

# Recommendations of the Committee for the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers

Submitted to Governor Walz  
12/01/2021

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# Letter from the Committee Chairs

December 1, 2021

Dear Governor Walz,

We are pleased to submit our policy recommendations and report on behalf of the Committee for the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers. We have been honored to serve as co-chairs for the committee and grateful for your leadership in establishing the committee by Executive Order 21-14 in March 2021.

The current piecemeal regulatory and enforcement responsibilities of state and local agencies hinder effective solutions to the complex issues that contribute to the vulnerabilities of agricultural and food processing workers. Our committee was formed to improve coordination and communication among state, local and community groups who support agricultural and food processing workers, with a goal to provide policy recommendations to the Governor by December 1, 2021.

Our committee members spent a great deal of time exploring and uncovering the patchwork of agencies and laws that protect workers in these industries. We invited experts, frontline service providers, and staff from state and local agencies to provide data, but also to tell us the stories of the people who bring food to our tables. We heard stories of families that lived in unsafe housing, of employers who effectively and compassionately managed quarantine situations for workers, and of strategies that the Minnesota Department of Health used to promote vaccines to migrant workers. We wish to thank the Migrant Services Consortium, a group of agricultural worker-serving organizations as well as representatives from state and federal agencies, for their time and input on these recommendations. We value the work you do every day to welcome and serve the agricultural workers whose labor keeps people fed and our economy producing.

The committee covered a lot of ground in a short amount of time, although we could not develop full policy proposals for improvements to all the challenging situations we encountered. As our committee continues its work, we will turn our attention to further solutions for the areas that we do not cover in this report. Based on surveys and input from community members, we focused our recommendations in three policy areas: housing, workplace safety, and labor standards.

In the midst of the pandemic, we are grateful for your recognition of the precarious situation that many of our agricultural and food processing workers are in. We would like to say, on behalf of the committee members, that we see and value the families in Minnesota who contribute their labor to our food system, from the employers to the employees. And to those workers who feel invisible and unheard, yet still come to work in our state and call Minnesota home, whether for all or part of a year, you are our neighbors, friends and family.

Thank you for your contributions to our state.

Sincerely,

**Andrea Vaubel**, Deputy Commissioner, Department of Agriculture and  
**Hamse Warfa**, Deputy Commissioner, Department of Employment and Economic Development

# Executive Summary & List of Recommendations

## Background

After working together for a year as an interagency staff group, Department of Employment and Economic Development, (DEED), Minnesota Department of Health, (MDH), and Department of Agriculture (MDA) staff supported the formation of a stakeholder committee be engaged to advise on a COVID-19 response, including testing, vaccination, and access to health care and to develop proactive strategies to effectively coordinate and implement public, private, and non-profit resources to protect the safety, health and wellbeing of these essential workers. The committee was established to provide government agencies, community organizations, industry associations and worker organizations a forum to engage, analyze data, coordinate efforts and plan for the next agricultural season, as well as for year-round food production work.

The Governor's Committee on the Safety, Health and Wellbeing of Agricultural and Food Processing Workers was established by Executive Order 21-14 in March 2021. The committee of fifteen members meets twice a month and plans to continue meeting as long as the Executive Order remains in force. Members of the committee have attended the Migrant Services Consortium monthly meetings to share committee progress and draft policy recommendations and to hear feedback and stories.

## Defining Agricultural and Food Processing Workers

Pursuant to Minn. Stat. 181.635, the term “food processing” includes canning, packing, or otherwise processing poultry or meat (i.e., meatpacking or poultry processing work). For purposes of this report, whenever the term “food processing” is used, it includes meatpacking and poultry processing. Additionally, for purposes of this report, agricultural work is defined broadly to include, but is not limited to, farming in all its branches including dairy work, the field production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, fur-bearing animals, and poultry, and cannery work.

The committee heard from federal, state and local agencies and community groups who regularly survey and/or serve agricultural and food processing workers in an attempt to better understand the demographics of the worker population, but overall data was a challenge. The committee welcomes the opportunity for improved data collection and disaggregation for better information about these workers in Minnesota.

## Recommendations

The following recommendations were developed after careful study and in keeping with the committee’s objective to propose solutions for agricultural and food processing workers’ safety, health, and wellbeing. The committee heard stories about workplace and housing situations, and concerns about COVID-19 and safety measures. After surveying committee members, and with input from other organizations and leaders serving agricultural and food processing workers, the committee focused recommendations in the areas of coordination and communications, housing, workplace safety, and fair labor standards.

The committee’s focus is on state-level policy solutions and did not include an exploration of federal policy change, although the committee heard about the need for federal immigration reform. The recommendations are organized by issue area and categorized as a change at the legislative level or agency level. Some issues need further study, and further unpacking of the regulatory jurisdictions and implications of policy change. The committee will continue to meet with agency staff, subject matter experts, local stakeholders, and workers to broaden our understanding of additional policy changes necessary in our state. The Committee thanks all participants who supported the formation of these recommendations, especially the agricultural and food processing workers who make important and valuable contributions to Minnesota.

# List of Recommendations

## Communication and Coordination

1. Codify the Committee for the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers in state statute so that there is a formal and ongoing way to convene diverse stakeholders and continue to address health and safety issues for these essential workers. **(Legislative)**
2. Create an office of an ombudsperson for the safety, health, and wellbeing of agricultural and food processing workers. This office will provide independence and will assist with centralizing functions that are housed in separate State Departments, and facilitate the navigation of issues including housing, workplace safety, and fair labor standards. **(Legislative)**
3. Develop informational content for anyone with complaints or problems regarding the safety, health, and wellbeing of agricultural and food processing workers to quickly and easily connect with the appropriate jurisdictional authority. Informational content should be gathered in one central location, available in relevant languages, and updated annually. **(Agency Level)**

## Housing

4. Preserve and increase affordable housing in Greater Minnesota to increase access for agricultural and food processing workers, including short-term rentals. **(Legislative)**
5. Create a required registration process for housing units provided by employers to agricultural and food processing workers. **(Agency Level)**
6. State and local housing safety enforcement agencies should establish proactive, annual housing inspection protocols, including both pre-occupancy inspections and inspections while occupied. **(Agency Level)**
7. Analyze state, local, and federal housing regulations to identify where agencies' jurisdictions overlap and/or fail to adequately cover housing of agricultural and food processing workers and identify where improvements are needed to cover more people at higher standards. **(Agency Level)**

## Workplace Safety

8. Adopt "penalty conformity" for MNOSHA safety violations, so that state penalties are consistent with federal penalties. **(Legislative)**
9. Develop a competitive recognition program from MNOSHA for employers that have excellent workplace safety records, including compliance with inspections. **(Agency Level)**

10. Identify the need for additional MNOSHA emphasis programs within the various subsectors of the agriculture and food processing industries to increase the number of proactive inspections. **(Agency Level)**
11. Ensure that employers are communicating information about workplace safety, worker rights, and where to get help in all languages spoken by their employees and provide support for employers to access translated materials. **(Agency Level)**
12. Develop a formal alliance between the Department of Labor and Industry and worker advocacy groups related to agriculture and food processing to help those groups direct workers to the right state support in the moment, when they need it. **(Agency Level)**

### Fair Labor Standards

13. Strengthen existing workplace protections for agricultural and food processing workers so that a greater number of these workers are protected and aware of their workplace rights. **(Legislative)**

# Committee Introduction and Background

The Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers was established by Executive Order 21-14 in March 2021 at the request of state agencies and the interagency group on migrant and seasonal farmworkers. (See Appendix A: Executive Order 21-14.) The committee was established resulting from the experiences of the Department of Employment and Economic Development (DEED), the Minnesota Department of Health (MDH), and the Minnesota Department of Agriculture (MDA) staff who worked together beginning in the spring of 2020, with the Department of Labor and Industry (DLI), on a coordinated response to the pandemic concerns and challenges of migrant and seasonal agricultural workers and food processing workers.

