

1967

## EC67-834 Minimum Wage Legislation -- its Applicability on Nebraska Farms

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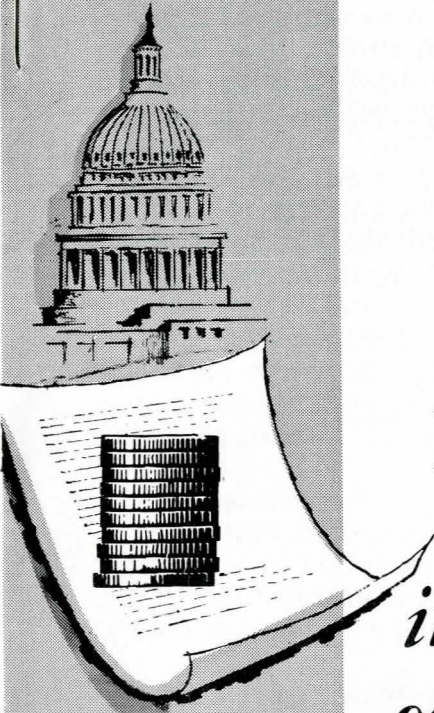
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# MINIMUM WAGE LEGISLATION

## *Its applicability on Nebraska farms.....*

Dr. Clayton Yeutter & Steve McWhorter 1/

### Introduction

In 1938 Congress enacted its first legislation with respect to minimum wages and maximum hours -- the Fair Labor Standards Act. The intent of this Act was to rectify certain adverse working conditions that had been spawned by the depression.

Farmers were exempt from the Act, first, because working conditions were reasonably good and, second, because of the fear that higher wages might have an adverse economic impact on agriculture.

For a long time thereafter, farm employees were the forgotten men of social legislation. But it was ultimately discovered that wages of these employees were not increasing as rapidly as their productivity.

For example, output per man-hour in agriculture increased 69% between 1950 and 1960, whereas output per man-hour in non-agricultural pursuits increased only 23%. Nevertheless, the gap between rural and urban wages widened -- to the detriment of farm employees.

This situation was recognized by the National Agricultural Advisory Committee which, in 1963, recommended "that minimum wages and improved working conditions, in terms adapted to agricultural production, be extended, by stages, to hired farm workers on a national basis until comparability with industrial minimums is attained."

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Published with the approval of the Director as paper No. 2082, Journal Series, Nebraska Agricultural Experiment Station.



A 1965 survey showed that 50% of all farm workers earned less than \$1.00 per hour, with 34% earning less than \$.75 per hour. In addition, the concentration of hired labor on large, high income farms has been increasing. This means that the application of minimum wage legislation to such farms, but not to smaller, family farms might create a more favorable competitive situation for the latter. For these and other reasons, Congress in 1966 amended the Fair Labor Standards Act to make it applicable to farm workers.

### The Minimum Wage Level

The minimum wage for agricultural workers will be \$1.00 per hour on Feb. 1, 1967, \$1.15 per hour on Feb. 1, 1968, and \$1.30 per hour on Feb. 1, 1969. Significantly, these wages lag behind the minimums for urban employees.

For example, employees presently covered by the Act must be paid \$1.40 per hour on Feb. 1, 1967, and \$1.60 per hour on Feb. 1, 1968. Urban workers who will be covered by the Act as a result of the 1966 amendments follow the same schedule as farm workers until 1969, but then continue to escalate until a \$1.60 per hour minimum is reached in 1971.

Will the minimum wage for hired farm employees also increase to \$1.60 per hour at some future time? No one knows, of course, but there are persuasive hints to that effect.

The Senate Committee on Labor & Public Welfare has intimated that all workers covered by the Act should be subject to a single minimum wage. The Committee has also said that the escalation of farm wages was limited to insure that the effects of this legislation on agriculture will be carefully evaluated. The Committee adds that it expects agriculture to adjust without adverse effects, as have other industries, so that additional increases can be established in the future.

## Wages Defined

In addition to cash benefits received by an employee, the fair value or reasonable cost of room, board and other facilities customarily furnished the employee are considered as wages.

In other words, the farmer who furnishes his employee with a house can include his costs for depreciation, maintenance, and interest as "wages" so long as the cost does not exceed the rental rate on a similar house nearby. Likewise, food furnished the employee can be considered as "wages" but the cost cannot be more than the market value (of a side of beef, for example).

