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The Economic Impact of Mandatory Overtime Pay for New York State Agriculture

Legislation has been introduced in the New York State Senate and Assembly that would require agricultural employers to pay overtime to employees who work more than eight hours per day and 40 hours per week. This Farm Credit East Knowledge Exchange report reviews the impact that mandatory overtime pay could have on agricultural labor costs and farm income.

Context and Key Findings

Labor related costs are a major component of the overall cost of production on many New York farms in part due to the labor intensive nature of many of the state's agricultural products, especially for products such as dairy, fruit, vegetable, nursery and greenhouse.

According to 2017 USDA-ERS data, farm labor expense in New York was about 13.2 percent of the value of agricultural receipts, compared to the national average of 9.5 percent. California is the only state in the U.S. top 10 for value of agricultural production where labor is a higher percentage, and in states such as Michigan, Pennsylvania and Ohio, labor as a percent of the value of agricultural production is 9.9, 9.6 and 6.8 percent respectively.

New York agriculture is fortunate to have highly skilled farmworkers that work side by side with farm owners every day. One underlying issue for agriculture when faced with requirements like mandatory overtime pay is competitiveness with other producing regions. New York farmers compete in national and international markets and have limited power to increase their prices. The following are the key findings of this analysis:

- The increased labor costs resulting from the imposition of mandatory overtime pay in combination with scheduled increases in the minimum wage could impact the financial viability of many farms by significantly reducing net farm income.
- We estimate that mandatory overtime pay for agricultural employees would result in increased labor costs for farms of about 17.2 percent. This increase would be in addition to higher costs

Labor is a major component of cost of production in New York State from the increases in minimum wage scheduled to occur over the next few years.

- When the effect of mandatory overtime pay for agricultural employees is combined with the previously approved minimum wage increases, we estimate agricultural labor costs in New York to increase by approximately $299 million.

- Although some farms may hire additional workers instead of paying existing workers overtime, given the current conditions in the agricultural labor market, we estimate at most 15 percent of the overtime hours could be replaced by hiring new workers.

- Higher labor costs from overtime pay will drive up other costs, including payroll taxes and workers compensation. These additional costs are not projected in this analysis but would place additional financial requirements on farms.

- The increase in labor costs resulting from mandatory overtime pay and the $12.50 minimum wage when fully implemented is estimated to reduce net farm income by 23.4 percent.

- A significant increase in wage expense could incent employers to cut back other benefits received by farmworkers. Higher labor costs would serve as a disincentive to hiring additional workers, and in some cases, if farms cease operations or shift to less labor-intensive crops, jobs could be lost both in production agriculture as well as related processing and marketing businesses.

Combined with minimum wage increases, mandatory overtime could:

- Increase ag labor costs $299 million
- Reduce net farm income 23.4%

Background on New York Agriculture

Agriculture and the related food processing and input sectors are an important economic engine in New York, providing the basis for thousands of jobs and billions of dollars of economic activity:[1]

- 7.2 million acres of land
- 35,537 total farms; 28 percent with labor expenses
- 10,345 farms employ 60,944 employees (full and part-time)
- $5.2 billion in total farm sales
- Total labor expense on farms is $665 million
- $39.4 billion in economic impact for agriculture and related processing/inputs
- More than 160,000 jobs, including ag and related processing/inputs

[1] 2012 Census of Agriculture for New York State, USDA and *Northeast Economic Engine*, Farm Credit East, June 2015, 2017 USDA-ERS Farm Income and Wealth Statistics

New York Agriculture and the Current Economic Climate

New York farms of varying sizes are predominantly family owned (98 percent).[2] These farms often have relatively narrow margins and limited ability to influence prices for their products. In addition, the markets for many farm products are regional, national or global, and New York farmers are competing in most instances with producers in other states or countries subject to a lower minimum wage and no mandatory overtime pay. See Appendix 1 for a state by state listing of each state's current minimum wage and status relative to mandatory overtime.

New York farms compete against producers without similar requirements

New York's competitive position compared to other countries is also a consideration in some industries. For example, Canadian vegetable growers are competitors for New York producers. Appendix 2 highlights the current wage requirements in the two closest producing provinces, Ontario and Quebec, and their advantage relative to labor costs.

Farms have considerable capital investments and may not be able to make short-term production shifts to adjust operations. Given that farms are largely price takers, it is difficult, if not impossible, for farms to simply pass through higher costs for energy, feed or other expenses. Thus, farms are unlikely to be in a position to pass through higher labor costs.