After working together for a year as an interagency staff group, providing guidance to employers, workers, and community organizations, state staff gained a better understanding of the complex challenges that agricultural and food processing workers face, and requested that a committee of stakeholders be engaged to advise on a COVID-19 response, including testing, vaccination, and access to health care. Many of the living and working conditions of these workers were outside of the scope of the response and yet impacted the effects of the pandemic on these essential workers. A further request was made to develop proactive strategies to effectively coordinate and implement public, private, and non-profit resources to protect the safety, health and wellbeing of these essential workers. The committee was established to provide government agencies, community organizations, industry associations and worker organizations a forum to engage, analyze data, coordinate efforts and plan for the next fieldwork and cannery season, as well as for year-round agricultural and food production work.

## Pandemic Response

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As COVID-19 spread in Minnesota in March 2020, the State of Minnesota, led by the Department of Health, mobilized a massive response. The Department of Employment and Economic Development, home of the Migrant and Seasonal Farmworkers Program, Department of Agriculture, and Department of Labor and Industry began working together to understand and address the health and safety concerns of agricultural and food processing workers across the state.

The lack of PPE for workers combined with sometimes densely populated worker housing and federal orders for meatpacking plants to remain open made workers especially vulnerable to COVID-19, and plants and the rural communities where they are located became hot spots. USDA research shows that in April 2020, daily COVID-19 case rates in rural counties with meatpacking plants were more than ten times greater than rural counties without a meatpacking plant.<sup>1</sup> At a time when CDC guidance was still developing and everyone was learning what social distancing, isolation, and quarantine meant, meatpacking workers in particular were at high risk of infection.

Migrant agricultural workers were scheduled to arrive in Minnesota within a few months of the start of the pandemic, and there was no real system or list to know how many people would arrive and where they would be located once in Minnesota. While DEED manages a Migrant and Seasonal Farmworker program, it does not cover every employer who uses migrant or seasonal agricultural labor. State agencies turned to local public

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<sup>1</sup> <https://www.ers.usda.gov/covid-19/rural-america/meatpacking-industry/>

health to better understand the agricultural and food processing workforce in their communities, and nonprofit organizations, community leaders, churches, labor unions, and worker advocacy organizations mobilized to support workers by sharing information needed to protect workers' health and safety. There was a tremendous need for this information in Spanish and multiple other languages spoken by the largely immigrant workforce who ensure our crops are harvested, our livestock is processed, and our nation's food supply chain is working. State and local agency staff and community groups worked around the clock to provide timely and accurate information and to issue guidance and ensure safe workplaces. In the process, it quickly became clear that existing regulations did not uniformly cover all workers and industries. Large differences in jurisdictions and enforcement of housing, workplace, and transportation regulations were hard to pick apart, and so were eligibility criteria for other government services and programs. Furthermore, due to geographical isolation, linguistic barriers and educational limitations, it was clear that agricultural and food processing workers experienced additional difficulty accessing local and state systems, when available.

As an example of statutory differences, workers who process food for the market are considered to be in "covered employment," meaning these workers may be eligible to receive unemployment insurance benefits, provided they have sufficient working history and meet other criteria; however, some agricultural laborers who work directly for a farm are not covered by the unemployment insurance program. This discrepancy is due to laws passed years ago that exempt farm work from coverage and create a barrier to assistance for laid off employees. In addition, it creates confusion for employees who may have done fairly similar work between a farm and a packing plant.

When testing sites were set up around the state, it would have been helpful to have a better understanding of the characteristics and locations of agricultural workers in Minnesota. As many farming operations do not require a license, data were not easily available to identify where migrant and seasonal agricultural workers were working or living. Lacking official data, state agencies worked with program staff and community groups to identify appropriate places and times to host testing sites and to provide relevant messages.

The success of state outreach and education efforts relied on community knowledge and local experts, combined with industry analysis from state research staff. When vaccination clinics were opened across the state, they built upon previous experiences in planning for testing sites. It was truly a team effort.

The state and its partners reached workers who work 12-hour days, 6 or 7 days a week, who often do not speak English, and many who do not have easy access to transportation to get a COVID test or vaccination. Many agricultural and food processing workers are hesitant to accept government services or to trust government agencies because of fear and past experiences in the United States or their countries of origin. Additionally, approximately half of agricultural workers in the United States perform work without legal status<sup>2</sup> and do not want to call attention to themselves. Some workers noted they were told to go to work although they were sick; their employers stated that if they missed work, they would be docked "points," which would make them ineligible for bonuses. As a result, workers often felt unable to take time away from work to follow quarantine and isolation protocols. In addition, many workers also were not aware of how to report a workplace safety violation or who to contact with questions. The need for a coordinated agency effort and improved communication became clear. The cross-agency working group suggested forming a committee of stakeholders to address concerns and challenges faced by agricultural and food processing workers, related to the pandemic and beyond.

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<sup>2</sup> <https://www.farmworkerjustice.org/wp-content/uploads/2019/05/NAWS-Data-FactSheet-05-13-2019-final.pdf>

# Defining Agricultural and Food Processing Workers

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One of the first tasks of the committee was to try to better understand the population of agricultural and food processing workers in Minnesota. The scope of the committee is broader than the migrant and seasonal agricultural worker population that was the focus of the interagency work group developed during the pandemic. Given the COVID-related challenges within the agricultural and food processing industries, the focus for this committee appropriately widened.

Pursuant to Minn. Stat. 181.635, the term “food processing” includes canning, packing, or otherwise processing poultry or meat (i.e., meatpacking or poultry processing work). For purposes of this report, whenever the term “food processing” is used, it includes meatpacking and poultry processing. Additionally, for purposes of this report, agricultural work is defined broadly to include, but is not limited to, farming in all its branches including dairy work, the field production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, fur-bearing animals, and poultry, and cannery work.

During early meetings, the committee met with Department of Agriculture and Department of Employment and Economic Development staff to learn more about the definitions of agricultural and food processing workers. The Department of Agriculture staff shared information about the USDA Census of Agriculture that is conducted every five years, as well as the Farm Labor Survey, which is published twice a year. DEED staff shared industry-level information and provided analysis of geographic regions of the state and agricultural employment, but defining whether workers were migrant, seasonal, or year-round resident workers was a challenge. Community nonprofit groups (and committee members) HACER and Southern Minnesota Regional Legal Services/the Agricultural Worker Project also provided information and data to help the committee understand Minnesota’s agricultural and food processing workers. HACER specializes in surveys, research and community outreach, and the Agricultural Worker Project litigates cases on behalf of agricultural workers in Minnesota and North Dakota, as well as conducts educational outreach activities to these workers. Their insights from direct conversation with and representation of workers were invaluable. All the committee members brought information and experiences that helped us understand the complex dynamics at play in agricultural and food processing employment.

According to the Minnesota Department of Agriculture *Minnesota Agricultural Profile*, the state ranks fifth in the nation in overall agricultural production, with \$17 billion in agricultural sales per year.<sup>3</sup> With over 68,000 farms, Minnesota also ranks fifth in the nation for crop production (\$8.85 billion) and seventh in livestock production (\$7.85 billion).<sup>4</sup> The agricultural production and processing industries generate over \$112 billion annually in total economic impact and support more than 431,000 jobs in Minnesota.<sup>5</sup> The state is also one of the most active in meat processing, with approximately 12,000 workers, the majority of them immigrants from Mexico, Central America, East Africa and Southeast Asia.<sup>6</sup> The meatpacking workforce is highly mobile, with a 20 to 40 percent annual turnover rate, and as a result, many workers may not know their legal rights.<sup>7</sup> A 2015 evaluation report

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<sup>3</sup> <https://www.mda.state.mn.us/sites/default/files/inline-files/mnagprofile2021withdatasets.pdf>

<sup>4</sup> Ibid.

