've often shared that I do come from a  
15 farming family.

16           My parents are from Colombia in  
17 South America, where my mom's parents and my mom's  
18 siblings and many of my cousins still farm coffee to  
19 this day, and we raise pigs and chickens and all  
20 sorts of things.

21           And so that was a big part of my childhood  
22 during summer vacation.

23           And it was there that I began to have an  
24 interest in where our food comes from, and why, and  
25 what that ecosystem actually looks like.

1           So, as the Senate Labor Chair, it's quite an  
2 honor to carry this bill.

3           I look forward to working with everyone to  
4 ensure its passage in a way, again, that is fiscally  
5 prudent.

6           Everyone who comes to testify in the past  
7 three hearings are, of course, excellent employers  
8 by their own volition.

9           And all we're looking to do is to ensure that  
10 these rights are codified in a way that it is law,  
11 so that there is no confusion as to how a farmworker  
12 deserves to be treated in the state of New York.

13           Thank you.

14           [Applause.]

15           SENATOR METZGER: Thank you.

16           And I just want to, if anyone in the audience  
17 didn't get a chance to speak, but wants to give  
18 testimony -- written testimony, we're accepting  
19 testimony until end of day tomorrow.

20           Thank you.

21           (Whereupon, at approximately 4:03 p.m.,  
22 the joint committee public hearing concluded, and  
23 adjourned.)

24  
25           ---oOo---