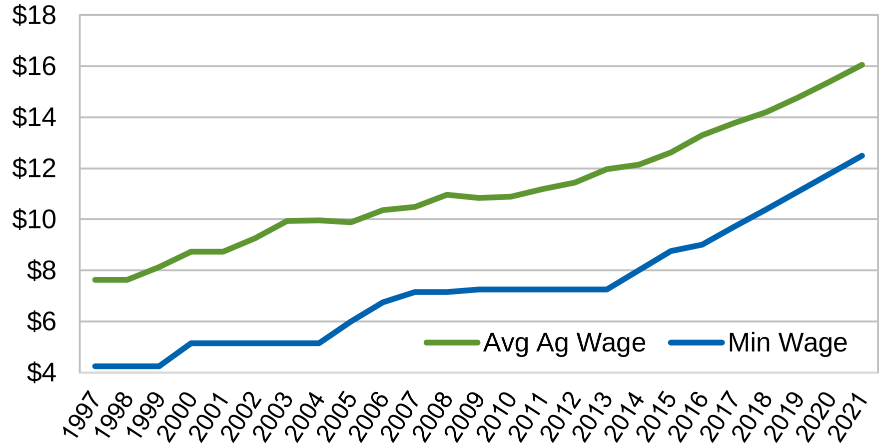
Higher labor costs difficult to pass on for price-taking operations

Most full-time farm operations have some employees, even if they are limited to seasonal work. Of the more than 35,000 farms in New York, only about 28 percent are estimated to have hired farm labor, yet these farms also generate more than 80 percent of the state's gross farm income and 90 percent of the net income. Many of these farms' owners are dependent on agriculture as their primary source of income.

Requiring overtime pay for agricultural workers in New York comes in addition to recent increases in the minimum wage. In 2016, New York passed a law raising minimum wage to $15.00 per hour and $12.50 per hour in upstate New York, phased in over a multi-year period. See Appendix 1.

[2] 2012 Census of Agriculture for New York State, USDA - Includes incorporated farms owned by individuals or families

Figure 1. New York Minimum Wage and Average Agricultural Wage



NY Department of Labor, USDA NASS: Northeast I Region Average Wages. Minimum wage is for upstate NY (Long Island, NYC and Westchester county minimum wage is higher)

Table 1. Historical NY Minimum Wage Rates and Average Agricultural Wages for the Northeast US

Year[1]	NY Minimum Wage (upstate) Year[2]	Northeast Hired Ag Workers[3]
2009	$7.25	$10.83
2010	$7.25	$10.89
2011	$7.25	$11.20
2012	$7.25	$11.43
2013	$7.25	$11.97
2014	$8.00	$12.15
2015	$8.75	$12.63
2016	$9.00	$13.29
2017	$9.70	$13.77
2018	$10.40	$14.19

Source: NY Department of Labor, USDA/NASS
[1] December 31 wage increases are reflected in the following year.
[2] Minimum wage is higher for Long Island and Westchester County.
[3] USDA, NASS, Agricultural Labor Report

As can be seen in the Figure 1 and Table 1, actual average farm wages have historically been higher than the minimum wage. To examine the impact of mandatory overtime on labor costs and farm income, using the average wage increase of the past five years as a baseline, we have estimated average agricultural wages and overtime for the next three years, factoring in the slated increase in minimum wage, shown in Table 2.

Avg. farm wages historically higher than minimum wage

This estimate factors in only about two-thirds of the statutory increase in minimum wage over the same period and considers wages only and not any increase in associated taxes that would be based on the underlying wages.

The right column shows the overtime rate associated with these forecast wages. Note that by 2021, the average overtime wage is projected to be $24.08.

Table 2. Future NY Minimum Wage Rates, Forecast Agricultural Wages and Forecast Overtime Rates

Year	NY Minimum Wage (upstate)	Forecast Average Ag Wage[1]	Overtime Rate (150% of base rate)
2019	$11.10	$14.79	$22.19
2020	$11.80	$15.41	$23.12
2021	$12.50	$16.05	$24.08

Source: NY Department of Labor and Farm Credit East Estimates
[1] This forecast is that average agricultural wages will increase at roughly 2/3 of the rate that minimum wage will increase each year, or 4.2 percent as it assumes some wage compression and that not all workers will receive equivalent pay raises as the minimum wage increases.

As discussed earlier, this increase in farm labor costs has to be absorbed somewhere, and there are two primary possibilities: a) that these increased costs will be passed on to purchasers of their products, or b) that the increase will come out of farm earnings.