<sup>5</sup> <http://www.dli.mn.gov/business/workforce/agriculture>

<sup>6</sup> <https://www.auditor.leg.state.mn.us/ped/pedrep/meatpacking.pdf>

<sup>7</sup> Ibid.

on *State Protections of Meatpacking Workers* by the Office of the Legislative Auditor found that very few of these workers understood the workplace protections available to them.<sup>8</sup>

These industries depend on significant numbers of workers, including migrant workers, foreign laborers, recent immigrants and refugees, and seasonal workers. A 2021 LSC Agricultural Worker estimate states that in Minnesota there are approximately 54,000 active agricultural workers.<sup>9</sup> Some arrive under a specialized visa program, the majority through the H-2A visa program, but others arrive through an H-2B visa program for forestry employment, or the TN visa program for dairy work. Agricultural workers are from the United States, Mexico, South Africa, Ukraine and other countries. Agricultural workers in Minnesota speak English, Spanish, Ukrainian, Russian, Indigenous languages, and have varied educational and experience levels. Many agricultural workers who migrate from within the United States to Minnesota to perform seasonal agricultural work travel from Texas.

As a subset of agricultural and food processing workers, migrant and seasonal agricultural workers make vital contributions to the agricultural and food processing sectors because planting and processing often rely on manual labor. Despite these workers' important contributions, reliable data about Minnesota's migrant and seasonal workers can be difficult to find. Nonetheless, a 2009 University of Minnesota study estimated that approximately 20,000 people migrate to Minnesota each summer to work the green pea and sweet corn seasons, just two of the many crops grown in Minnesota.<sup>10</sup> Nationally, seventy-seven percent of all farmworkers identify their preferred language as Spanish.<sup>11</sup>

The COVID-19 pandemic has exposed and exacerbated the challenges faced by agricultural and food processing workers, particularly with respect to workplace safety and employment protections, access to safe housing and transportation, and critical health care needs. In meatpacking and other agricultural processing facilities in Minnesota, the mostly immigrant workforce is more varied, but it faces similar challenges to receiving critical health and safety information in accessible languages. These workers' safety, health, and wellbeing is essential not only to the workers themselves, but also to their families and communities, and to the uninterrupted operation of Minnesota's agricultural production and processing industries.

## Committee Structure and Meetings

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All meetings have taken place virtually, beginning with the inaugural meeting on April 27, 2021. (See Appendix B for a list of committee meetings.) The committee reviewed open meeting laws and established a [public website](#) and a regular meeting schedule of twice per month. The committee also adopted a nickname and acronym: Agricultural Worker Wellness Committee (AWWC). Staff at MDA, MDH, DEED, and DLI are supporting the committee.

Early meetings provided updates on vaccine distribution and asked for input and feedback on vaccine plans. Since then, committee members completed a survey on their priorities and established working groups to explore housing, workplace safety, and labor standards. (See Appendix C for themes from the survey.) In August

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<sup>8</sup> Ibid.

<sup>9</sup> <https://lsc-live.app.box.com/s/ceitktean7ln60ruqy5raumjee4mt0dz>

<sup>10</sup> <https://onlinelibrary.wiley.com/doi/abs/10.1526/00360110677789693>

<sup>11</sup> [https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS\\_Research\\_Report\\_13.pdf](https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS_Research_Report_13.pdf)

2021, the committee submitted a workplan to the Governor with an outline of their priorities and next steps. (See Appendix D for the committee's workplan.) Some original committee members have since left their organizations and new staff have joined in their place. (See Appendix E for a list of current and past committee members.)

The committee continues to meet twice a month and plans to continue holding meetings as long as the Executive Order remains in force. Members of the committee have attended the Migrant Services Consortium monthly meetings to share committee progress and draft policy recommendations and to hear feedback and stories.

## Committee Objectives

There are five objectives outlined in the Executive Order, paraphrased below:

- a. Coordinate resources and outreach in 2021 related to the pandemic
- b. Support and assist with vaccination, testing, access to health care, etc. for workers
- c. Design a proactive strategy to deploy public, private and nonprofit compliance resources to protect and promote health, safety, and wellbeing of workers. Focus on housing, transportation and workplaces.
- d. Develop a communications system between agencies, employers, workers, their families and communities, community organizations, advocacy groups, etc.
- e. Provide a forum for all of these groups to engage, collect and analyze data and information, coordinate resources and plan for the future.

In addition, the committee's objective is to, by December 1, 2021, provide recommendations for state policy and legislative changes to relevant state agencies, to be considered for communication to the Governor's Office for inclusion in budget and policy proposals.

## Recommendations

The following recommendations were developed over the last eight months after careful study and in keeping with the committee's guiding purpose to propose solutions for agricultural and food processing workers' safety, health, and wellbeing. Given the timeframe and the complexity of the issues, the committee's recommendations do not cover all the areas that would support worker health, safety, and wellbeing. Most notably, the committee's focus is on state-level policy solutions and did not include an exploration of federal policy change. Even at the state level, some issues need further study, and further unpacking of the regulatory jurisdictions and implications of policy change. The committee will continue to meet with agency staff, subject matter experts, local stakeholders, and frontline workers to broaden our understanding of additional policy changes necessary in our state. Some issues fell outside the scope of the committee but were still urgent and relevant enough to the needs of agricultural and food processing workers, namely federal immigration reform and data, that we have included them as their own "Additional Considerations" section.

## **Guidelines & Process**

The committee agreed on a set of guidelines for evaluating recommendations for inclusion in this report. Working groups developed specific recommendations that were then shared with committee members. The committee worked to reach consensus on the recommendations to include in this report, and then the report was adopted by a majority vote. Recommendations listed below are organized by theme and include proposals for changes that require legislation and proposals that agencies could enact at their discretion. Each recommendation includes a label of “legislative,” or “agency level” for clarity.

Stemming from the committee’s objectives (listed above) the guidelines for recommendations are:

- Diversity, inclusion, and equity are essential core values and top priorities of One Minnesota. Recommendations will be framed with an equity lens in recognition that agricultural and food processing workers are essential to Minnesota’s economy and their labor puts food on the tables of Minnesotans.
- Recommendations will focus on improving the safety, health, and wellbeing of agricultural and food processing workers.
- Recommendations will remove barriers between agencies and stakeholders and bring community voices to the table.

## **Coordination and Communication Recommendations**

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- 1. Codify the Committee for the Safety, Health and Wellbeing of Agricultural and Food Processing Workers in state statute so that there is a formal and ongoing way to convene diverse stakeholders and continue to address health and safety issues for these essential workers. (Legislative)**

The work of this committee, as set forth in our committee objectives, is not finished, and for that reason, we recommend that the committee be codified in statute in order to remain in place beyond the term of the current governor. The committee’s engagement in the last eight months has demonstrated that the patchwork approach to agricultural and food processing worker safety, health and wellbeing in Minnesota is poorly understood and challenging to unravel.

The committee has spent hours working together and learning from experts about the jurisdiction and lack of jurisdiction of a variety of state, federal, and local authorities, and yet questions and concerns remain. Ensuring that a cross-agency and community stakeholder group is available, active, and responsive in promoting agricultural and food processing worker safety and wellbeing should remain a top priority for the state.

There remains a need for a formal space for improved communication and coordination between state agencies, employers, employees, community groups, and labor. The ongoing pandemic is an additional concern, with the continued need for a strong public health response to ensure the safety of our workers and the ongoing operations of our agricultural and food industries. For those reasons, the committee recommends that the committee be formalized and continue its work.

