

Colorado farmworkers deserve equal rights on overtime pay

Lawmakers should expand—not further limit—farmworkers’ eligibility for overtime pay

Statement • By [Daniel Costa](#) • April 8, 2026

Colorado's legislative proposal in SB 26-121 which has passed the State Senate and is being considered by the House, would modify the current overtime threshold for farmworkers in the state, increasing it to 56 hours year-round, from the current 56 hours during the 22 weeks that are determined to be peak season and 48 hours during the non-peak season.

Summary

Roughly 30,000 farmworkers in Colorado, including 4,400 migrant workers recruited by Colorado employers through the H-2A visa program, are treated unfairly under federal and state law. While Colorado took an important step when the state's overtime law was reformed to make farmworkers eligible—acknowledging the racist policy enshrined in the federal Fair Labor Standards Act that excluded farmworkers from overtime pay—the law nevertheless continues to treat farmworkers unfairly with limited overtime protections compared to those provided to other workers in Colorado.

Farmworkers are some of the lowest-paid employees in the entire U.S. labor market and suffer from high rates of occupational injuries and death. As discussed in this commentary, growth in farmworkers' very low wages has tracked very similarly to wage growth of other low-wage workers in recent decades. Yet farmworkers must work dramatically more hours than workers out side of agriculture before they can receive any premium for working long hours. There is no economic justification for this unequal treatment. Further evidence for this is the fact that according to the U.S. Department of Agriculture (USDA), labor costs as a share of farm income have not increased in two decades.¹

This commentary explains and shows that:

- Overtime pay for farmworkers increases productivity and protects employees from being overworked.
- Farmworkers nationwide earned some of the lowest wage rates in the entire U.S. labor market and only three-fifths of what non-farm workers earn.
- Farmworkers in Colorado earn very low wages—half the average wage earned by all workers in Colorado.
- Wage growth over the past 20 years for farmworkers nationwide has been almost identical to wage growth for other low-wage workers outside of agriculture.
- Real wage growth for farmworkers in Colorado has averaged only 1.5% per year between 2010 and 2024.
- The number of Colorado farms has increased significantly over the past 15 years, suggesting a successful and growing industry in the state.
- California overtime pay standards cover more farmworkers than in Colorado, and outcomes there have shown that providing farmworkers with overtime pay protections on par with those applicable to workers outside of agriculture can be achieved without negatively impacting the farm industry.

If SB 26-121 becomes law, the resulting overtime threshold would further degrade standards for some of the lowest-paid and most vulnerable workers in the U.S. labor market, without improving productivity or benefitting the state's economy. Farmworkers deserve better: they deserve equal rights and equal pay. While there is some cost to paying workers overtime, keeping the threshold where it is or taking it to 40 hours per week will be partially offset with productivity gains and will benefit farmworkers—most of whom are not employed year-round—by relieving some of the pressure they feel to work as many additional hours as possible, to the detriment of their health, safety, and family life—and possibly to the quality of the nation's food supply.

Introduction

Farm labor is hard work that sometimes requires very long hours. When it does, workers deserve to be paid fairly for their time. The reason a 40-hour overtime threshold for farmworkers is not already the law should make us wince: When the federal law that governs overtime pay was written in the 1930s, it excluded two job categories that were overwhelmingly held by African Americans—farm laborers and domestic workers. States now have an opportunity to right this historic wrong and level the playing field for all workers

Overtime pay for farmworkers increases productivity and protects employees from being overworked

How do farm owners accommodate paying higher weekly wages when they ask their employees to work overtime? There is of course, some expense associated with overtime pay for farmworkers. But it's not a dollar-for-dollar cost, so the impact is ultimately modest. The reason is increased productivity.

As we have seen in many other instances, when employers are required to pay higher wages, they make a bigger effort to increase the efficiency of the workplace. We've seen this when the minimum wage has been increased. We've seen it in unionized businesses. And we've seen it already on farms in states like New York and California, when farm owners were required to pay overtime.

What does an increase in productivity on farms look like?

