

# Report to the Legislature: Overtime in Minnesota Agriculture

by  
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Research and Statistics

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## Executive summary: findings and recommendations

The 2014 Minnesota Legislature mandated that the Department of Labor and Industry (DLI) submit a report by Jan. 1, 2015, on overtime in agriculture, specifically “on the number of agricultural employers who are using a 48-hour workweek and the number of employees affected.” The mandate requires that the report “shall include recommendations for appropriate compensation for such agricultural employees.”<sup>1</sup> This report is pursuant to that mandate.

The federal Fair Labor Standards Act exempts agriculture from its overtime requirements.<sup>2</sup> Minnesota, along with a few other states, includes agriculture in the overtime provisions of its own labor standards statute.<sup>3</sup> While federal law mandates time-and-a-half pay after 40 hours a week, Minnesota stipulates a 48-hour threshold with time-and-a-half pay required for additional hours.<sup>4</sup> Minnesota excludes, or “exempts,” certain groups of employees, including some agricultural employees, from its overtime requirements.<sup>5</sup> This report refers to nonexempt employees as “covered” by the state overtime provisions.

DLI responded to the report mandate by conducting (1) an analysis of the number of agricultural employees working more than 48 hours a week and of the number of employers with such employees and (2) an analysis of the extent to which employees working more than

48 hours a week are paid a 50-percent differential.

DLI employed two approaches to gather data for these analyses. First, it conducted a survey of agricultural employers, asking them about the overtime and exemption status of their employees. The survey requested data for the four workweeks containing the midpoints of the four quarters of 2013. Second, DLI analyzed the Wage-Detail data of the Minnesota Unemployment Insurance (UI) system. This data, reported by all UI-covered employers to the Minnesota Department of Employment and Economic Development, indicates the quarterly wages and hours of each employee.

### Findings

#### Employer survey

DLI sent the survey to the 2,095 agricultural employers in the state as of 2013; 538 responded, for a 26-percent response rate, which was fairly uniform across agricultural subsectors (e.g., soybean farming, dairy farming). DLI combined the survey responses with the UI Wage-Detail data to estimate the total numbers of employers and employees in the categories represented by the survey questions (e.g., the total number of employers with any employees working more than 48 hours a week).

The survey estimates include the following.

- High percentages of agricultural employers have employees working overtime:
  - an estimated 60 percent of agricultural employers had at least one employee working more than 48 hours in at least one of the four survey weeks;
  - an estimated 49 percent of agricultural employers had at least one employee covered by (not exempt from) the

<sup>1</sup> Minn. Laws 2014, Chap. 312, Art. 3, Sec. 22.

<sup>2</sup> [www.dol.gov/whd/regs/compliance/hrg.htm#8](http://www.dol.gov/whd/regs/compliance/hrg.htm#8), [www.dol.gov/whd/overtime/applicable\\_laws.htm](http://www.dol.gov/whd/overtime/applicable_laws.htm).

<sup>3</sup> Minn. Stat. § 177.23. The following states also include agricultural workers in their overtime laws (not necessarily an exhaustive list): California ([www.dir.ca.gov/iwc/iwcarticle14.pdf](http://www.dir.ca.gov/iwc/iwcarticle14.pdf)), Hawaii ([www.lawsolver.com/law/state/hawaii/hi-statutes/hawaii\\_statutes\\_387-3](http://www.lawsolver.com/law/state/hawaii/hi-statutes/hawaii_statutes_387-3)), Maryland ([www.lawsolver.com/law/state/maryland/md-laws/maryland\\_laws\\_labor\\_and\\_employment\\_3-420](http://www.lawsolver.com/law/state/maryland/md-laws/maryland_laws_labor_and_employment_3-420)) and Wisconsin ([www.lawsolver.com/law/state/wisconsin/wi-laws/wisconsin\\_laws\\_chapter\\_103](http://www.lawsolver.com/law/state/wisconsin/wi-laws/wisconsin_laws_chapter_103)).

<sup>4</sup> Minn. Stat. § 177.25.

<sup>5</sup> Minn. Stat. § 177.23.