**2. Create an office of an ombudsperson for the safety, health, and wellbeing of agricultural and food processing workers. This office will provide independence and will assist with centralizing functions that are housed in separate State Departments, and facilitate the navigation of issues including housing, workplace safety, and fair labor standards. (Legislative)**

The committee heard many stories of frustrated workers and staff who did not know where to begin to address safety and health concerns of workers in the agricultural and food processing industries. Early in the pandemic, one of the state's agencies received an email from a community leader that said, "I don't know who to go to, so I am emailing everyone at the state I know who is Latinx, in hopes that someone can help me." Minnesota can do better than that to provide access to resources and to help workers navigate through the various agencies who have a role in worker safety, including safe housing. The committee also heard that not all workers understand their rights or know what to do if they have a complaint about their work, housing, or other concerns.

The committee recommends an ombudsperson role, at the state, that will have responsibility to improve coordination and communication with agricultural and food processing workers. The role will work internally on inter-agency coordination, as well as work externally, so that workers and advocates have a centralized place to go for questions and answers. The ombudsperson would connect with the Committee for the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers, supporting and advising the committee's ongoing work.

**3. Develop informational content for anyone with complaints or problems regarding the safety, health, and wellbeing of agricultural and food processing workers to quickly and easily connect with the appropriate jurisdictional authority. Informational content should be gathered in one central location, available in relevant languages, and updated annually. (Agency Level)**

This recommendation focuses on materials and content that agencies should provide, in relevant languages, so that workers and stakeholders can better understand how and where to engage with state agencies. While the committee understands that each agency has developed their own materials, the recommendation is for a centralized location with cross-agency information, available in relevant languages, so that it can be most useful in addressing the community's needs. The committee recommends that the content is reviewed annually for any updates.

## Housing Recommendations

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**4. Preserve and increase affordable housing in Greater Minnesota to increase access for agricultural and food-processing workers, including short-term rentals. (Legislative)**

Housing challenges for agricultural and food processing workers include:

- Inadequate supply of housing
- Inadequate conditions of housing
- Jurisdictional and enforcement issues when the housing conditions are unsafe
- Inadequate response to housing complaints
- Need for lease terms less than 12 months for seasonal workers
- Some municipalities have codes, but in rural areas there might not be housing codes

COVID-19 amplified the challenges of limited housing stock in rural Minnesota, and crowded living conditions for workers. The ability of workers to quarantine or isolate when housing affordability and availability is so limited was a challenge for employers, employees, and local and state health officials, all of whom have an interest in following COVID protocols to ensure the safety and health of the community.

When considering the full range of agricultural and food processing workers in Minnesota, often they are responsible for securing their own housing, and as such, they are in competition with other workers and families seeking housing in communities in Greater Minnesota. The committee encourages strategies and incentives promoting home ownership, as many workers are year-round residents, or would be, if housing were available. For those workers coming to Minnesota to do seasonal work, the committee heard about the additional challenges of trying to find short-term housing arrangements. The committee will further study what incentives or opportunities there are to increase the availability of short-term housing.

Overall, given the housing challenges studied by the committee, it recognized that proposing housing solutions focused on agricultural and food processing workers was necessary but not sufficient to meet the challenge. Therefore, we recommend policy and funding solutions that increase and preserve affordable housing in Greater Minnesota.

- 5. Create a required registration process for housing units provided by employers to agricultural and food processing workers. (Agency Level)**
- 6. State and local housing safety enforcement agencies should establish proactive, annual housing inspection protocols, including both pre-occupancy inspections and inspections while occupied. (Agency Level)**

Taken together, these recommendations propose a solution to two interrelated housing challenges: 1) the state does not have a separate tracking system that identifies all types of employer-provided housing to agricultural and food processing workers; and 2) relying on a complaint-based process for some housing inspections in some types of units means that if a resident does not make a complaint, the unsafe conditions are not known by the state. In order to shift to a more proactive inspection process, the state needs to know what housing units to inspect. Therefore, the committee recommends the state develop a registration process that covers more types of employer-provided housing so that agencies can use that information to proactively inspect housing for safety and code enforcement.

The variety of worker-occupied housing types and corresponding housing regulations at the federal, state, and local levels make up a patchwork of inspections and enforcement processes handled across different agencies. The committee spent its time trying to unravel jurisdictional complexities to learn what processes are currently in place. These recommendations are based on what the committee has heard so far, and it recommends additional analysis to propose additional solutions (see Recommendation #7).

The committee's Housing Work Group heard from MDH staff about their current process for inspections of employer-provided housing in migrant labor camps. MDH staff described a 2001 repeal of Minnesota administrative rules previously found in Chapter 4630 that addressed migrant labor camp conditions. The corresponding Statement of Need and Reasonableness (SONAR) asserted that repeal of the rules would benefit migrant workers and their families by allowing clearer application of statewide housing regulations to housing used by migrant workers. The statewide housing regulations were determined to be a higher standard, i.e., they offered more protections than the standards for migrant labor camps, so MDH asked for the repeal of the

migrant labor camp rules. MDH states that it has not received any complaints regarding the lodging used by seasonal agricultural workers over which it has jurisdiction in the last twenty years, since the repeal of the migrant labor camp rule. Committee members learned from organizations who provide direct services, like the Agricultural Worker Project, that workers still experienced issues with their employer-provided housing.

The Minnesota Department of Health has jurisdiction for inspecting some types of housing that agricultural and food processing workers may occupy through its Environmental Health Division, Food, Pools, and Lodging Services section. MDH delegates this authority to some Local Public Health units. There are currently 28 local units of government with delegation agreements. These Environmental Health inspections occur every two years. The inspections are typically unannounced so the buildings may or may not be occupied. When inspecting multi-unit buildings, 10% of the units are generally evaluated, although more may be evaluated if conditions warrant. The rules regulating manufactured home parks address park conditions such as lot size, water supply, sewage disposal and disposal of garbage and do not address individual manufactured homes.

Some agricultural workers, depending on the industry they work in, and/or their visa status, are provided housing by their employer. For example, foreign workers who come to the US through the H-2A guest worker visa program must receive free housing from their employer. These workers have legal status to perform temporary agricultural or other seasonal work for a specific employer while in the United States; the H-2A program has been gaining popularity in Minnesota and other states in recent years. Some compliance components of the H-2A program are managed by DEED staff, and DEED staff have jurisdiction to inspect housing for H-2A workers in Minnesota. The housing provided to H-2A workers must meet applicable federal and state regulations.

One notable limit of housing inspections is that inspection of certain housing units may rely completely on a complaint-based process. This is the case if an employer provides fewer than 5 units, or if an employer does not provide housing and the housing is secured by the worker independently. In those cases, an inspection of the property for safety standards may not happen on a regular basis, and the only way that an unsafe property is detected is if an individual makes a complaint.

The committee heard about the challenges of the housing complaint process from people with firsthand experience. Some of the barriers and concerns include:

- Some workers might not understand that the system only acts if you make a complaint;
- Unsure where to direct a complaint about housing;
- Difficulty relying on workers to report violations because it may put their job or housing at risk;
- Follow-up to complaints may not happen quickly enough or in-season for migrant workers;
- Unsure what happens if a migrant worker makes a complaint about housing they left; and
- Questions about whether inspectors and agencies communicate in Spanish and other preferred languages of workers.

**7. Analyze state, local, and federal housing regulations to identify where agencies' jurisdictions overlap and/or fail to adequately cover housing of agricultural and food processing workers and identify where improvements are needed to cover more people at higher standards. (Agency Level)**

As outlined above, there is a significant patchwork of housing regulations that pertain to agricultural and food processing workers, depending on their employment status, industry affiliation, and type of housing occupied.

The complexity of the issues requires additional analysis so that the committee can identify opportunities to strengthen housing standards and ensure the safety and health of agricultural and food processing workers. The committee recommends developing a chart that outlines local, state, and federal housing inspection authorities and obligations—as well as inspection gaps—for every type of agricultural and food processing worker housing, whether employer-provided or third-party provided.

There is significant work that remains in housing, and we recommend that this committee should:

- a. In consultation with Minnesota housing experts and other state and national partners, conduct a comprehensive review of state and federal housing standards applicable to agricultural workers, and determine how Minnesota could update and improve those standards, including whether Minnesota should promulgate agricultural worker-specific housing regulations; and
- b. Consider the benefits and implementation of a safety grants program to assist agricultural and food processing employers who own and provide housing to their workforce to make recommended health and safety improvements.