Farm owners may invest in equipment that makes work easier and faster for workers. They may also find ways to organize work that is more effective. Paying overtime provides a real incentive for that. And, overtime pay will reduce the cost of recruitment and training, because it will reduce turnover. That's something farm operators should value since most claim there are too few farmworkers available to fill open positions.

But importantly, it will also ensure that farmworkers do not work excessive hours just to make enough to survive. Farmworkers in Colorado earn wages that are not much above the state minimum wage, and because of the seasonality of farm work, most are not even able to earn those low wages year-round, reducing their earnings even further. Since farmworkers are not able to earn a living wage year-round, they will feel pressure to work

additional hours, to the detriment of their health, safety, and family life—and possibly to the quality of the nation’s food supply.

Colorado’s current overtime threshold is also very different than the one in a state like California. In California, farmworkers earn time-and-a-half overtime after 8 hours in a day or 40 hours in a week.² They also earn double their regular rate of pay after working 12 hours in a day. Colorado’s overtime threshold has no daily limit, only a weekly one. Even with the additional coverage of overtime for California farmworkers, the number of farm establishments has held steady in the state: going from 16,408 in 2015, the year before the California overtime law was passed, to 16,416 in 2024—suggesting that farms have not been negatively impacted and are still able to operate successfully in the nation’s largest agricultural state.³

Farmworkers earned some of the lowest wage rates in the entire U.S. labor market in 2024 and only three-fifths of what non-farm workers earn

It is important to discuss and contextualize the wages of the 2.2 million farmworkers in the United States,⁴ roughly 350,000 of whom are crop farmworkers employed through the H-2A visa program.⁵ DOL’s National Agricultural Workers Survey (NAWS) shows that two-thirds of non-H-2A crop farmworkers are foreign-born, and that one-third are U.S.-born citizens.⁶

The agricultural industry has made numerous claims about skyrocketing and unsustainable wage growth for farmworkers, and the industry has lobbied at the state and federal level, pushing for federal actions by the executive branch and legislation to artificially restrain wage growth in the industry. As this letter discusses, many of the major claims made by the industry are not supported by the available evidence.

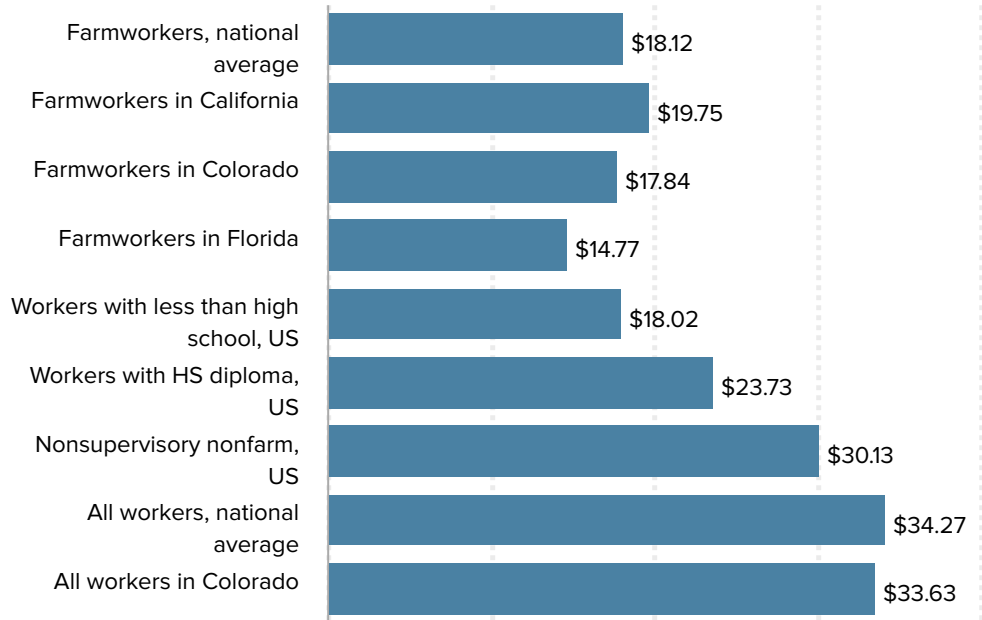
The most reliable data on farmworker earnings comes from the U.S. Department of Agriculture’s (USDA) National Agricultural Statistics Service (NASS), which conducts the Farm Labor Survey (FLS), the results of which were, until recently, published twice a year in USDA’s Farm Labor report series, with data reported for reference weeks in January, April, July, and October.⁷ On August 28, 2025, USDA announced that it would discontinue its data collection program and reports, including the FLS,⁸ thus making 2024 the final full year for which FLS data are available. Before October 2025, FLS data was used by the U.S. Department of Labor (DOL) to set the Adverse Effect Wage Rate (AEWR) for most migrant farmworkers hired in the H-2A program. DOL based the AEWR on the average hourly earnings of nonsupervisory field and livestock workers, as reported by farm operators and by region in the FLS. DOL used the FLS data to set H-2A wages so they reflect current real-world trends in the farm labor market.