- overtime provisions of Minnesota law and working more than 48 hours in one or more of the survey weeks; and
- these percentages were highest in dairy farming, where 81 percent of employers had at least one employee working more than 48 hours in one or more survey weeks and 74 percent had at least one covered employee working more than 48 hours in one or more survey weeks.
- An estimated 34 percent of agricultural employees in 2013 worked more than 48 hours a week, averaged over the four survey workweeks.
  - About 22 percent of these were exempt from the overtime provisions; the remaining 78 percent were covered. Consequently, an estimated 26 percent of employees (78% x 34%) were covered by the overtime provisions and working more than 48 hours.
  - Dairy farming had the highest percentage of overtime, with 54 percent of employees working more than 48 hours and 49 percent covered and working more than 48 hours.
- An estimated 88 percent of salaried employees who worked more than 48 hours a week in 2013 were exempt from the overtime requirements. These employees were exempt under one or both of the following provisions:<sup>1</sup>
  - salaried agricultural employees are exempt if they earn a weekly amount at least the equivalent of 65 hours at the state minimum wage with the overtime differential applied after 48 hours; and
  - up to two salaried agricultural employees are exempt regardless of pay.
- Because of these exemptions, while hourly and piece-rate employees accounted for an estimated 75 percent of all agricultural employees working more than 48 hours a week, they accounted for 96 percent of

covered agricultural employees working more than 48 hours.

### Wage-Detail data analysis

The Wage-Detail data analysis covered the years 2004 through 2013 to provide sufficient sample size. The analysis used a quarterly wage figure for each employee, computed from quarterly wages and hours. All employees' wages were adjusted for average wage growth over time within each agricultural subsector.

The analysis compared each employee's wages for different quarters with the employee's "benchmark wage." This was an estimate of what the employee would have been paid if he or she had been paid their straight-time wage for the first 624 hours in the quarter and 150 percent of this wage for any additional hours (624 hours is equivalent to 13 weeks at 48 hours a week). The straight-time wage for each employee was estimated as the employee's average hourly wage for all quarters with 300 or fewer hours worked, on the assumption that few if any of these hours would be overtime. The analysis only included employees with quarters above and below 300 hours.

Because quarterly hours are sometimes concentrated in some weeks, the benchmark wage was a minimum estimate of what the employee would earn if the overtime differential were applied to all weekly hours above 48.

In general terms, the Wage-Detail data analysis found the following.

- A substantial proportion of Minnesota agricultural employees are paid the overtime differential for overtime hours while a substantial proportion are not.
  - This conclusion is drawn from average pay levels in the data. Because of data limitations, it is not possible to quantify the percentage of employers that pay the overtime differential or the percentage of employees who receive it.<sup>2</sup>

<sup>2</sup> The relevant data limitations were that (1) wages and hours are reported by quarter, not by week, and (2) reported hours often contain a margin of error.

<sup>1</sup> Minn. Stat. § 177.23, subs. 2 and 3.

- There is substantial variation by agricultural subsector in the degree to which employers pay the overtime differential (see quantitative results on this page).
- Where employees in the Wage-Detail data appear to be working overtime and not receiving the overtime differential, it is impossible to say if this represents employer noncompliance with the law. This is because the data does not indicate the employee's manner of pay (salaried vs. nonsalaried).

In quantitative terms, the Wage-Detail analysis found the following.

- For employees working 351 to 700 hours per quarter in Minnesota agriculture overall (representing 46 percent of quarters worked), average wages were higher than the benchmark.<sup>3</sup> This means some of these employees were paid the overtime differential, for one or both of the following reasons.
  - Some of these employees had one or more weeks above 48 hours. This includes all employees with more than 624 quarterly hours (624 = 13 x 48) plus some others with fewer quarterly hours to the degree that these hours were concentrated in some weeks.
  - Some employers pay overtime after 40 hours.
- For employees working 700 to 900 hours a quarter in agriculture overall (representing 16 percent of quarters worked), wages fell below the benchmark by an estimated average of 2.9 percent. That is, while these wages were above the employees' estimated straight-time rate, they were, on average, 2.9 percent less than if the overtime differential had been paid for all quarterly hours above 624.

- Average wages in this range of hours fell below the benchmark in most agricultural subsectors, the highest shortfall being in potato farming at 9.2 percent.
- In some subsectors, average wages in the 700- to 900-hour range were higher than the benchmark, reflecting quarterly hours being concentrated in some weeks and/or some employers paying overtime above 40 hours.
- For agriculture overall, in 2013 dollars, average wages in the 700- to 900-hour range fell short of the benchmark by an average of \$0.46 an hour or \$360 a quarter. In other words, average wages in this range of hours were less, by these amounts, than if an overtime differential had been paid for all quarterly hours above 624.
  - In crop farming, the greatest estimated quarterly shortfalls were in potato farming (\$1,270), corn farming (\$1,000) and soybean farming (\$790).
  - In animal production, the greatest quarterly shortfalls were in dairy farming (\$570) and chicken egg production (\$500).
  - Average quarterly wages in this range of hours exceeded the benchmark by \$950 or more in beef cattle farming; soil preparation, planting and cultivating; and harvest and post-harvest crop-support activities.