## Workplace Safety Recommendations

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**8. Adopt “penalty conformity” for MNOSHA safety violations, so that state penalties are consistent with federal penalties. (Legislative)**

Minnesota is a state plan state, in relation to federal OSHA, which means that most employers in the state (employers who do not have a federal workforce) are not penalized for infractions through federal OSHA, but through MNOSHA. This recommendation is to bring state penalties up to the level of federal penalties, because current MNOSHA penalty dollar amounts are below the federal level. The committee does not recommend stacked penalties. The recommendation is to raise the MNOSHA penalty amount to the level of federal OSHA.

**Table 1: Comparison of Maximum OSHA Penalty Amounts**

	MN OSHA	Federal OSHA
Serious violation	\$7,000	\$13,000
Willfull violation	\$70,000	\$136,532

**9. Develop a competitive recognition program from MNOSHA for employers that have excellent workplace safety records. (Compliance with inspections) (Agency Level)**

This recommendation is to develop a state program to recognize employers with excellent workplace safety records. The committee recommends modeling the recognition program on other MNOSHA achievement programs that ensure a rigorous review of the workplace and the employer’s safety record. The committee

hopes that by providing recognition to outstanding workplaces, workers will have more information to make choices about where they want to work, and to raise the profile of employers who are providing exceptional places to work.

**10. Identify the need for additional MNOSHA emphasis programs within the various subsectors of the agriculture and food processing industries to increase the number of proactive inspections. (Agency Level)**

The MNOSHA Compliance division currently has a partnership program with various industries designed to increase the number of employers that implement effective safety and health programs, to reduce injuries, illnesses and fatalities, to recognize partnerships that work together for employee safety, and to promote open lines of communication with businesses. This partnership program is in place because of the high safety risks inherent in these industries, and to be proactive in providing support and recognition to employers as partners. The current Agriculture Emphasis Program is limited to “Pig/Hog-Farming” and “Dairy Cattle” only, which excludes all the crop operations that employ many agricultural workers in Minnesota. The current Food Processing Emphasis programs are limited to a national emphasis on “Grain Handling” and a local emphasis on “Meat-Packaging,” which also excludes other types of food processing where workers are commonly employed in Minnesota. The committee recommends that MNOSHA identify additional subsectors of the agricultural and food processing industries with high workplace safety risks that would benefit from an emphasis program. Broadening these emphasis programs may lead to more inspections, more frequent inspections at facilities, and a broader inspection base of businesses that are not currently part of the existing emphasis programs.

**11. Ensure that employers are communicating information about workplace safety, worker rights, and where to get help in all languages spoken by their employees and provide support for employers to access translated materials. (Agency Level)**

To ensure that employers are sharing information in multiple languages, the committee recommends that MNOSHA provide support for employers to access translated materials. One of the biggest barriers the committee heard from workers’ advocates was that written materials were provided only in English. There was a recommendation to translate materials into Spanish and other languages and to consider sharing information in other formats, including video and audio. This would help increase workers’ access to important safety and workers’ rights information and increase their knowledge of policies and procedures. The committee recognizes that the vast majority of employers want to provide materials and information to comply with workplace laws, and to ensure a safe working environment, but they may need support to go beyond the materials that are currently available.

**12. Develop a formal alliance between the Department of Labor and Industry and worker advocacy groups related to agriculture and food processing to help those groups direct workers to the right state support in the moment, when they need it. (Agency Level)**

This recommendation is for the DLI Workplace Safety Consultation (WSC) division to develop a formal alliance with agricultural and food processing groups. The Alliance program at DLI is an active and integral part

of ensuring safe workplaces and a direct line of communication to workers and advocacy groups in specific industries. Forming an alliance with WSC enables organizations committed to workplace safety and health to collaborate with WSC to prevent injuries and illnesses in the workplace. Through this type of formal alliance, the workers' groups will build trusting, cooperative relationships with WSC and leverage resources to maximize worker safety and health protection.

## Fair Labor Standards Recommendations

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### **13. Strengthen existing workplace protections for agricultural and food processing workers so that a greater number of these workers are protected and aware of their workplace rights.**

Minnesota has a variety of existing laws that provide protections to agricultural and food processing workers; however, these laws have not been updated in recent years. The Migrant Labor Law (Minn. Stat. 181.85 - 181.91) was enacted in 1981 and many of its provisions have never been updated; the most recent update, to Minn. Stat. 181.89, happened in 2005. Another law that specifically addresses recruitment in the food processing industry (Minn. Stat. 181.635) was enacted in 1995 and has never been updated. Similarly, the Packinghouse Workers Bill of Rights (Minn. Stat. 179.86) has never been updated and was enacted in 2007. The following recommendations address the areas of these laws that should be updated to strengthen workplace protections for agricultural and food processing workers so that a greater number of these workers are protected and aware of their workplace rights.

#### **Migrant Labor Law**

The Migrant Labor Law (Minn. Stat. 181.85 – 181.91) provides recruited migrant cannery workers with the right to: (1) a written employment statement in English and Spanish at the time of recruitment; (2) a biweekly 70 hour pay guarantee for the minimum period of employment; (3) at least biweekly pay; (4) final pay within three days of termination; and (5) housing, if provided by the employer, until receipt of final pay. Recommendations related to this existing statutory scheme include:

- Expanding the scope of workers covered by this law to include all recruited migrant agricultural workers, not just those performing cannery work, so that a greater number of agricultural workers in Minnesota have these protections;
- Removing the requirement that workers travel more than 100 miles from some other state to be considered a migrant worker, currently found at Minn. Stat. 181.85(3), and instead stating that any agricultural worker who is required to be absent overnight from their permanent place of residency is a migrant worker, regardless of the specific number of miles traveled;
- Expanding DLI enforcement authority under Minn. Stat. 177.27(4) so that it can issue compliance orders for violations of this law;
- Increasing penalties under Minn. Stat. 181.89 to at least align with what these penalties would be valued at today as some penalties have not been updated since 2005 while others have never been updated since enactment of the law in 1981;
- Strengthening recordkeeping requirements under Minn. Stat. 181.88 to require agricultural employers to keep a record of the written employment statement that must be provided to workers under Minn. Stat. 181.86; and

- Broadening the requirement of the employment statement to be in the worker's preferred language and to include information regarding rights related to workers' compensation and the employer's workers' compensation carrier.

## **Recruitment in Food Processing**

The law regarding recruitment in the food processing industry (Minn. Stat. 181.635) provides recruited meatpacking and poultry processing workers with the right to a written disclosure in English and Spanish at the time of recruitment regarding the terms and conditions of employment. Recommendations related to this existing law include:

- Expanding the scope of workers covered by the law to also include those who relocate from within Minnesota by updating the definition of "recruits" under Minn. Stat. 181.635(1)(c);
- Expanding the requirement of the written disclosure to be in the preferred language of the worker instead of only in English and Spanish; and
- Increasing the amount of damages and fines found under Minn. Stat. 181.635(3) and (4) as they have not been updated since the law was enacted in 1995.

## **Packinghouse Workers Bill of Rights**

The Packinghouse Workers Bill of Rights (Minn. Stat. 179.86) provides meatpacking workers with the right to an explanation in the worker's native language, either person-to-person or in writing, regarding rights and duties. Recommendations related to this existing law include:

- Expanding the scope of workers covered under the law to include those who do poultry processing work as well;
- Requiring the explanation be provided in writing, as well as person-to-person;
- Requiring that the explanation be provided when employment begins;
- Expanding the scope of what must be provided in the explanation to include information regarding the rights to workers' compensation and the employer's workers' compensation carrier; and
- Expanding enforcement to include penalties/fines when the law is violated.