The FLS data up to 2024 data show that while there have been some documented real increases over the past three decades, they have not been unreasonably large increases, and they have occurred in a broader context where the wages of farmworkers are extremely low by any measure, even when compared with the hourly earnings of

Figure A

Farmworkers in Colorado earned half the average hourly rate of all workers in the state and three-fifths of non-farm workers nationwide

Average hourly wage rate for farmworkers nationwide and in Colorado compared with average hourly wages of other workers, 2024



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Notes: All values are for 2024 and in 2024 dollars. HS = high school. Nonsupervisory nonfarm workers' wage represents the average hourly earnings of production and nonsupervisory employees, total for the private sector, not seasonally adjusted. Nonsupervisory farmworkers' wage is the gross average hourly wage of field and livestock workers, combined, according to the USDA Farm Labor Survey. Farmworker wages in states reflects the average hourly wage for field and livestock workers surveyed by the USDA Farm Labor Survey in 2024 for the region in which the state is located. (Colorado is part of the Mountain II region). Data for all workers, and for workers with a high school diploma and less than high school, can be found at the Economic Policy Institute State of Working America Data Library.

Source: Author's analysis of U.S. Department of Agriculture, [Farm Labor Reports](#), November 2024; nonfarm wage data from the Current Employment Statistics survey, Bureau of Labor Statistics, U.S. Department of Labor [Series Id: CEU0500000008, Series Title: Average hourly earnings of production and nonsupervisory employees, total private, not seasonally adjusted]; [EPI analysis](#) of CPI-ORG microdata.

comparable *non*-farm workers, as well as when compared with average wages for all workers in the United States, and workers with the lowest levels of education (see **Figure A**).

In 2024, the average earnings of all nonsupervisory farmworkers (i.e., combined field and livestock workers in the FLS) was \$18.12 per hour. The average farmworker hourly wage in 2024 was just half (52%) of the average hourly wage for all workers in the United States in 2024, which was \$34.27 per hour.⁹ The average farmworker hourly wage in Colorado was less than the national farmworker average, at just \$17.84 per hour.

The average hourly wage for production and nonsupervisory *non*-farm workers—the most appropriate cohort of nonagricultural workers to compare with farmworkers—was \$27.56, according to the Current Employment Statistics from the Bureau of Labor Statistics (BLS). In other words, farmworkers earning the national average earned just under 60% of what production and nonsupervisory workers outside of agriculture earned, or three-fifths. In 2024, the farmworker wage gap remained substantial and virtually unchanged from the previous three years. USDA’s ERS shows that between 1990 and 2023, the gap slowly narrowed from 50% to 60% and has described the wage gap between farmworker and nonfarm worker wages as “still substantial, but it is slowly shrinking.”¹⁰

Farmworkers have very low levels of educational attainment and their wages are comparable to workers in other industries with similar educational attainment. According to the NAWS, 27% completed the 10th, 11th, or 12th grade, and only 16% completed some education beyond high school.¹¹ Farmworkers earn the same or less than the two groups of non-farm workers with the lowest levels of education in the United States: Farmworkers earned 10 cents an hour more than the average wage earned by workers without a high school diploma (\$18.02), but earned \$5.61 less per hour than the average wage earned by workers with only a high school diploma (\$23.73). Farmworkers in Colorado earned less than workers without a high school diploma (\$17.84 vs \$18.02).