## Recommendations

### Employer poster

Minnesota law requires employers to display, in a location readily visible to employees, DLI-approved summaries of state law and rules regarding safety and health, minimum wages and overtime.<sup>4</sup> DLI supplies posters for this purpose. The current poster on minimum wages and overtime does not indicate which types of employees are covered by state overtime law and which are exempt.

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<sup>3</sup> Strictly speaking, the analysis pertained to quarters worked (each employee generally works multiple quarters), but the phrasing sometimes refers to "employees" for simplicity.

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<sup>4</sup> Minn. Stat. § 177.31.

**Recommendation 1:** DLI should create a separate poster dealing with state overtime provisions for agricultural employees, describing which of these employees are covered by the overtime provisions and which of them, such as those paid at least a certain salary, are exempt. Agricultural employers should be required to display this poster, along with other required posters, in a place readily visible to employees.

### Outreach and education

This study reveals that many Minnesota agricultural employers do not pay the required overtime differential to covered employees working more than 48 hours a week.

**Recommendation 2:** DLI should systematically communicate to agricultural employers the requirements of the Minnesota overtime law. DLI should focus outreach on agricultural subsectors that appear (from the Wage-Detail data analysis in Chapter 4) to have relatively low rates of compliance with the law, including potato farming, corn farming, soybean farming and dairy farming.<sup>5</sup>

### Pay threshold for exemption of salaried agricultural employees

As previously indicated, salaried agricultural employees are exempt from the Minnesota overtime requirement if they are paid at least the equivalent of 65 hours a week at the state minimum wage with the overtime differential applied above 48 hours. Since the state minimum wage is \$8.00 an hour for Aug. 1, 2014, to July 31, 2015, the salaried-employee exemption threshold for this period is \$588 a week.<sup>6</sup>

Presumably, the intent of this provision is to create administrative simplicity for employers by removing recordkeeping requirements for those salaried employees who are paid at least as

much as they would earn at prevailing levels of weekly hours and straight-time pay in their agricultural subsectors. The intent is not to provide employers a means of avoiding overtime pay requirements by classifying employees as salaried rather than hourly or piece-rate.

About 2.2 percent of agricultural employees work more than 845 hours a quarter, the equivalent of 13 weeks at 65 hours a week.<sup>7</sup> The highest percentages were in dairy farming (6.0 percent), wheat farming (3.0 percent) and chicken egg production (3.0 percent). To the extent that quarterly hours are concentrated in some weeks, the percentages of employees working more than 65 hours in at least some weeks are higher than these.

Moreover, prevailing pay levels in agriculture are higher than currently required by the minimum wage and overtime rules. The average straight-time hourly rate for all agriculture was estimated at \$12.05 an hour for 2013.<sup>8</sup> At this rate of pay, an employee working 65 hours a week would earn \$886 if paid time-and-a-half above 48 hours. This is half again as high as the current salaried exemption threshold of \$588 a week, and the difference is even greater given that the \$886 pertains to 2013 while the \$588 pertains to Aug. 1, 2014, to July 31, 2015.

**Recommendation 3:** Consideration should be given to raising the pay threshold for exemption of salaried agricultural employees.

<sup>7</sup> Figure 2.4-A, p. 7. Strictly speaking, these percentages are percentages of all quarters worked.

<sup>8</sup> Figure 4.2, p. 27. This was computed as total quarterly wages divided by total quarterly hours for employees working no more than 300 hours a quarter, using data for 2004 through 2013 with wages adjusted to 2013 levels.

<sup>5</sup> See Figures 4.4 and 4.5, pp. 29-30.

<sup>6</sup>  $\$8.00 \times 48 + 1.5 \times \$8.00 \times (65 - 48) = \$588$ .