Limited options to absorb higher labor costs

There is a third option that will be discussed later in the report which is that longer term, operations may cut back or shift to other types of agriculture. In the short term, assuming producers faced with mandatory overtime maintain their current operations, most farms in New York have little ability to pass increased costs along to purchasers. Farmers producing commodities such as milk, grains, fruits, vegetables or other products for wholesale markets, are competing in a complex marketplace with producers from other states and countries which have different cost structures.

Most farms have limited ability to influence prices

Prices are typically set by the market, due to factors beyond farmers' control, such as global supply and demand, and often bear little relationship to local costs of production. Depending on a number of factors, such as weather and production volumes in competing regions, market prices can range from providing a reasonable profit to below local costs of production. Sometimes these competing regions have lower production and labor costs, and may have a greater impact on market prices than do local farmers.

Even farms selling products direct to consumers are limited in the extent to which they can pass along cost increases. One reason for this is because although New York farmers have significant production, they may not be the primary suppliers for any specific product given the overall size of the New York and regional market, meaning that market supply and pricing is often driven by production elsewhere.

Therefore the likely scenario is that the majority of these increases in labor costs will come out of farm earnings. While the exact impact will vary from one farm to the next, the following is an illustrative example analyzing the impact on the state's agricultural sector as a whole.

Majority of cost increases likely to come out of farm earnings

Analysis of Economic Impact of Mandatory Overtime

Assumptions

- In excess of eight hours in one day or 40 hours in a week is considered overtime
- Overtime is paid at 1.5 times the base rate
- The "average" farm employee works 55 hours per week (15 hours overtime) [3]
- Currently scheduled increases in the minimum wage to $12.50 per hour occur as planned

The current legislative proposal is for overtime pay beyond eight hours per day or 40 hours per week. Given the weather dependent nature of some farm work, under this proposal, an employee might be paid overtime on certain days while not working on other days in a given week. This analysis was completed on the assumption that the number of overtime hours equals the hours per week beyond 40, but this would not necessarily have to be the case.

Although we assume about 15 percent of the hours could be provided by new workers instead of paying existing workers overtime, we believe this is the upper limit of the number of overtime hours that can be replaced. Many farms have difficulty finding local workers

[3] This assumes that while some hired workers will work more hours, others will work fewer overtime hours, or not work any overtime at all, resulting in an average of 55 hours. The baseline assumption is that approximately 70 percent of workers work 25 hours of overtime or 65 hours per week, which would be an average of 57.5 hours per week for all workers, which has been adjusted to an average of 55 hours per week assuming that about 15 percent of hours would be replaced by other workers.

and given the limitations in using the H-2A program, especially for operations with year-round needs like dairy farms, we believe farm employers would be limited in how many additional workers they could hire in order to limit overtime expense.

New York and U.S. agriculture have had wide swings in results over the last several years as farm income dropped by two-thirds between 2013 and 2016, due to lower commodity prices for products like dairy, grains and oilseeds. For that reason, the analysis was based on New York USDA-ERS financial data over the last five years in order to take out some of the year-to-year variations in assessing the impact of mandatory overtime.

Table 3. Impact of Minimum Wage Increases and Overtime Pay on New York Farm Income	5-Year Average ($1,000)
Value of Farm Production (NY)	$5,514,909
Hired Labor Costs	$688,095
Net Farm Income[1]	$1,278,023
Minimum Wage Increase	$180,955
OT Increase	$118,191
Combined Impact of OT and Min Wage	$299,146
New Net Farm Income[2]	$978,877
% Increase in Wage Expense	44%
% Reduction in Net Farm Income	23%

Source: ***NY Department of Labor, USDA/NASS***

[1] *Value of farm production, hired labor, and net farm income figures are from USDA/ERS: Farm Income and Wealth Statistics.*

[2] *Assumes farms are unable to pass on increased labor costs.*

As Table 3 shows, New York farmers will incur an increase in farm labor costs averaging 44 percent higher, using the last five years as a baseline. While a five-year average was chosen for this analysis, the impact on farm earnings from one year to the next can vary significantly depending on the net income in a given year.

Between 2013 and 2016, net farm income fell by nearly two-thirds, before recovering somewhat the following year. Because of this volatility in farm income year to year, the impact of these increases in labor costs are also highly variable – they could reduce net farm income anywhere from 19 to 39 percent, depending on the year. While some labor costs are variable, in the short-term the increased labor costs will have to be covered regardless if it is a profitable year or not.

