CORNHUSKER ECONOMICS

University of Nebraska–Lincoln Extension

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Institute of Agriculture & Natural Resources
Department of Agricultural Economics
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Proposed Anti-Affirmative Action Constitutional Amendment

Market Report	Yr Ago	4 Wks Ago	8/22/08
Livestock and Products, Weekly Average			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight	$92.40	$95.21	$98.56
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.	135.69	126.76	123.37
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.	120.72	116.83	117.72
Choice Boxed Beef, 600-750 lb. Carcass	145.35	163.11	162.80
Western Corn Belt Base Hog Price Carcass, Negotiated	64.06	80.00	81.69
Feeder Pigs, National Direct 50 lbs, FOB	58.00	46.00	54.89
Pork Carcass Cutout, 185 lb. Carcass, 51-52% Lean	72.26	84.81	91.15
Slaughter Lambs, Ch. & Pr., Heavy, Wooled, South Dakota, Direct	102.50	111.75	99.00
National Carcass Lamb Cutout, FOB	255.49	285.72	278.48
Crops, Daily Spot Prices			
Wheat, No. 1, H.W. Imperial, bu.	6.04	7.34	8.07
Corn, No. 2, Yellow Omaha, bu.	3.24	5.33	5.69
Soybeans, No. 1, Yellow Omaha, bu.	7.91	13.80	13.02
Grain Sorghum, No. 2, Yellow Dorchester, cwt.	5.29	8.64	8.73
Oats, No. 2, Heavy Minneapolis, MN , bu.	2.51	*	*
Feed			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.	135.00	190.00	190.00
Alfalfa, Large Rounds, Good Platte Valley, ton.	85.00	77.50	77.50
Grass Hay, Large Rounds, Premium Nebraska, ton.	*	85.00	88.75
Dried Distillers Grains, 10% Moisture, Nebraska Average.	*	176.00	175.00
Wet Distillers Grains, 65-70% Moisture, Nebraska Average.	41.50	62.75	59.50

*No Market

The University of Nebraska Board of Regents have adopted resolutions opposing the anti-affirmative action constitutional amendment. The University of Nebraska does not have racial or gender quotas in student admissions or University employment.

On November 4, 2008 Nebraska voters will have the opportunity to amend the Nebraska Constitution by adding a provision that would ban state or local government affirmative action programs (unless pending court challenges keep the initiative off the ballot). The text of the proposed constitutional amendment is as follows:

> Be it enacted by the people of the State of Nebraska that, Article I of the Constitution of Nebraska be amended by adding a Section 30 as follows:
>
> (1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.
>
> (2) This section shall apply only to action taken after the section's effective date.
>
> (3) Nothing in this section prohibits bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.
>
> (4) Nothing in this section shall invalidate any court order or consent decree that is in force as of the effective date of this section.
>
> (5) Nothing in this section prohibits action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.
>
> (6) For purposes of this section, state shall include, but not be limited to: (a) the State of Nebraska; (b) any agency, department, office, board, commission,

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committee, division, unit, branch, bureau, council, or sub-unit of the state; (c) any public institution of higher education; (d) any political subdivision of or within the state; and (e) any government institution or instrumentally of or within the state.

(7) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity or national origin, as are otherwise available for violations of Nebraska's anti-discrimination law.

(8) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the Constitution of the United States, this section shall be implemented to the maximum extent that federal law and the Constitution of the United States permit. Any provision held invalid shall be severable from the remaining portions of this section.

Background. Affirmative action programs are those designed to counteract the effects of past discrimination by making special efforts to recruit, and in some cases hire under-represented minorities (including women). Nebraska examples include recruitment efforts targeted at American Indians, blacks and other racial minorities, and women. Justification for such programs, beyond being an attempt to compensate for past discrimination, include increasing diversity. As the world becomes more economically interconnected, white Americans must become more comfortable in dealing with people from other countries with different religions and politics and of different races. If white Nebraska college students don't encounter many professors or students of different races, cultures or religions, they will be less prepared to deal in a business climate that is becoming much more diverse every day.

Why is affirmative action needed to combat the effects of past discrimination? This isn't an easy question to answer, but I can at least give some historical perspective. First, the historical example of legal racial segregation (and implicit discrimination) against blacks in the South after the American Civil War illustrates that outlawing discrimination on paper is no guarantee that it will be outlawed in practice. This was reflected in President Kennedy's executive order to federal agencies and contractors requiring them to establish programs to demonstrate that no racial discrimination in hiring practices was occurring. The "affirmative action" component was the plan to demonstrate what hiring procedures were being used to prevent racial discrimination in hiring practices. The justification for the plan is that it is easy, with a little creativity, to develop hiring procedures that appear to be race-neutral on the surface but in fact are racially discriminatory.

A Jim Crow example of this in the voting context is the so-called "grandfather clause." After the Civil War, some southern states enacted legislation limiting voting to men whose grandfathers had been eligible to vote (i.e., were legally entitled to vote before the Civil War). While these grandfather clauses said nothing about race, the effect was to prevent blacks from voting because their grandfathers had been slaves and ineligible to vote. An employment example is illustrated in a 1971 U.S. Supreme Court decision. The Duke Power Company, which at that time allowed blacks to work only in labor positions in its North Carolina facility, was required to comply with federal affirmative action requirements in order to sell electricity to the federal government. In response, Duke changed the requirements for its white-only positions to include a high school education. This requirement, making most black employees ineligible for previously white-only jobs, was challenged as being discriminatory. The U.S. Supreme Court ruled in 1971 that the high school diploma requirement in this situation was discriminatory. (Remember that during this time most public schools in the South were still segregated, and that black schools were vastly inferior to white schools.)

Later, black civil rights leaders persuaded Presidents Kennedy, Johnson and Nixon to adopt affirmative action programs that were in effect quota systems. Under the "Philadelphia Program," the federal government would attempt to grant federal contracts to minority-owned businesses in the same proportion as the local minority population. So, e.g., if the local population was 20 percent black, then 20 percent of federal contracts should be awarded to minority contractors. The quota system has been controversial, and has been ruled by the U.S. Supreme Court to be unconstitutional in college admissions. The Court has said that race may be a factor in college admissions, however, so long as it is not a determinative factor.

What would the anti-affirmative action amendment do? (1) It would ban discrimination against individuals or groups based on race, sex, color, ethnicity or national origin in state and local government programs and employment, including state college and University of Nebraska student admissions and employment. This is no change. (2) It would ban preferential treatment in the same circumstances. This is the main purpose of the proposed amendment.

What would the likely impacts be? Minority student recruitment programs at the University of Nebraska and state colleges would have to be substantially modified. Instead of focusing on minority populations (e.g., Native Americans or African-Americans) they would have to focus on e.g., low-income students, students whose parents had not gone to college, etc. The very successful and nationally-recognized University of Nebraska Women in Agriculture extension program would likely have to be substantially revised to be legal or else be discontinued.

The biggest impact would be in how Nebraska is perceived outside the state. Adoption of the anti-affirmative action amendment would send a message – fairly or not – that Nebraskan don't like minorities. Given the continuing expansion of the global economy, this is a perception that could hurt Nebraska economically in the long-run.

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