Farmworkers in Colorado earn very low wages—half the average wage earned by all workers in Colorado

There are roughly 30,000 farmworkers in Colorado, including 4,400 migrant workers recruited by Colorado employers through the H-2A visa program. As noted above, in 2024, at the state level in Colorado, USDA’s FLS shows that the average hourly wage for farmworkers in Colorado (the combined average wage for field and livestock workers) was \$17.84. Figure A also shows that the average wage for all workers in Colorado in 2024 was \$33.63, according to the Occupational Employment and Wage Statistics (OEWS) of the Bureau of Labor Statistics.¹² In other words, farmworkers just earned 53%, roughly half, of the average wage that all Colorado workers earned.¹³ And as noted above, most farmworkers are not employed year-round. Despite these extremely low wages, farmworkers in Colorado work in some of the most difficult and dangerous conditions while providing an essential function for the economy and state. Thus they deserve more protections under the overtime law, not fewer.

Industry claims about the increases in farmworker wages ignore the fact that wage growth over the past 20 years has been almost identical to wage growth for other low wage workers

The value and the rate of increase of the Adverse Effect Wage Rate (AEWR) for H-2A farmworkers has become a hot-button issue and many claims about its impact have been made over the years by representatives of industry. These are relevant to examine because the AEWR wages up until 2025 represented the wages that farm operators

reported they were paying to their farmworkers in response to the USDA's Farm Labor Survey. Thus, they represent the best data available on average farm wages at the national and regional level.

Many of the claims about wage growth for farmworkers made by industry advocates and even the U.S. Department of Labor (DOL) about year-to-year increases often do not adjust for inflation, which overstates the actual increase in terms of its dollar value. This is a basic mistake that misleads—and it misleads particularly during times of relatively rapid inflation, like the post-pandemic period. DOL echoes these misleading claims from industry advocates and makes their own false claim in the preamble to the October 2025 AEWI Interim Final Rule, making the year-over-year increases in farmworker wages seem greater than they truly are. DOL notes that the national average AEWI—i.e., the average combined field and livestock worker wage reported by farm operators nationwide—has more than doubled in nominal terms over 20 years from \$8.56 in 2005 to \$17.74 in 2025.¹⁴ But DOL's own CPI Inflation Calculator adjusts the value of \$8.56 in September 2005 to \$13.99 in September 2025, resulting in a real increase of just over one-quarter over two decades, at 26.8%, which over that period averages out to just 1.2% per year.

If we examine the same period for other low-wage workers in nominal terms, we also see that wage growth for farmworkers as represented by the AEWI, is in line with—nearly identical to—nominal wage growth for other low wage workers in the United States. **Figure B** below shows annualized wage growth for workers paid at the 20th percentile wage, as well as the median wage for workers with less than a high school education—both of which are good measures for typical low-wage workers. Both saw annual nominal wage growth that was at 3.5% between 2005-2025, the period that DOL identifies. Farmworkers earning the national average farmworker wage—over that same period saw annualized wage growth of 3.7%, nearly identical to other typical low-wage workers. Thus, DOL's main example in its H-2A wage regulation of runaway wage growth for farmworkers does not hold water.

Real wage growth for farmworkers in Colorado has averaged only 1.5% per year between 2010 and 2024

While Figure B looked at nominal wage growth over the past 20 years, EPI has previously calculated the total real wage growth for farmworkers (i.e., after adjusting for inflation) in every state between 2010 and 2024.¹⁵ We found that in Colorado, the average farmworker wage in 2010 was \$14.51 (adjusted to 2024 dollars), growing to \$17.84 fifteen years later in 2024. This amounts to a total increase of \$3.33 over 15 years (in 2024 dollars), or 22.9%. Farmworkers in Colorado averaged a real wage increase of 1.5% per year over the 15-year period.

