

NEW YORK
STATE
SENATE
ALBANY, NEW YORK 12247



December 28, 2021

Mr. David Fisher
New York Farm Bureau
159 Wolf Road, Suite 300
Albany, NY 12205

Mr. Denis Hughes
c/o Commissioner Roberta Reardon
NYS Department of Labor
Building 12
W.A. Harriman Campus
Albany, NY 12240

Ms. Brenda McDuffie
Buffalo Urban League
15 Genesee Street
Buffalo, NY 14203

Dear Farm Laborers Wage Board Members:

As the Farm Laborers Wage Board reconvenes to consider the existing overtime work threshold for farm laborers, we write to urge you to save the future of farming in New York State by rejecting any reduction of the overtime threshold beyond the current 60 hours established in the Farm Laborer Fair Labor Practices Act (FLFLPA) of 2019.

As you know, on December 31, 2020, you elected to keep the overtime threshold at 60 hours for another year, in recognition of the disruptions in agriculture caused by the COVID-19 pandemic. We believe that was the right decision, but this issue is now once again front and center. Unfortunately, the pandemic also continues to be front and center as government restrictions have been imposed again and supply-chain issues, especially in agriculture, are still significant.

The FLFLPA has hurt the very people it was intended to help - farm workers - by restricting the number of hours they can work, which has meant smaller paychecks. Most family farms, 96 percent of all New York farms, cannot afford to pay time and a half, forcing them to curtail workers' hours to stay within the limit. At a time when we have already seen many businesses leave New York, and family farms forced to shut down, a further reduction would cause further

damage, more farms going out of business, and would force farmworkers to seek seasonal work opportunities in other states without such restrictions.

The long lasting effects of the FLFPA are not just seen and heard through anecdotal stories we hear when we visit farms in our districts, but are supported by a recent state-funded report issued by researchers at Cornell University. The study found that if the overtime threshold was lowered to 40 hours, two-thirds of dairy farmers would make significant changes to their operation, including leaving the industry or investing out of state, and half of fruit and vegetable farmers indicated they would decrease their operations or exit the industry. This information should not come as a shock to the Board as this is what was exactly described by farm managers during public hearings last year. The same survey found that approximately 70 percent of H-2A workers indicated they would be less likely to do their current job or would consider going to another state without capped hours if they were capped at 40 per week.

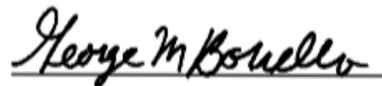
In response to the concerns of farmers and workers, the Senate Republican Conference has advanced legislation that would allow for more time to collect data on the 2019 law, which would provide a truer picture of the impact on farms. Senate Bill 2690-A would extend to December 31, 2024, the deadline for the Wage Board to submit its recommendation to the Labor Commissioner on lowering the threshold. The measure would also require the board to consider common-sense factors in its decision-making, including the farm wage and overtime rates in neighboring states and the supply and demand for workers. We will be calling on the Senate and Assembly Majorities to immediately take up this legislation when the Legislature returns in 2022. If the pandemic was the rationale for delaying a decision in 2020, it must be consistently applied in 2021.

Thank you in advance for your consideration of this urgent request and please do not hesitate to contact us should you wish to discuss further.

Sincerely,



Minority Leader Robert G. Ort
Senate District 62



Senator George M. Borrello
Senate District 57



Senator Pamela Helming
Senate District 54



Senator Mike Martucci
Senate District 42



Senator Patty Ritchie
Senate District 48



Senator Daniel G. Stec
Senate District 45



Senator Patrick M. Gallivan
Senate District 59



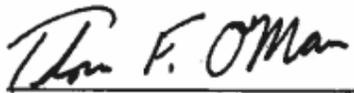
Senator Sue Serino
Senate District 41



Senator Akshar
Senate District 52



Senator Anthony H. Palumbo
Senate District 1



Senator Thomas F. O'Mara
Senate District 58



Senator Alexis Weik
Senate District 3



Senator Daphne Jordan
Senate District 43

CC: Governor Kathy Hochul
Commissioner Roberta Reardon