# **Additional Considerations**

## **Federal Immigration Reform**

In early meetings as the committee gathered data to better understand the workforce, and in conversations about the challenges that workers face in accessing healthcare, other government services, and in advocating for their own safety and workers' rights, the question of immigration status arose. Again and again, the committee heard that some workers were fearful, mistrustful, and would not want to disclose any information about themselves or participate in making a complaint or getting a COVID vaccine because they were afraid to jeopardize their employment, housing, and safety. The risks were too great. This could be true for some workers who are working but lack the legal status to be employed, and for immigrants with permanent residency, H-2-A visas, or other status. The actions and rhetoric of the previous federal administration contributed to a

heightened fear among immigrants. The committee understands that federal policy is outside the scope of this report. However, the committee also recognizes that immigration status is a considerable barrier that prevents some people from receiving services and exercising their workers' rights.

## Data

A lack of complete knowledge of where and how many agricultural and food processing workers are in Minnesota at any point in the year continues to be a challenge to providing services and meeting the needs of this population. With varying definitions of who is an agricultural or food processing worker, and without good data on specific types of workers: including migrant workers, the committee was left to rely mainly on old reports and incomplete datasets. Service delivery during the pandemic was made more difficult because it required more time and effort to gather data from community experts and local groups. While the committee has not yet formed a specific recommendation related to data for agricultural and food processing workers, it is including a general statement that we welcome any opportunity for improved data collection and disaggregation to better understand the agricultural and food processing worker community in Minnesota.

## Conclusion

After eight months of study and learning, the committee is beginning to better understand the complexities of the laws, agencies, and community supports that exist for agricultural and food processing workers in Minnesota. While the committee has spent hours learning from experts about the jurisdiction and lack of jurisdiction of a variety of state, federal, and local authorities, we are confident that the recommendations included here are first steps to creating safer workplaces and communities in our state. The committee takes seriously the objective outlined in Executive Order 21-14 to provide recommendations for the safety, health, and wellbeing of agricultural and food processing workers. To meet this objective, the committee plans ongoing meetings in 2022 to continue exploring topics as detailed above, and to continue to provide a forum to recommend strategies for local and state health officials in pandemic response and public health efforts, and to provide space for improved coordination and communication. In conclusion, we thank all the committee members, staff and guests who provided input to guide these recommendations. And the committee extends gratitude to the agricultural and food processing workers who make important and valuable contributions to Minnesota.

## Appendix A: Executive Order 21-14

# STATE OF MINNESOTA

## Executive Department



### Governor Tim Walz

#### Executive Order 21-14

#### Establishing the Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers

**I, Tim Walz, Governor of the State of Minnesota,** by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

Agriculture and food processing are a foundational part of Minnesota's economy. Minnesota ranks fifth in the nation in overall agricultural production, with \$17 billion in agricultural sales per year. With over 68,000 farms, Minnesota also ranks fifth in the nation for crop production (\$8.85 billion) and seventh in livestock production (\$7.85 billion). The agricultural production and processing industries generate over \$112 billion annually in total economic impact and support more than 431,000 jobs in Minnesota. These industries depend on significant numbers of workers, including migrant workers, foreign laborers, recent immigrants and refugees, and seasonal workers.

Migrant and seasonal agricultural workers make vital contributions to the agricultural and food processing sectors because planting and processing often rely on manual labor. Despite these workers' important contributions, reliable data about Minnesota's migrant and seasonal workers can be difficult to find. Nonetheless, a 2009 University of Minnesota study estimated that approximately 20,000 people migrate to Minnesota each summer to work the green pea and sweet corn seasons, just two of the many crops grown in Minnesota.

Minnesota's agricultural and food processing workers include foreign laborers, refugees, United States citizens, and immigrants with and without work authorization. Approximately 12,000 workers are employed in Minnesota's 33 meatpacking plants. This workforce is highly mobile and has a 40 percent turnover rate. As a result, these workers may not know their legal rights. A 2015 report by the Office of the Legislative Auditor found that very few of these workers understood the workplace protections available to them.

The COVID-19 pandemic has exposed and exacerbated the challenges faced by agricultural and food processing workers, particularly with respect to workplace safety and employment protections, access to safe housing and transportation, and critical health care needs. With 77 percent of all farmworkers identifying their preferred language as Spanish, language and cultural barriers add to these challenges. In meatpacking and other agricultural processing facilities in Minnesota, the mostly immigrant workforce is more varied, but it faces similar challenges to receiving critical health and safety information in accessible languages. These workers' safety, health, and wellbeing is essential not only to the workers themselves, but also to their families and communities, and to the uninterrupted operation of Minnesota's agricultural production and processing industries.

State, local, and federal agencies, community organizations, advocacy groups, employers, and workers all share responsibility for addressing these challenges. Ineffective communication and coordination between these groups results in a piecemeal approach and hinders effective solutions to the complex issues that contribute to workers' vulnerabilities. To confront the challenges facing agricultural and food processing workers in the upcoming agricultural and food processing season, we need better coordination among regulatory agencies, industry, and community organizations. We must also clearly identify state agencies' roles and responsibilities in addressing agricultural and food processing workers' safety, health, and wellbeing during the COVID-19 pandemic and beyond. Finally, we must develop effective communication mechanisms to ensure that workers and employers have access to current and accurate information about safety and health requirements, housing, and transportation in appropriate languages. To address these issues, improve agricultural and food processing workers' wellbeing, and avoid unnecessary interruptions to our agricultural production, I am establishing the Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers.

For these reasons, I order as follows:

1. The Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers ("Committee") is established.
2. The Committee's objectives are to:
  - a) Respond to the COVID-19 pandemic by coordinating resources and outreach for the 2021 growing, harvesting, and processing season, starting as soon as possible.
  - b) Support and assist the Minnesota Department of Health, local public health departments, and community organizations with the coordination of the COVID-19 response, including testing, vaccination, access to health care, and necessary assistance for the quarantine and isolation of workers and their families if they test positive or become ill.
  - c) Design a proactive strategy and plan to effectively deploy public, private, and non-profit compliance resources to protect and promote the safety, health, and wellbeing of agricultural and food processing workers. The focus will be on housing, transportation, and workplaces.
  - d) Develop a system for effective communication between state agencies, community organizations, advocacy groups, and agricultural and food processing employers and workers, including the workers' families and communities.
  - e) Provide government agencies, community organizations, advocacy groups, employer and worker organizations, employers, and workers a forum to engage, collect and analyze data and

- information, coordinate resources, and plan for future agricultural growing, food production, and processing seasons.
3. By December 1, 2021, provide recommendations for state policy and legislative changes to relevant state agencies, to be considered for communication to the Governor's Office for inclusion in budget and policy proposals.
  4. The members of the Committee are:
    - a) The Commissioners of the following agencies or their designees:
      - i. Department of Agriculture ("MDA")
      - ii. Department of Employment and Economic Development ("DEED")
      - iii. Department of Health ("MDH")
      - iv. Department of Labor and Industry ("DLI")
    - b) United Food and Commercial Workers ("UFCW") Local 663, Director of Organizing
    - c) United Food and Commercial Workers ("UFCW") Local 1189, President
    - d) Southern Minnesota Regional Legal Services ("SMRLS"), AWP Project Manager
    - e) Unidos MN, Executive Director
    - f) HACER, Executive Director
    - g) Minnesota Farm Bureau, President
    - h) Minnesota AgriGrowth Council, Executive Director
    - i) Minnesota Farmers Union, President
    - j) Meeker-McLeod-Sibley Community Health Services, CHS Administrator
    - k) Southwest/West Central Community Health Board, Waseca County Public Health Director
    - l) Community Health Service, Inc., Executive Director
  5. The Commissioners of Agriculture and Employment and Economic Development, or their designees, will serve as the Committee's Co-Chairs.
  6. Representatives of state agencies designated to serve on the Committee must have expertise and experience necessary to assist in the accomplishment of the Committee's objectives and will have the support of, and be accountable to, to their respective commissioners.
  7. The Committee will work with, and provide regular updates to, the Minnesota Migrant Services Consortium, facilitated by the Minnesota Department of Education ("MDE").

