



NEW YORK STATE SENATOR

George M. Borrello

Senator George Borrello Urges Governor Hochul to Fix Farm Employer Overtime Tax Credit in 30-Day Budget Amendments

GEORGE M. BORRELLO February 12, 2025

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The governor promised in a December veto message that a revised remedy would be negotiated in this year's budget

ALBANY, NY – Senator George Borrello is calling on Governor Kathy Hochul to fulfill her commitment to New York's farmers by including a fix to the Farm Employer Overtime Tax Credit in her 30-day budget amendments to ensure that all farm employers—regardless of payroll structure—receive the relief they were originally promised.

In a letter sent to Governor Hochul, Senator Borrello urged her to include a technical correction to the tax credit so that all farm employers can be reimbursed for the added labor costs resulting from New York's overtime pay mandates for farm employees. The language of the original law establishing the tax credit unintentionally created a loophole that prevented many farm owners from being eligible to claim the credit.

"New York's farmers have endured relentless regulatory and financial burdens, and this tax credit was meant to provide meaningful relief as they adjust to the state's overtime mandate," said Senator Borrello. "However, a drafting error excluded many farms from eligibility. Last year, Governor Hochul acknowledged this issue when she vetoed a bill that would have corrected it, stating that it should be addressed in the budget process. Now is the time to keep that promise."

The farms excluded from the tax credit are those that manage payroll through professional employer organizations (PEOs) or corporate entities created to administer benefits across multiple operations. Many family-owned farms in New York use these structures to streamline payroll and human resources, yet they have been unfairly denied access to this much-needed relief.

The original Farm Employer Overtime Tax Credit, enacted in the FY 2022-23 state budget, was designed to help farms absorb the increased labor costs stemming from New York's decision to lower the farmworker overtime threshold. The threshold will be lowered on a phased schedule set by the state Labor Department. As of January 1, 2024, farm workers in the state are entitled to overtime pay—calculated at 1.5 times their regular hourly rate—after working more than 56 hours per week. This threshold will decrease by four hours every two years until it reaches 40 hours per week in 2032.

The law created a crushing financial burden for many farmers, which led to the creation of the tax credit. However, due to restrictive language, many eligible farm businesses were unintentionally left out, despite their clear need for relief.

Senator Borrello reiterated his support for New York's agricultural community and ensuring that state policies help, rather than hinder, their success.

"Our state's farmers have already suffered under policies that prioritize radical special interests over what is best for our farmers and agriculture. We must correct this oversight and ensure that all farm employers receive the support they were promised," Senator Borrello continued. "The Governor has the opportunity to address this mistake by including the legislative correction in her 30-day amendments. New York's farmers—and the future of agriculture in our state—depend on it."

Attached is a copy of the letter he sent to Governor Hochul.