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# 1

## Introduction

### Background

The federal Fair Labor Standards Act exempts agriculture from its overtime requirements.<sup>1</sup> Minnesota, along with a few other states, includes agriculture in the overtime provisions of its own labor standards statute.<sup>2</sup> While federal law mandates time-and-a-half pay after 40 hours a week, Minnesota stipulates a 48-hour threshold with time-and-a-half pay required for additional hours.<sup>3</sup> Minnesota excludes, or “exempts,” certain groups of employees, including some agricultural employees, from its overtime requirements.<sup>4</sup>

The 2014 Minnesota Legislature mandated that the Department of Labor and Industry (DLI) submit a report by Jan. 1, 2015, on overtime in agriculture, specifically “on the number of agricultural employers who are using a 48-hour workweek and the number of employees affected.” The mandate requires that the report “shall include recommendations for appropriate compensation for such agricultural employees.”<sup>5</sup>

This report is pursuant to that mandate.

### Analytical approach

DLI responded to the report mandate by conducting (1) an analysis of the number of agricultural employees working more than 48 hours a week and of the number of employers with such employees and (2) an analysis of the extent to which employees working more than

48 hours a week are paid the required 50-percent differential.

DLI employed two approaches to gather data for this report. First, it conducted a survey of agricultural employers, asking them about the overtime and exemption status of their employees. The survey requested data for the four workweeks containing the mid-points of the four quarters of 2013. Second, the department carried out an analysis of the Wage-Detail data of the Minnesota Unemployment Insurance (UI) system. This data, reported by all UI-covered employers to the Minnesota Department of Employment and Economic Development, indicates the quarterly wages and hours of each employee. The analysis, which covered the years 2004 through 2013, compared average hourly earnings for given employees (at the same employer) between quarters with high and low hours worked.

### Terminology

This report uses the term “covered” to refer to employees who are not exempt from the requirements of the Minnesota overtime law.

### Report organization

Chapter 2 presents background data on Minnesota agricultural employers, employment, wages and hours worked. Chapter 3 presents employer survey results. Chapter 4 describes the Wage-Detail data analysis and presents its findings. Figures appear at the end of each chapter. Appendix A contains the Minnesota overtime statute. Appendix B contains the employer survey and cover letter. Appendix C presents survey comments verbatim. Appendix D presents findings from the Wage-Detail data analysis not shown in the body of the report.

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<sup>1</sup> [www.dol.gov/whd/regs/compliance/hrg.htm#8](http://www.dol.gov/whd/regs/compliance/hrg.htm#8), [www.dol.gov/whd/overtime/applicable\\_laws.htm](http://www.dol.gov/whd/overtime/applicable_laws.htm).

<sup>2</sup> Minn. Stat. § 177.23.

<sup>3</sup> Minn. Stat. § 177.25.

<sup>4</sup> Minn. Stat. § 177.23. Also see p. 9.

<sup>5</sup> Minn. Laws 2014, Chap. 312, Art. 3, Sec. 22.

## 2

## Background data on Minnesota agriculture

***Employers, employees and weekly wages*** — As of 2013, Minnesota agriculture comprised some 2,260 employer establishments and 19,400 employees, as compared with 1,550 and 14,000 respectively for 2000 (Figure 2.1).<sup>1</sup> In 2013, agriculture represented 1.4 percent of the total state economy with respect to employer establishments and 0.7 percent with respect to employees. In 2013 dollars, the average weekly wage in agriculture rose from \$553 in 2000 to \$611 in 2013. The 2013 figure represented 63 percent of the average weekly wage for the overall state economy.

***Quarterly employment*** — Agriculture in general is a seasonal enterprise, but the seasonality is primarily in crop production (Figure 2.2). In 2013, average employment in crop production other than nursery and floriculture ranged from 3,750 in the first quarter to 6,860 in the fourth quarter. In nursery, tree and floriculture production, average employment peaked in the second quarter.<sup>2</sup> Employment in animal production was about the same in all four quarters.

***Employers, employees and wages in agricultural subsectors*** — In 2013, Minnesota had roughly 1,000 employer establishments in crop production and 850 in animal production, with about 420 in agricultural support activities (Figure 2.3). Average employment for these subsectors was approximately 7,000, 10,400 and 2,100 respectively. The largest subsectors with respect to both employers and employees were dairy farming and hog and pig farming.

Weekly and hourly wages vary substantially by agricultural subsector. On the whole, both the weekly and hourly rates were higher in agricultural support activities than in crop or animal production. Apart from agricultural support activities, weekly wages were highest in wheat farming and chicken egg production. Weekly wages reflect both hourly wages and weekly hours. Hourly wages were highest in wheat farming and sugar beet farming. Average weekly hours (estimated here from weekly wages and hourly wages) were highest in potato farming, chicken egg production and harvest and post-harvest crop-support activities.