Farm income dropped by two-thirds between 2013-16

Impact of higher labor costs on farm income will vary year to year

It should be noted that these increased labor costs would not affect all farm sectors equally, as labor-intensive ag sectors would be disproportionately impacted by these changes. Using 2012 census data, we estimated the impact of the labor cost on three labor intensive industries, vegetables, fruit and greenhouse/nursery. Table 4 shows that the projected increases in labor costs would reduce net income by between 43 and 74 percent with the specific impact of mandatory overtime reducing net income between 17 and 29 percent.

Effects of labor cost increases will vary by farm type

Table 4. 2012 Farm Income and Impact of Overtime Pay and Minimum Wage Increases by Sector

Sector ($1,000s)	Total Sales	Total Labor Cost	Net Cash Farm Income	Minimum Wage Increase	Overtime Cost Increase	% Reduction in NCFI
Vegetable & Melons	$366,614	$81,793	$83,555	$21,512	$14,049	-43%
Fruit & Tree Nuts	$306,406	$120,432	$70,846	$31,674	$20,686	-74%
Greenhouse & Nursery	$412,350	$124,545	$92,822	$32,755	$21,393	-58%

Source: 2012 USDA Ag Census, NY Table 68

For 40 years, Farm Credit East has prepared the *Northeast Dairy Farm Summary* (DFS), summarizing the financial results of individual dairy farms across the Northeast. Table 5 illustrates the impact of the proposed labor cost increases based on the five-year average financial results of the average dairy farm in the DFS. For the average farm over the five year period in the 2013-17 DFS, the increase in labor costs would have exceeded the average net income for those years. The impact of mandatory overtime alone, for the average farm over the five years of the DFS, would have decreased net income by 40 percent.

Higher labor costs would cut into dairy farm earnings

Table 5. Impact of Overtime Pay and Minimum Wage Increases on Dairy Farms

Total Sales	Total Labor Cost	Net Cash Farm Income	Minimum Wage Increase	Overtime Cost Increase	% Reduction in NCFI
$2,180,768	$306,102	$132,009	$80,505	$52,579	-101%

Source: 5-year average of all dairy farms, 2013-17 Farm Credit East Northeast Dairy Farm Summary

Conclusion

This analysis focuses on the impact of overtime pay on the entire agricultural sector or specific farm types within the agricultural sector. The impact of higher labor costs, however, is borne by individual farms, and these impacts will vary widely depending on the farm's reliance on labor and its financial situation.

At any given point in the farm economy, there are some farms that may be doing well, earning strong profits, while there are other farms which realize only modest earnings, as well as farms experiencing losses.

The impact of the increased labor costs could be enough in some cases to move some farms from positive net earnings into a loss situation. This could cause farms to transition out of agriculture, opening land up to non-farm development in some areas.

The impact of a mandating overtime pay in New York and not in competing states may shift agriculture in two ways. Labor intensive agriculture operations could shift to agricultural enterprises that are less labor intensive, such as dairy production shifting to grain or hay production. Full-time farms may transition to part-time to avoid hiring labor or paying overtime to their employees. Overall, this requirement could reduce the size of New York's agricultural industry.

If we see a significant decline in production from labor intensive agricultural sectors, it could impact food processing and marketing businesses that are located in New York. Many of New York's higher value, labor intensive agricultural products generate the most economic activity further along the value chain in terms of processing, marketing and distribution, meaning the economic impact would be felt beyond the farm. While these businesses may seek raw product from other states, over time some of these businesses may look to relocate closer to major production areas.

Finally, the impact on farmworkers could be mixed. While some workers may benefit from increased earnings, other workers may find their hours reduced as a result of employers trying to manage their increased costs. Wages are just one component of total compensation and ag employers may manage costs by cutting back other benefits, including health insurance, profit sharing, housing or food allowances.

Some farms could move to a loss situation with higher labor costs

Mandatory overtime could have unintended effects on farmworkers

Many of New York's farmworkers attempt to work as many hours as possible during peak periods, often to save money or send remittances. This includes seasonal workers who come to the U.S. with the H-2A visa program who will also be covered by the mandatory overtime requirement. To the extent employers attempt to reduce expenses by cutting back hours, they are concerned that H-2A or other workers looking to maximize hours will choose to work in other regions.

In general, a significant increase in labor costs would serve as a disincentive to hiring additional workers, and in some cases, if farms close or shift to less labor-intensive crops, jobs could be eliminated. The greatest impact of this labor cost increase would likely be on New York's most labor intensive agriculture: dairy, fruit, vegetable, greenhouse and nursery sectors.