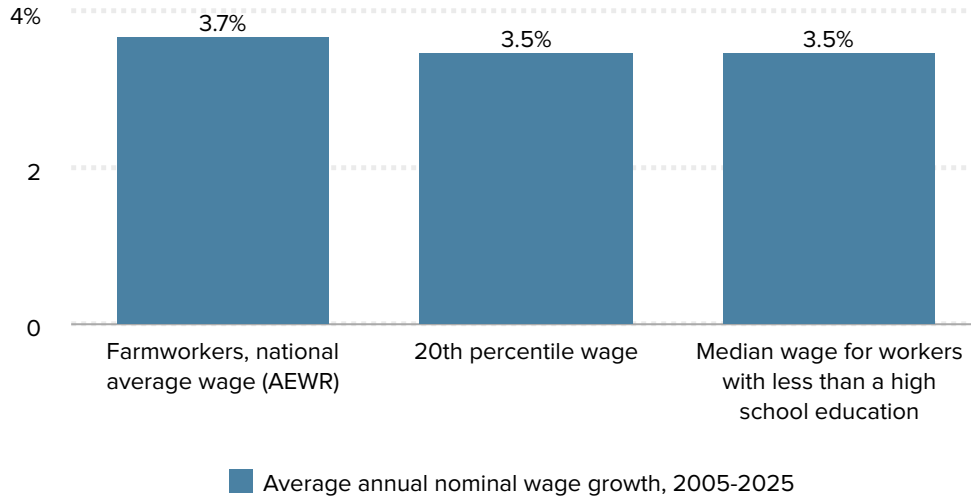
The number of Colorado farms has increased significantly over the past 15 years, suggesting a successful agricultural industry in the state

One common argument from farm operators is that if the wages of farmworkers are too

Figure B

Nominal wage growth for farmworkers has been similar to other low-wage workers for the past two decades

Average annual nominal wage growth for farmworkers, all workers at the 20th percentile, and all workers with less than a high school education, 2005-2025



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Notes: 20th percentile and less than high school nominal wages from 2024 have been inflated to 2025 dollars using the [CBO projection for CPI-U](#).

Source: EPI analysis of national average wage for farmworkers is based on U.S. Department of Agriculture's Farm Labor Survey, as reported and discussed for 2005 and 2025 in Employment and Training Administration, [Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States](#), U.S. Department of Labor, Interim Final Rule, request for comments, 20 CFR Part 655, DOL Docket No. ETA-2025-0008, RIN 1205-AC24 (October 2, 2025). Data for the [20th percentile nominal wage](#) and [median nominal wage for workers with less than a high school education](#) come from the State of Working America Data Library ([data.epi.org](#)).

high, those high wages will put them out of business. But according to the BLS's Quarterly Census of Employment and Wages (QCEW), the number of agricultural establishments in Colorado has increased significantly over the past 15 years. QCEW data show that the number of agricultural establishments in Colorado averaged 1,412 between 2010 and 2012. By 2024, the number of agricultural establishments had increased to 1,812, an increase of 28.3%. The 2022-2024 average number of agricultural establishments was 1,856.¹⁶

Agribusiness representatives may claim that agricultural establishments in Colorado will be forced to close or will decide to move their operations to other U.S. states because of higher labor costs associated with farmworkers being entitled to overtime pay, but the reality is that the number of agricultural establishments has been increasing steadily, even as farmworker wages have risen modestly, suggesting that both farm owners and farmworkers can mutually benefit from a growing industry.

Conclusion: The Colorado legislature should not further

degrade standards on farms by expanding the 56-hour overtime threshold—and should instead provide farmworkers with equal rights in the workplace by providing them overtime after 40 hours

The annual average real wage growth of 1.5% per year over 15 years represents moderate wage growth for farmworkers and suggests a relatively tight labor market for farmworkers. However, it represents little improvement in job quality for workers that have been exempted from key labor laws and wage and hour standards, who frequently toil for long hours in difficult conditions without any pay premium, and who consequently still earn only 50% to 60% of the wage earned by comparable nonsupervisory workers outside of agriculture (see Figure A and discussion above). It would take many more years of comparatively faster wage growth for farmworkers to begin to approach even three-fourths of what nonsupervisory workers earn outside of agriculture.