***Quarterly hours in agricultural subsectors*** — Quarterly hours also vary widely by agricultural subsector (Figures 2.4-A and 2.4-B). For 2004 to 2013 combined, quarterly hours were higher on the whole in animal production, with an average of 419 and median of 469, than in crop production, with an average and median of 295 and 234, respectively. For agriculture overall, about 17 percent of all quarters worked showed total hours more than 624, which corresponds to 13 weeks at 48 hours a week. The corresponding figures were 25 percent for all animal production and 10 percent for all crop production. For animal production overall, 13 percent of quarters worked entailed more than 715 hours (corresponding to an average 55-hour week) and 7 percent involved more than 780 hours (an average 60-hour week). Dairy farming showed the highest quarterly hours of all agricultural subsectors, with 34 percent of quarters worked at more than 624 hours, 21 percent at more than 715 hours and 13 percent at more than 780 hours.<sup>3</sup>

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<sup>1</sup> See note 2 in Figure 2.1.

<sup>2</sup> This pattern was the same in the two components of this subsector — nursery and tree production and floriculture production — but the second-quarter peak was more pronounced in floriculture production.

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<sup>3</sup> The data for Figures 2.4-A and 2.4-B (the Unemployment Insurance system Wage-Detail data) does not indicate whether the employees are paid the overtime differential for weekly hours above 48. However, this data

Interpreting quarterly hours depends on the fact that these hours are sometimes unevenly distributed over the weeks in the quarter. For example, while 17 percent of all quarters worked had more than 624 hours, corresponding to 13

weeks at 48 hours a week, probably a higher (but unknown) percentage of quarters had one or more weeks of more than 48 hours, depending on how the hours fall into different weeks.

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does indicate quarterly wages along with quarterly hours, and is therefore used in the Chapter 4 analysis which compares employees' average hourly wages between quarters with high and low numbers of hours worked.

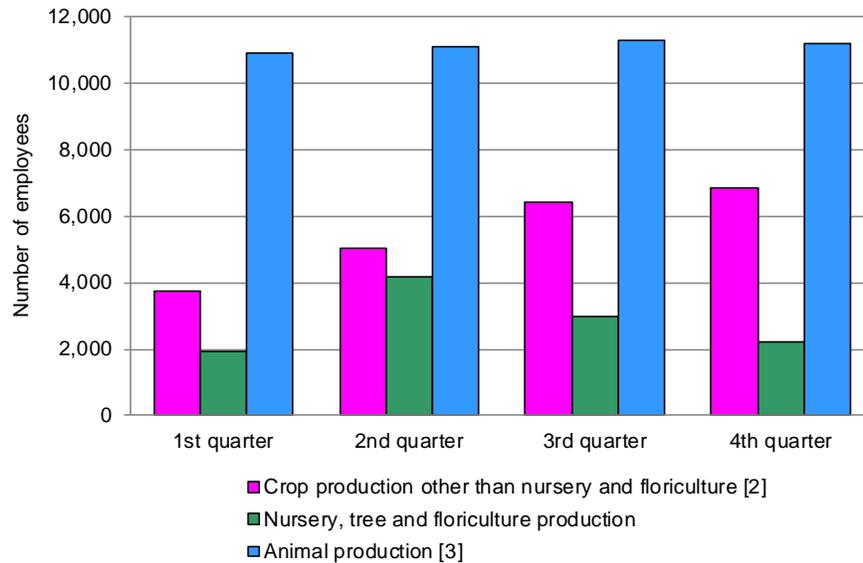
**Figure 2.1**  
Employers, employees and weekly wages in Minnesota agriculture, 2000-2013 [1]