See following pages for Appendices

Appendix 1: Labor regulations by U.S. State

State (A-M)	Minimum Wage	Overtime Mandatory for Ag	Collective Bargaining Rights for Farmworkers
Federal	$7.25	No	No
Alabama	Same as Federal	No	No
Alaska	$9.89	No	No
Arizona	$11.00	No	Yes
Arkansas	$9.25[1]	No	No
California	$11.00 / $12.00[2]	Yes – after 55 hours/wk[3]	Yes
Colorado	$11.10	No	No
Connecticut	$10.10	No	No
Delaware	$8.75	No	No
District of Columbia	$13.25	No	No
Florida	$8.46	No	No
Georgia	Same as Federal	No	No
Hawaii	$10.10	Yes – after 40 or 48 hours/wk[4]	Yes
Idaho	Same as Federal	No	No
Illinois	$8.25	No	No
Indiana	Same as Federal	No	No
Iowa	Same as Federal	No	No
Kansas	Same as Federal	No	Yes
Kentucky	Same as Federal	No	No
Louisiana	Same as Federal	No	Yes
Maine	$11.00	No	No
Maryland	$10.10	Yes – after 60 hours/wk	No
Massachusetts	$12.00	No	Yes
Michigan	$9.25	No	No
Minnesota	$8.04 / $9.86[5]	Yes – after 48 hours/wk[6]	No
Mississippi	Same as Federal	No	No
Missouri	$8.60	No	No
Montana	$8.50	No	No

[1] Some farmworkers are exempt from the state minimum wage.
[2] Applicable to employers with 26 employees or more.
[3] Overtime (1.5 rate) must be paid to workers after 9.5 hours per day or 55 hours per week. Scheduled to be adjusted to 8 hours per day and 40 hours per week by 2022.
[4] Overtime required after 40 hours per week. However, rules allow the farm employer to select up to 20 weeks per year to be exempt from overtime pay until 48 hours per week.
[5] Applicable to employers with annual revenues of $500,000 or more.
[6] Exempts farmworkers paid more than $646 per week according to a specific formula.

Appendix 1: Labor regulations by U.S. State

State (N-Z)	Minimum Wage	Overtime Mandatory for Ag	Collective Bargaining Rights for Farmworkers
Federal	$7.25	No	No
Nebraska	$9.00	No	Yes
Nevada	$7.25 / $8.25[7]	No	No
New Hampshire	Same as Federal	No	No
New Jersey	$8.85[8]	No	Yes
New Mexico	$7.50	No	No
New York	$11.10 / $12.00 / $13.50 / $15.00[9]	No	No
North Carolina	Same as Federal	No	No
North Dakota	Same as Federal	No	No
Ohio	$7.25 / $8.55[10]	No	No
Oklahoma	Same as Federal	No	No
Oregon	$10.75	No	Yes
Pennsylvania	Same as Federal	No	No
Rhode Island	$10.50	No	No
South Carolina	Same as Federal	No	No
South Dakota	$9.10	No	No
Tennessee	Same as Federal	No	No
Texas	Same as Federal	No	No
Utah	Same as Federal	No	No
Vermont	$10.78	No	No
Virginia	Same as Federal	No	No
Washington	$12.00	No	No
West Virginia	$8.75	No	No
Wisconsin	Same as Federal	No	Yes
Wyoming	Same as Federal	No	No

[7] Minimum wage is $8.25 if employer does not provide health insurance.
[8] New Jersey recently passed legislation to increase its minimum wage to $15 per hour phased in over the next several years. Ag hourly wage rates would be phased in to a level of $12.50 per hour.
[9] $12.00 for Long Island and Westchester counties, $13.50 for NYC small employers, $15.00 for NYC large employers and $11.10 for the rest of New York. By 2022, all of New York is scheduled to have a $15 minimum wage except for upstate, which would be $12.50 though that minimum can be increased over time to $15 based on economic factors.
[10] $8.55 for employers with annual gross receipts of $305,000 or more.

Appendix 2: Canada

Ontario

Under pressure from business leaders, the province of Ontario, Canada, recently voted to postpone its planned increase in the province's minimum wage from CAD $14.00/hour to $15.00 until 2022 (USD $10.56 to $11.31).[11] The minimum wage in Ontario last increased from CAD $11.60/hour to $14.00 on January 1, 2018 (USD $8.74 to $10.56). The bill also eliminates the previously legislated two paid sick days and 10 personal emergency leave days and instead offers up to three days for personal illness, two for bereavement, and three for family responsibilities, although none are required to be paid time off.

Quebec

Quebec's minimum wage will increase from CAD $12.00/hour to $12.50 on May 1, 2019 (USD $9.04 to $9.42). The increase is based on a target of 50 percent of the average hourly wage for the province.

[11] All US Canadian dollar conversions are as of February 19, 2019