Chair Grayber, Vice-Chairs Elmer and Muñoz, and Members of the Committee,

My name is Lesley Tamura, and I am a fourth-generation pear grower in Hood River County. I write to OPPOSE House Bill 2548 in the strongest possible terms. This bill will put farmers out of business, no question. To vote in favor of this bill is to publicly acknowledge that you do not believe agriculture has a place in Oregon.

Existing Workplace Protections
This bill entirely ignores already-existing employee protections in Oregon and would result in new mandates that will cripple the agricultural industry. Oregon already has some of the strongest labor laws in the nation, which apply to farmworkers just as they do employees of all other sectors.

The following workplace protections are already in place and enforced by state agencies for **ALL employees in Oregon, including farmworkers**:

- Minimum Wage
- Pay Equity
- Rest and Meal Breaks
- Paid Non-Productive Time
- Oregon Sick Leave
- Oregon Family Leave Act
- Oregon Paid Family and Medical Leave
- Milk Expression in the Workplace
- Pregnancy, Disability, and Religious Accommodation
- Domestic Violence Protections
- Non-Harassment, Anti-Discrimination, and Retaliation Protections
- Unemployment Insurance
- Workers' Compensation Insurance
- Retirement Programs (Oregon Saves or company-sponsored programs)

The following workplace protections are already in place and enforced, **specific to the agriculture industry**:

- Employment of Minors
- Farm Labor Contracting Protections
- Agricultural Overtime
- Adverse Effect Wage Rate (H-2A minimum wage that also applies to domestic employees when H-2A employees are used by an ag business) – third highest AEWR in the nation.

For workplace health and safety, Oregon OSHA has an entire Division 4 vertical code specific to agriculture that goes above the federal OSHA requirements. Division 4 encompasses 22 subdivisions, covering 154 topics and 689 pages of rules dictating safety requirements for any and all tools, equipment, and potential hazards found on an agricultural site, including heat, wildfire smoke, chemical use, labor housing, and the right to refuse dangerous work. In addition, pesticide safety protections are regulated by Oregon OSHA, the Environmental Protection Agency and the Oregon Department of Agriculture.

If a new hazard or workplace concern arises, there are processes already in place at these state agencies to develop new rules or amend current ones. We currently operate under high standards created and enforced by Oregon agencies. A workforce standards board to require additional workplace rules is redundant and unnecessary. To say that our employees need additional protections created by an unelected board is both untrue and offensive to everyone in the agricultural industry who values our employees, prioritizes workplace health and safety, and works hard to comply with the many rules already in place.

If You've Seen One Farm, You've Seen Only One Farm

No two businesses are exactly alike. Even in the same industry where employees are doing the same general tasks from worksite to worksite. There are always differences in work schedules, practices, and compensation. This is because these things are structured based on what works best for that specific worksite, not at a sector level. Knowing how I run my orchard does not mean you know how any other pear grower runs their orchard.

The proponents of this bill claim that the board will look at the different types of ag operations and do cursory "research" to make their decisions, as if they can possibly understand the nuance of work responsibilities and financial realities for ag operations across the state.

There are many people in Hood River County who grow pears; our employees generally do the same tasks throughout the year. And yet, my pear orchard is run differently than my neighbor's because we have different acreage, different land, different soil, different equipment, different number of employees, different irrigation systems, different finances, etc. Our pruning season typically goes from December through April. Whether you have 250 acres of 35 acres, you need to finish pruning your trees during this time frame. Larger operations often pay piece rate (pay by the tree) because it is faster and they need to get more acreage covered. It is not as critical for them to ensure that each tree is carefully pruned because they need to prioritize efficiency. I pay hourly for my pruning because as a small orchard it is critical that every tree gets the maximum number of quality pears grown, and I can only achieve that through slower and more detailed work. If I paid by the tree for pruning, I would risk losing attention to detail because my employees are working faster. This doesn't mean one way is right or wrong; it means we make operational decisions based on the circumstances specific to our business.

Pruning is just one example of the differences that exist between pear orchards, even though we are growing the exact same type of fruit in the same region of the state. Now imagine the wide disparity of farm practices that exists between pears and dairies, or pears and blueberries, or pears and wheat, all spread across Oregon. It is impossible to create one set of standards that could possibly encompass the diversity of farm practices that we all use.