|      | Employer establishments [2] |             |                               | Employees           |             |                               | Average weekly wage (2013 dollars) [3] |             |                               |
|------|-----------------------------|-------------|-------------------------------|---------------------|-------------|-------------------------------|--|-------------|-------------------------------|
|      | Total state economy         | Agriculture | Agriculture as pctg. of total | Total state economy | Agriculture | Agriculture as pctg. of total | Total state economy                    | Agriculture | Agriculture as pctg. of total |
| 2000 | 156,000                     | 1,550       | 0.99%                         | 2,610,000           | 14,000      | 0.54%                         | \$916                                  | \$553       | 60%                           |
| 2001 | 156,000                     | 1,560       | 1.00%                         | 2,610,000           | 14,600      | 0.56%                         | \$913                                  | \$549       | 60%                           |
| 2002 | 157,000                     | 1,570       | 1.00%                         | 2,580,000           | 14,800      | 0.57%                         | \$917                                  | \$560       | 61%                           |
| 2003 | 158,000                     | 1,600       | 1.01%                         | 2,580,000           | 15,000      | 0.58%                         | \$932                                  | \$563       | 60%                           |
| 2004 | 161,000                     | 1,640       | 1.02%                         | 2,600,000           | 15,600      | 0.60%                         | \$949                                  | \$574       | 61%                           |
| 2005 | 167,000                     | 1,690       | 1.01%                         | 2,640,000           | 15,800      | 0.60%                         | \$930                                  | \$553       | 59%                           |
| 2006 | 171,000                     | 1,740       | 1.02%                         | 2,680,000           | 16,300      | 0.61%                         | \$947                                  | \$572       | 60%                           |
| 2007 | 168,000                     | 1,750       | 1.04%                         | 2,690,000           | 16,700      | 0.62%                         | \$971                                  | \$583       | 60%                           |
| 2008 | 168,000                     | 1,870       | 1.11%                         | 2,680,000           | 17,000      | 0.63%                         | \$965                                  | \$583       | 60%                           |
| 2009 | 163,000                     | 1,910       | 1.17%                         | 2,570,000           | 17,200      | 0.67%                         | \$959                                  | \$595       | 62%                           |
| 2010 | 163,000                     | 1,990       | 1.22%                         | 2,560,000           | 17,500      | 0.68%                         | \$972                                  | \$589       | 61%                           |
| 2011 | 165,000                     | 2,100       | 1.27%                         | 2,600,000           | 18,100      | 0.70%                         | \$960                                  | \$584       | 61%                           |
| 2012 | 162,000                     | 2,200       | 1.36%                         | 2,640,000           | 19,000      | 0.72%                         | \$967                                  | \$607       | 63%                           |
| 2013 | 164,000                     | 2,260       | 1.37%                         | 2,690,000           | 19,400      | 0.72%                         | \$964                                  | \$611       | 63%                           |

1. Data from the Quarterly Census of Employment and Wages of the Minnesota Department of Employment and Economic Development. Figures are averages over the 12 months of the year.
2. An establishment is a location where an employer does business; a single employer may have more than one establishment. These figures include establishments that had no employees but were still "active" or only temporarily closed.
3. The inflation-adjustment of average weekly wages was done with the Consumer Price Index for Urban Consumers for the Minneapolis-St. Paul metropolitan area, from the U.S. Bureau of Labor Statistics. Wages are expressed in 2013 dollars.

**Figure 2.2**  
Average employment by quarter in Minnesota agriculture, 2013 [1]



| Agricultural subsector                                  | Number of employees |                |               |                |                |
|---|---------------------|----------------|---------------|----------------|----------------|
|   | First quarter       | Second quarter | Third quarter | Fourth quarter | Annual average |
| Crop production other than nursery and floriculture [2] | 3,750               | 5,030          | 6,410         | 6,860          | 5,510          |
| Nursery, tree and floriculture production               | 1,950               | 4,160          | 2,980         | 2,210          | 2,830          |
| <b>All crop production [2]</b>                          | <b>5,700</b>        | <b>9,180</b>   | <b>9,390</b>  | <b>9,070</b>   | <b>8,340</b>   |
| <b>All animal production [3]</b>                        | <b>10,880</b>       | <b>11,110</b>  | <b>11,270</b> | <b>11,170</b>  | <b>11,110</b>  |
| <b>All agriculture [4]</b>                              | <b>16,580</b>       | <b>20,290</b>  | <b>20,670</b> | <b>20,250</b>  | <b>19,450</b>  |

1. Data from the Quarterly Census of Employment and Wages of the Minnesota Department of Employment and Economic Development. Figures are averages over the months of the quarter or year.
2. Includes support activities for crop production.
3. Includes support activities for animal production.
4. Includes support activities for crop and animal production.