8. The duties of the Committee are as follows:
  - a) Meet at least twice per month and more often as necessary.
  - b) Identify and engage leaders, experts, practitioners, and representatives of employers and workers who can inform discussion of strategies and plans necessary to achieve the Committee's objectives.
  - c) Direct, oversee, and implement stakeholder engagement, focusing on the engagement of agricultural and food processing workers and employers necessary to implement the Committee's objectives.
  - d) Submit regular reports to the Governor, at frequencies determined by the CoChairs, that provide updates on progress toward achieving the Committee's objectives.
  - e) By August 1, 2021, submit a written report to the Governor that sets out how the Committee's objectives will be achieved.
  - f) Communicate recommendations within member networks, organizations, and associations.
9. MDA and DEED will provide staff and administrative support for the Committee. MDH and DLI will provide additional staffing and administrative support as necessary to assure effective coordination and communication. The Minnesota Department of Human Rights and MDE will provide technical expertise and advice to the Committee.

This Executive Order is effective fifteen days after publication in the State Register and filing with the Secretary of State. It will remain in effect until rescinded by proper authority or until it expires in accordance with Minnesota Statutes 2020, section 4.035, subdivision 3.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 19, 2021.

# **Appendix B: List of Committee Meetings**

## **Full Committee Meetings in 2021**

- April 27, 2021
- May 17, 2021
- May 27, 2021
- June 7, 2021
- June 26, 2021
- July 6, 2021
- July 19, 2021
- August 2, 2021
- August 16, 2021
- August 30, 2021
- September 13, 2021
- September 27, 2021
- October 11, 2021
- October 25, 2021
- November 8, 2021
- November 15, 2021
- December 6, 2021

## **Housing Work Group**

- September 10, 2021
- September 20, 2021
- October 4, 2021
- October 18, 2021
- November 1, 2021
- November 19, 2021

## **Fair Labor Standards Work Group**

- October 7, 2021
- October 14, 2021
- October 21, 2021
- November 4, 2021

## **Workplace Safety Work Group**

- September 30, 2021
- October 14, 2021
- November 2, 2021

# Appendix C: Survey Results Themes

## Part 1 – Gaps, Issues, and Concerns

### Difficulty connecting workers with support

- Vulnerable workers will not utilize the processes we have in place to raise issues about wellness, health, and safety
  - Government unease/mistrust
  - Workers are often afraid to speak out particularly if not in a union setting
    - Retaliation concerns remain
    - This is a problem particularly when there is a language barrier.
- Language barriers/communication difficulties
  - Government, healthcare, systems, and businesses historically rely heavily on written communication, primarily accessible in scholarly English.
  - Lack of translation resources (not just Spanish)
  - Reading abilities
  - Lack of a robust recruitment apparatus to adequately conduct bilingual outreach to agricultural workers.

*“Any policy proposals or changes in worker rights and protections are fundamentally dependent on whether workers actually know about their rights and the resources available to them. Agricultural workers are isolated and often work long, exhausting hours. Outreach workers must be able to visit workers at their homes and provide information and education.”*

### Lack of information/data about workers

- The lack of full account of agricultural workers is always an issue that has to be addressed
  - Number of workers
  - Locations
  - Housing conditions
  - Correct identification: Seasonal, permanent and immigrant workers
- Concerned employers are not reporting all the information related to undocumented workers in MN
- Shared data would help address this gap
  - In particular, year-round ag employees (ex. dairy workers) and non-migrant seasonal workers are difficult to locate, and therefore educate, due to the lack of data—data which is captured for the H-2A and migrant programs.
  - Data related to arrivals, employers, housing, and work schedules.

*“Minnesota agencies and non-governmental organizations need a unified, comprehensive database of agricultural worker data...”*

## Lack of coordination between government, advocates, and employers

*"Minnesota has good laws, agencies, and personnel policies, we should make sure those are known, understood, and working (or not) before devising new ones."*

- It is hard to navigate the maze of authority over workers and worksites
  - Lack of clarity around housing regulations
- Regulatory authority exists among numerous agencies and there is a lack of regular coordination
- There also seems to be a gap in communication between workers, unions, and certain companies.
  - Example: I'm not sure if it is cultural, superstition, fear of job loss, actually ignoring complaints (by companies) or what. Many of the complaints about worker safety this past year were about the same two companies, while other companies got HIGH MARKS from unions, communities, and workers alike.
- Longer term, a cultural shift is needed (rather than just laws and policy).

*"If current laws aren't working, perhaps the gap isn't in policy it's in process, procedure, and community. The companies, the communities, and the workers (and our industry) should be motivated and excited to solve the issues and build a stronger pipeline of workers and improved health and wellness programs for workers and will need to devote our full attention to that. Building bridges with each other within this committee will be a great first step. Then we need to carry it to the companies."*

## Concern #2 – Housing

- Persistent and pervasive health & safety issue
- Overcrowding
- Substandard conditions , have fallen into disrepair
- Lack of housing options in rural areas
- Easy for disease to spread (like COVID-19)
  - Harmful to workers, costly to healthcare system, disrupts ag operations
- This is a complex issue that will take a lot of time, energy and coordination
- Thorough, in-person inspections of H-2A housing would help catch some housing issues before they arise.

## Concern #1 - Lack of enforcement of existing workers' rights and safety regulations

- Need to make sure that existing healthy and safety regulations are being implemented properly, measured and monitored, and adjusted as times change.

### Example 1:

- Federal standards mandate that DEED inspect all H-2A housing in Minnesota. However, DEED only has one employee to inspect all 153 H-2A employers in the state – ***"It is not physically possible for one person to inspect each location annually."***
- Relying on employers to self-report and self-police can reduce the need for more staff, but presents a conflict of interest.

Example 2:

- Minnesota's migrant labor statutes, Minn Stat. 181.85-181.89, provide specific protections to a limited category of migrant agricultural workers in Minnesota. However, these statutes do not explicitly provide jurisdiction to any state or local agency, such as MN Department of Labor and Industry, to enforce these statutes. Further, these statutes, as written, only appear to apply to migrant cannery employees but not to other agricultural workers in Minnesota, since the statute limits application to employers who "[process] fruits or vegetables" and who employ "more than 30 migrant workers per day."
- The statutory penalties in Minn. Stat. 181.89 have not been adjusted for inflation since the statute was enacted in 1981. Using an inflation calculator at the Bureau of Labor Statistics ([https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm)), a penalty of \$500 in 1981 would total over \$1,500 in 2021 if adjusted for inflation. Updated penalties would reflect the true cost of harm inflicted on agricultural workers and more fully compensate workers.

Example 3:

- Minnesota does not have a statute that gives non-governmental outreach workers, migrant education staff, and health service representatives a right to access agricultural workers while they are residing at employer-provided housing.
- States, such as Wisconsin (Wis. Stat. § 103.925) and Pennsylvania (Seasonal Farm Labor Act, 1978 Act 93 Ch. 4), have enacted right-of-access statutes that Minnesota could model.