Further degrading standards for some of the lowest-paid and most vulnerable workers in the U.S. labor market will not improve productivity or benefit the state's economy; it will do the opposite, taking money out the pockets of workers who live paycheck to paycheck and spend those earnings on necessary goods and services. All while making a minimal impact on the overall share of farm income that farm operators spend on workers' wages.

Instead of passing SB 26-121, the state legislature should set a reasonable minimum standard for the wages paid to farmworkers, and that standard should be no different than the standard set for most other workers in Colorado, which is a 40-hour overtime threshold.

Endnotes

1. Economic Research Service, "[Labor Cost Share of Total Gross Revenues](#)," in "Farm Labor," U.S. Department of Agriculture, Updated November 18, 2025.
2. See Department of Industrial Relations, "[Overtime for Agricultural Workers](#)," State of California, last updated October 2023.
3. See Quarterly Census of Employment and Wages, Bureau of Labor Statistics, Series Id: ENU5100020511, Series Title: Number of Establishments in Private NAICS 11 Agriculture, forestry, fishing and hunting, for all establishment sizes in California – Statewide; Owner: Private, for 2010-24.
4. As counted by the latest [Census of Agriculture](#) from the U.S. Department of Agriculture, 2022.
5. See Daniel Costa and Ben Zipperer, "[Trump's new H-2A wage rule will radically cut the wages of all farmworkers: New estimates show farmworkers stand to lose \\$4.4 to \\$5.4 billion annually under DOL's updated Adverse Effect Wage Rate](#)," *Working Economics* blog (Economic Policy Institute), November 26, 2025.

6. Wenson Fung, Kimberly Prado, Amanda Gold, Andrew Padovani, Daniel Carroll, and Emily Finchum-Mason, *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic and Employment Profile of United States Crop Workers*, Research Report no. 17, JBS International for the Employment and Training Administration, U.S. Department of Labor. September 2023.
7. See National Agricultural Statistics Service, “[Agricultural \(Farm\) Labor](#),” for more background and to access Farm Labor Reports, U.S. Department of Agriculture.
8. Federal Policy Watch, “[USDA ends the Agricultural \(Farm\) Labor Survey, the U.S.’s only survey of agricultural employers](#),” Economic Policy Institute, September 3, 2025.
9. Economic Policy Institute, [State of Working America Data Library](#), “Hourly wage, average – Average real hourly wage (2024\$),” 2025.
10. Economic Research Service, “[Wages of Hired Farmworkers](#)” in “Farm Labor,” U.S. Department of Agriculture, Updated November 18, 2025.
11. Wenson Fung, Kimberly Prado, Amanda Gold, Andrew Padovani, Daniel Carroll, and Emily Finchum-Mason, *Findings from the National Agricultural Workers Survey (NAWS) 2021–2022: A Demographic and Employment Profile of United States Crop Workers*, Research Report no. 17, JBS International for the Employment and Training Administration, U.S. Department of Labor. September 2023.
12. <https://data.bls.gov/oes/#/area/0800000>
13. A note about the data: The wage cited is for Colorado farmworkers in USDA’s FLS represents the wage reported for the Mountain II region, which surveys farm operators in Colorado, Nevada, Utah. USDA’s FLS conducts wage surveys by multistate region, except for California which USDA surveys as its own individual region.
14. Employment and Training Administration, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, U.S. Department of Labor, Interim Final Rule, 90 Fed. Reg. 47914, at 47923 (October 2, 2025).
15. See Table 1 in Daniel Costa, *EPI comment on DOL’s 2025 Interim Final Rule modifying the AEW method for H-2A farmworkers*, Economic Policy Institute, December 1, 2025.
16. See Quarterly Census of Employment and Wages, Bureau of Labor Statistics, Series Id: ENU5100020511, Series Title: Number of Establishments in Private NAICS 11 Agriculture, forestry, fishing and hunting, for all establishment sizes in Colorado – Statewide; Owner: Private, for 2010-24.