**Figure 2.3**  
**Employers, employees and wages in Minnesota agricultural subsectors, 2013**

| Agricultural subsector                         | Employer establishments<br>[1,2] | Employees<br>[1] | Average weekly wage<br>[1] | Average hourly wage<br>[3] | Median hourly wage<br>[3] | Estimated average weekly hours<br>[4] |
|--|----------------------------------|------------------|----------------------------|----------------------------|---------------------------|---------------------------------------|
| Soybean farming                                | 61                               | 187              | \$621                      | \$15.25                    | \$15.00                   | 40                                    |
| Wheat farming                                  | 43                               | 199              | \$735                      | \$17.42                    | \$16.97                   | 42                                    |
| Corn farming                                   | 174                              | 696              | \$640                      | \$15.18                    | \$14.45                   | 40                                    |
| Oilseed and grain combination farming          | 136                              | 616              | \$651                      | \$16.33                    | \$15.22                   | 38                                    |
| Potato farming                                 | 45                               | 604              | \$652                      | \$11.78                    | \$10.45                   | 45                                    |
| Other vegetable and melon farming              | 36                               | 330              | \$504                      | \$11.64                    | \$10.01                   | 39                                    |
| Apple orchards                                 | 21                               | 235              | \$276                      | \$10.02                    | \$9.02                    | 22                                    |
| Nursery and tree production                    | 87                               | 1,578            | \$577                      | \$13.22                    | \$11.39                   | 36                                    |
| Floriculture production                        | 77                               | 1,248            | \$470                      | \$10.64                    | \$8.86                    | 33                                    |
| Sugar beet farming                             | 110                              | 471              | \$621                      | \$16.89                    | \$16.92                   | 35                                    |
| All other crop production                      | 205                              | 831              | \$609                      | \$14.78                    | \$14.00                   | 38                                    |
| <b>All crop production</b>                     | <b>995</b>                       | <b>6,995</b>     | <b>\$576</b>               | <b>\$13.49</b>             | <b>\$12.02</b>            | <b>37</b>                             |
| Beef cattle production                         | 68                               | 323              | \$563                      | \$13.94                    | \$13.03                   | 38                                    |
| Dairy cattle and milk production               | 314                              | 3,826            | \$537                      | \$11.48                    | \$10.71                   | 44                                    |
| Hog and pig farming                            | 286                              | 3,095            | \$687                      | \$15.75                    | \$13.69                   | 42                                    |
| Chicken egg production                         | 16                               | 892              | \$732                      | \$12.64                    | \$10.86                   | 49                                    |
| Other poultry production                       | 75                               | 1,534            | \$618                      | \$15.39                    | \$12.46                   | 38                                    |
| All other animal production                    | 86                               | 718              | \$534                      | \$12.38                    | \$10.99                   | 41                                    |
| <b>All animal production</b>                   | <b>845</b>                       | <b>10,388</b>    | <b>\$611</b>               | <b>\$13.31</b>             | <b>\$11.63</b>            | <b>43</b>                             |
| Soil preparation, planting and cultivating     | 122                              | 521              | \$709                      | \$16.09                    | \$14.91                   | 39                                    |
| Harvest, postharvest crop-support activs.      | 88                               | 684              | \$823                      | \$15.85                    | \$14.26                   | 46                                    |
| Support activities for animal production       | 159                              | 721              | \$611                      | \$14.10                    | \$12.02                   | 38                                    |
| <b>All agricultural support activities [5]</b> | <b>417</b>                       | <b>2,064</b>     | <b>\$733</b>               | <b>\$15.80</b>             | <b>\$14.05</b>            | <b>41</b>                             |
| <b>All agriculture</b>                         | <b>2,257</b>                     | <b>19,447</b>    | <b>\$611</b>               | <b>\$13.68</b>             | <b>\$12.00</b>            | <b>41</b>                             |