*The consequence of little to no proactive enforcement of existing laws makes it a complaint-based system where the responsibility falls to the employee or their advocate to file complaints. There are many barriers to workers taking action.*

## Part 2 – Successes, Data, and Goals

### Current success that this Committee could possibly leverage

- Agencies, Programs, and Coalitions
  - Minnesota Head Start
  - DEED Migrant Labor Representatives
  - Minnesota Migrant Services Consortium
- Employers
- COVID-19 Response
  - Coordination that happened between multiple state agencies and local public health staff to respond to COVID-19 clusters
  - Coordination and outreach efforts around COVID-19 vaccination

- Other models
  - Wage Theft Unit created within the Attorney General's Office

*"Unions and worker safety experts consistently sing the praises of one of the employers in Austin, MN"*

*"Coalitions, like the Minnesota Migrant Services Consortium, have established a multidisciplinary, multi-stakeholder partnership to share information, provide updates, and collaborate on reaching workers and addressing their needs. A broad coalition like this should be leveraged to share data on agricultural employers, worker housing locations, worker arrivals and departures, and to coordinate outreach efforts as needed."*

### Sources of current data that could help this Committee's work

- The impact of COVID-19
  - MDH data on COVID-related outbreaks and clusters
- Labor and worker safety issues
  - DLI
  - Law Centers and organizations like the Chamber
  - Unions
  - Community organizations
- Usage rates of current programs
  - Migrant Education Program (DoE)
  - HACER
  - SMRLS
  - CLUES
  - COPAL
- Location/geographic distribution of workers
  - Maps of known employer locations from MDH

*"Community organizations and unions hear first hand accounts of worker fears or feelings of not being treated fairly."*

*"Other community organizations (HACER, SMRLS, Clues, Copal) may have some data about usage of their programs."*

### Other information that could help inform the Committee

- Information on fellow Committee members
  - Knowing fellow members' biographies, organizations they have worked for, and their roles

- Contact information for members to reach out to each other with specific problems or issues
- Housing inspection data
- Compiled list of the laws and regulations that impact these populations
- More complete accounting of the workers and their MN employers
- Centralized database for the information

*"A central database would be important, collecting information from different departments, or agencies working with agricultural workers in the state."*

### **Visions of successful Committee end points**

- Having more accurate data for these worker populations
- Continued and expanded cooperation
  - Mechanism to communicate, identify needs, and connect them with resources
  - Foundation for progress as other issues arise
- Concrete legislative proposals and policy actions that improve worker wellness
  - Improving proactive enforcement capabilities
  - Expanding migrant labor statute's scope and penalties
  - Improving housing standards and inspections
  - Codifying access to worker housing by agencies that provide assistance (healthcare, education, legal aid, religious services)
- Measured improvements in worker wellness
  - Improved or reduced health and safety claims
  - Greater vaccine acceptance
  - Significant improvements in reducing disease disparities

*"Expanded cooperation now and going forward to create a successful, safe, and sustainable agri-food industry workforce and employment environment for our workers"*

*"A successful Committee end point would be once this Committee drafts concrete legislative proposals that protect and improve agricultural worker legal rights education, worker access to services (including legal and health services), and that increases and clarifies enforcement of worker rights."*

### **Other comments and thoughts**

- Define and clarify terms
  - Make sure we are all using the same terms for each group and understand that each group may face unique barriers and challenges

- Migrant workers
- Seasonal agricultural workers
- H-2A workers
- Year-round agricultural workers

*“With the variety of stakeholders who are members of the committee, I feel confident we can find solutions that will improve the lives and livelihoods of Minnesota agricultural workers.”*

*“Just thank you.”*

# **Appendix D: Workplan Report to the Governor**

To: Governor Walz

From: Deputy Commissioner Vaubel, Department of Agriculture and Deputy Commissioner Warfa, Department of Employment and Economic Development, on behalf of the Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers

Re: Workplan

Date: August 1, 2021

## **Workplan of the Governor's Committee on the Safety, Health and Wellbeing of Agricultural and Food Processing Workers**

### **Background**

In March 2021, the Governor established via Executive Order 21-14 the Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers to address COVID-related and long-term issues related to agricultural and food processing workers in Minnesota. The committee has 15 members representing state agencies, community groups, labor, employers, and public health. The Committee has been meeting since April 2021, and in fulfillment of the direction of EO 21-14, submits this workplan to the Governor.

### **Meeting History & Administration**

All meetings have taken place virtually, beginning with the inaugural meeting on April 27, 2021. The committee has reviewed open meeting laws, established a [public website](#) and a regular meeting schedule twice a month. The Committee also adopted a nickname and acronym: Agricultural Worker Wellness Committee (AWWC).

Early meetings provided updates on vaccine distribution and asked for input and feedback on vaccine plans. The committee also reviewed state agency roles and responsibilities. Staff at MDA, MDH, and DEED are supporting the committee.

### **Committee Objectives**

The committee's overall objective is to, by December 1, 2021, provide recommendations for state policy and legislative changes to relevant state agencies, to be considered for communication to the Governor's Office for inclusion in budget and policy proposals.

There are five objectives outlined in the [Executive Order](#) paraphrased below:

- a. Coordinate resources and outreach in 2021 related to the pandemic
- b. Support and assist with vaccination, testing, access to health care, etc. for workers
- c. Design a proactive strategy to deploy public, private and nonprofit compliance resources to protect and promote health, safety, and wellbeing. Focus on housing, transportation and workplaces.

- d. Develop a communications system between agencies, employers, workers, their families and communities, community organizations, advocacy groups, etc.
- e. Provide a forum for all these groups to engage, collect and analyze data and information, coordinate resources and plan for the future.

## **Committee Priorities**

Committee members were surveyed in May 2021 to establish priorities in alignment with the objectives in the EO. The [survey results are summarized here](#), with key themes emerging around:

- Data
  - Defining agricultural and seasonal worker types
  - Better understanding of who and how many workers
  - Shared data and information among agencies and organizations
- Housing
  - Health and safety concerns
  - Overcrowding and the pandemic
  - Jurisdiction and enforcement depends on type of housing
  - Migrant Labor Camps and employer provided housing
- Agency coordination and capacity
  - Identifying gaps in enforcement and jurisdiction
  - Capacity of current staffing levels
- Outreach and communications
  - Difficulty connecting workers to support
  - Lack of translated materials, relying on “scholarly” written English
  - Mistrust and unease

## **Next Steps**

The Committee will continue with large group meetings on the four priority areas, learning from each other about programs/services/gaps/opportunities and when needed requesting experts and organizations to share ideas and resources. As the COVID-19 pandemic evolves, the Committee will continue to provide input and recommendations for vaccines while shifting focus to long-term and structural issues. A cross-agency group of staff from MDA, MDH, and DEED will continue staffing the committee and support the development of policy proposals and recommendations for December 2021

## **Appendix E: Committee Members**

**Andrea Vaubel**, Deputy Commissioner, Minnesota Department of Agriculture

**Colin Laffey**, Staff Attorney, Agricultural Worker Project, Southern Minnesota Regional Legal Services (SMRLS)

**Dan Glessing**, President, Minnesota Farm Bureau

**Emilia Gonzalez Avalos**, Executive Director, Unidos MN

**Gary Wertish**, President, Minnesota Farmers Union

**Hamse Warfa**, Deputy Commissioner, Minnesota Department of Employment and Economic Development

**Jim Gleb**, President, United Food and Commercial Workers (UFCW) Local 1189

**Kiza Olson**, CHS Administrator, Meeker-McLeod-Sibley Community Health Services

**Nicole Blissenbach**, Deputy Commissioner, Minnesota Department of Labor and Industry

**Rena Wong**, Director of Organizing, United Food and Commercial Workers (UFCW) Local 663

**Rodolfo Gutierrez**, Executive Director, HACER

**Sarah Berry**, Public Health Director, Waseca County | CHS Administrator, Le Sueur – Waseca Community Health Board

**Stephanie Low**-Interim Executive Director/ Chief Medical Officer, Community Health Service Inc.

**Susan Bishop**, Supervisor, Minnesota Department of Health, and Migrant Agricultural Worker Response Lead, ICS

**Tamara Nelsen**, Executive Director, Minnesota AgriGrowth Council

### **Past Committee Members**

**Jennifer Christensen**, President, United Food and Commercial Workers (UFCW) Local 1189

**Kevin Paap**, President, Minnesota Farm Bureau

**Kristi Halvarson**, Executive Director, Community Health Service, Inc.