Sometimes farm workers are paid on a piece-rate basis. If so, their wages for a work week must average at least as much as the hourly minimum. In addition, no one worker can be paid less than 75% of the minimum wage.

For example, a farmer might hire a four-man crew to pile bales at a certain price per bale or per ton. The foreman might well be paid more than the minimum wage, with the other three men being paid less than the minimum. If the minimum is \$1.00 per hour, the entire crew must average at least that rate for a week's work, and the three bale pilers must receive at least \$.75 per hour.

## Exemptions From the Minimum Wage

Four classes of agricultural workers are specifically exempted from the law:

1. Members of the employer's immediate family (parent, spouse, or children).

2. Hand harvest laborers paid on a piece-rate basis who (1) commute daily from their homes to the farm where they are employed, and (2) have been employed in agriculture less than 13 weeks during the preceding calendar year. The most obvious example in this classification is the high school student who works on a farm during the summer while living at home and commuting back and forth each day.

3. Migrant hand harvest laborers 16 years of age or under who are employed on a piece-rate basis if they are (1) working on the same farm as their parent, (2) and being paid at the same rate as other workers over 16. The purpose of this provision is to permit migrant families to continue to work as a unit (in sugar beet fields, for example).

4. Employees engaged in the "range production" of livestock. This provision is intended to cover jobs which "require constant attendance on a standby basis such as herding and similar activities where the computation of hours worked would be extremely difficult." Presumably, this would eliminate from coverage most of the men who are employed in the Sandhills area.

Even though a farmer hires workers who are not included in the four classes described above, the Act may still not apply to him. This possibility exists because of a general exemption for employers who have not used more than 500 man-days of hired labor during any one of the four quarters of the preceding calendar year.

A man-day is defined as any day in which an employee performs agricultural labor for not less than one hour. For example, if a farm worker does his employer's chores on Sunday morning, he will have done a man-day of work so long as the chores took more than one hour.

In counting man-days during a calendar quarter, the farmer must count all days worked by any of his employees except those that are included in classes (1) and (2) described above. This means that he must count the migrant laborers of class (3) and the herdsmen of class (4) even though he does not have to pay them the minimum wage.

If all of a farmer's employees work at least one hour every day (including Sunday), he will have to comply with the Act if he has at least six employees. If, on the other hand, his workers put in only a six day week, the farmer will need to comply with the Act only if he has at least seven employees.



## Maximum Hours

In most occupations covered by the Act, employees working more than a standard work week are entitled to an overtime rate greater than the minimum wage. Farm employees, however, are not covered by these maximum hour provisions.

## Child Labor

Under the Act, the Secretary of Labor or his representative may investigate and stop practices found oppressive to child labor. In addition, the Act provides that no one below the age of 16 may be employed in an agricultural occupation found by the Secretary to be hazardous to children unless the child is employed by his parent or guardian on a farm owned or operated by the parent or guardian.

## The Economic Impact on Nebraska Farmers

Since data gathered in the 1964 agricultural census are not yet available, projections on the economic impact of minimum wage legislation must be based on the 1959 census. Table 1 shows the number of commercial farms in Nebraska which had five or more regular employees in 1959.

Table 1. Commercial farms with five or more employees, Nebraska, 1959

No. of employees	No. of farms reporting	Farms with gross sales of \$40,000 or more	Farms with gross sales of \$20,000 to \$39,999	Farms with gross sales of less than \$20,000
5 to 9	83	74	9	
10 or more	45	35	10	
5 or more	128	109	19	
1 or more	5809	1859	1887	2063

In 1959 more than 5,000 Nebraska farms used the services of employees other than family members. But only 128 of these farms had five or more hired workers.

Since minimum wage legislation generally will not apply to a farmer unless he has at least 7 employees, some of the farms shown in Table 1 undoubtedly would be excluded from coverage. This means that in 1959 about 100 Nebraska farms would have been affected.

As might be expected, the farms that will be covered by minimum wage legislation are those with high gross incomes. In 1959, every Nebraska farm that had five or more employees also had a gross income of more than \$20,000, and most of them were in the \$40,000 and over classification.