Cherry growers often harvest at night or very early in the morning when it's dark and cool because the summer heat softens the cherries to the point that even the slightest pressure from a picker's hands could ruin them. Will workplace schedule mandates created by this board understand that? If the two employer positions on this board do not have experience as a cherry grower, who will advocate for their cherry standard practices?

I do not believe that the "research" this board conducts will have any clue about the differences in these work tasks or take these things into consideration when creating workplace schedule rules. This is just one of a thousand examples of how this one-size fits all regulatory approach DOES NOT WORK for this industry and how this board will not in any way be qualified to create these mandates.

I know how to run MY orchard to grow MY pears. I can't step foot on someone else's orchard and know what to do or how to do it because I don't know their situation. I have no clue how dairy, wheat, or blueberry operations function in this state. For an employer from one sector to sit on this board to represent all of agriculture is meaningless, as they have no familiarity with the needs of other commodities. Yet the two employer positions allowed on this board are supposed to be a voice for every type of ag in Oregon and hold the line against the many worker advocates, agency representatives and trial attorneys involved.

Compensation

Regarding wages, we strive to pay competitive wages but also must stay within our available income. I pay differently than my fellow orchardists because I know what I can afford at my orchard, while they may be able to afford a different rate. No one wage rule can be applied across all pear orchards simply because a state board says so, let alone across an industry with over 200 commodities that may all follow different compensation structures.

Proponents of this bill claim that paying piece rate is our attempt to undercut and exploit our employees. This is completely untrue. Paying by the piece (by the bin of pears, bucket of cherries, or tree pruned) is one compensation method employers use that allow for better control over labor costs. We utilize piece rates for seasonal work because it makes the most sense for the timing we require. And when we pay piece rates, we are absolutely still held to minimum wage laws. If one of my employees doesn't pick enough to earn at least the required hourly wage in their piece-rate earnings, then I am required by law to pay at least the hourly wage (either state or AEWR hourly wage, whichever applies).

We are not faceless corporations driven solely by bottom lines, we are family farmers doing our best to stay in business. If we are mandated to pay exponentially higher wages than the state-required wage but cannot afford it, what then? Again, state laws already exist mandating wage floors. Why are we singled out in this way?

The Wrong Approach

Those in support of this bill claim that employees who report problems at worksites are retaliated against; I'm sure this occurs in agriculture, just as it does in all industries. We are not exempt from having bad actors, but it is not the norm. It is a failure on the part of the employer to follow the law as well as a failure to follow a personal moral code. However, there are already protection laws in existence for this. The answer is for those state agencies already tasked with enforcing employment rules to follow the processes at the sites where they occur, not to punish an entire industry.

Intent vs. Impact

Employees deserve to have a voice, but this board is not the way to meet that need. An unelected regulatory board with unlimited power to create mandates that is made up almost entirely of worker advocates, lawyers and state agencies is not the way.

Like other industries, we already navigate a landscape fraught with labor shortages and rising operating costs. Unlike other industries, we have no control over the prices we get paid for our products. We operate on non-existent margins. If a workforce board can require that our wages must be increased far beyond the current rates and create additional rules beyond what we are already held to, these challenges will be exponentially compounded, making it impossible for us to stay competitive, or to stay in business at all.

This bill also unfairly targets agriculture by taking away at-will employment, a protection available to both employers AND employees in all other sectors. I should have the right to make necessary staffing decisions without the overhanging threat of a lawsuit, and I should not be forced to keep employees who do not meet performance expectations. We recognize that worker engagement and productivity depend on factors such as job satisfaction, skill development and workplace culture. At a time when our labor pool is continuously shrinking and we are competing for employees, it is not in our best interests to terminate employees for no reason. If we make staffing changes, it is due to finances; or factors outside of our control such as weather, crop yields, and market conditions; or because employees have demonstrated they are incapable of meeting performance expectations. This is a right that employers in all other sectors have. Why should we lose that right? What reason do you have to strip us of our ability to make management decisions for our business while all other sectors in Oregon retain the ability to do so?

This workforce standards board will lead to unnecessary regulations, and wage increases that are far beyond our ability to afford. We have the right to make decisions for our businesses, including staffing, wages and benefits. To have those choices taken away from us and handed over to an unelected and unaccountable bureaucratic body is grossly unjust and discriminatory. I urge you in the strongest possible terms to vote NO on House Bill 2548. To believe that this workforce standards board will end with anything other than chaos and damage is to willfully ignore the truth behind this outrageous proposal.