More than 6,000 Nebraska farms hired employees on a seasonal basis in 1959. Of these, 133 had from 5 to 9 employees, and another 12 had 10 or more employees. Since, however, many farms use employees for less than 3 seasonal months, few of these units will be brought within the scope of the act.

It, therefore, seems safe to assume, on the basis of 1959 figures, that fewer than 200 Nebraska farms will be directly affected by the 1966 minimum wage law. (Nationally, about 1% of all farms and about 390,000 workers will be affected.)

In recent years, Nebraska farmers have followed the trend of substituting capital for labor. Thus, 1959 statistics may overestimate the number of farms that will be covered by this act. Whereas 109 Nebraska farms had from five to nine employees in 1954, only 84 farms had that number of employees in 1959. In addition, there were 6650 farms with from one to four employees in 1954, but only 5708 farms with that number of employees in 1959.

Offsetting the trend just discussed is the shift toward larger farm units. Though large farms are making substantial investments in equipment, they are also hiring more people than in the past. This is particularly true for livestock operations. Only 34 Nebraska farms had 10



or more employees in 1954, but this number had risen to 52 by 1959 and is undoubtedly considerably higher today.

The average number of employees per farm in Nebraska has been rising in recent years, primarily because farms are becoming fewer in number and larger in size.

Table 2 shows the hourly wages which were paid on Nebraska farms in 1959.

Table 2. Hourly wages, hired farm workers, Nebraska, 1959

Wage rate/hr.	No. of workers
\$ .45 - .54	11
\$ .55 - .64	10
\$ .65 - .74	12
\$ .75 - .84	135
\$ .85 - .99	70
\$1.00 - 1.14	2711
\$1.15 - 1.29	627
\$1.30 - 1.44	24
\$1.45 or more	163
Ave. Wage	\$1.09/hr.

Only 238 farm employees were being paid less than the \$1.00 per hour minimum which will go into effect in 1967. Since farm wages have risen considerably since 1959, there are probably very few farm employees in Nebraska who are now working for less than \$1.00 per hour.

Table 3 shows the 1959 wage rates for farm employees working on a monthly, weekly, and daily basis.

As compared to a \$1.09/hr. wage for employees working on an hourly basis, it can be seen that weekly wages in 1959 averaged \$1.00 per hour, whereas monthly and daily wage rates averaged only \$.89/hr. It must be noted, however, that many farmers who employ workers on a monthly basis furnish them with housing, and often with board. If the value of these items were included in the computations of Table 3, the average wage for

such employees might well exceed the \$1.00/hr. minimum. (Weekly and daily computations might also be affected by this adjustment.)

Table 3. Wages, hired farm workers, non-hourly basis, Nebraska, 1959

Payment basis	No. of workers	Wage/period	Ave. Hrs. worked/period	Ave. wage on hourly basis
Monthly	6740	\$193	216	\$ .89
Weekly	1190	48	48	1.00
Daily	2588	7.90	8.9	.89

Though the average farm wage in Nebraska at present is undoubtedly more than \$1.00 per hour, there are still many employees earning much less than this. About 300 Nebraska farms paid their employees less than \$100 per month in 1959. Another 100 farms paid less than \$30 per week, and 56 paid less than \$5 per day. This means that 500 Nebraska farms were paying their employees only about \$.50 per hour in 1959. But unless these farms are included in the group of about 100 farms that are covered by the Act, their low paid employees will receive no benefits therefrom.

### Conclusion

If recent federal minimum wage legislation is to have a significant impact on Nebraska agriculture, the impact will have to be indirect rather than legal. As the law is now written, few Nebraska farms will be covered. Of those that are covered, many are already paying more than the minimum wage. In future years, however, Congress might well (1) extend the law to all farms (or at least to many more than are now affected), and (2) increase the minimum wage. Either step would bring far more farms and farm employees under the control of the Act.

Minimum wage legislation has been praised by many, condemned by many. From an economic standpoint, labor, like any other resource, should be rewarded in accordance with its productivity. If farm workers are not now being so rewarded, wage legislation will tend to remedy this inequity.

If, on the other hand, the minimums are increased beyond advances in labor productivity, employees will receive undue rewards at the expense of their employers. The economic goal of such legislation is to achieve a satisfactory relationship between the cost and productivity of labor. Whether or not this will occur remains to be seen.