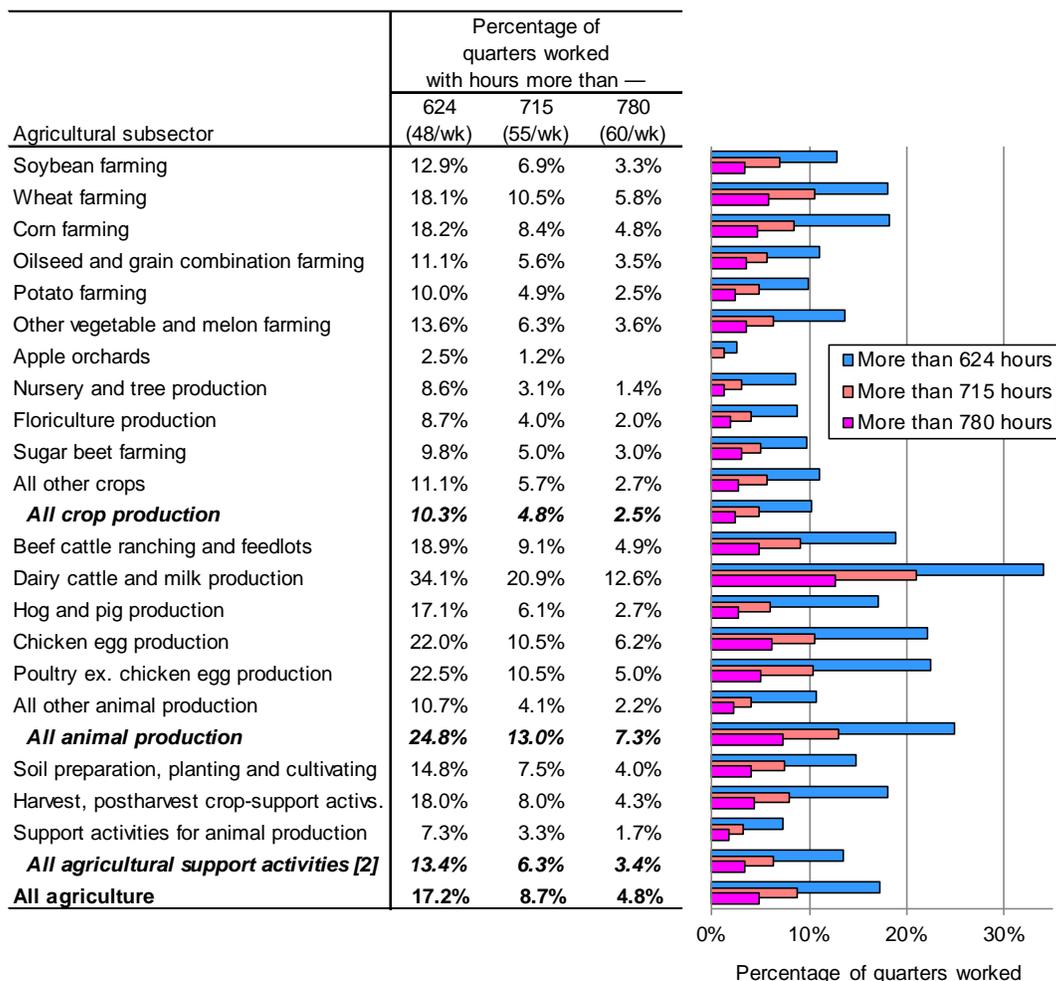
1. Data from the Quarterly Census of Employment and Wages of the Minnesota Department of Employment and Economic Development. Figures are averages over the 12 months of the year.
2. Includes establishments that had no employees but were still "active" or only temporarily closed.
3. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development).
4. Computed as the average weekly wage divided by an average hourly wage. For statistical reasons, a different average hourly wage figure than what is shown in the average-hourly-wage column was used for this computation. The figure used in the computation was the ratio of total wages to total hours for all employees, which is somewhat different from the average of hourly wages over all employees (average-hourly-wage column).
5. All agricultural support activities includes farm labor contractors and farm management services, which are not shown separately.

**Figure 2.4-A**  
**Quarterly hours in Minnesota agricultural subsectors, 2004-2013 combined [1]**

| Agricultural subsector                         | Average quarterly hours | Median quarterly hours | Percentage of quarters worked with hours more than — [2] |              |              |             |             |             |
|--|-------------------------|------------------------|--|--------------|--------------|-------------|-------------|-------------|
|  |                         |                        | 520 (40/wk)  | 624 (48/wk)  | 715 (55/wk)  | 780 (60/wk) | 845 (65/wk) | 910 (70/wk) |
| Soybean farming                                | 294                     | 212                    | 22.1%  | 12.9%        | 6.9%         | 3.3%        |             |             |
| Wheat farming                                  | 352                     | 309                    | 27.6%  | 18.1%        | 10.5%        | 5.8%        | 3.0%        |             |
| Corn farming                                   | 346                     | 315                    | 31.8%  | 18.2%        | 8.4%         | 4.8%        | 1.8%        |             |
| Oilseed and grain combination farming          | 314                     | 264                    | 21.7%  | 11.1%        | 5.6%         | 3.5%        | 1.6%        |             |
| Potato farming                                 | 274                     | 194                    | 18.3%  | 10.0%        | 4.9%         | 2.5%        | 1.0%        |             |
| Other vegetable and melon farming              | 316                     | 260                    | 24.7%  | 13.6%        | 6.3%         | 3.6%        | 1.8%        |             |
| Apple orchards                                 | 153                     | 79                     | 6.1%   | 2.5%         | 1.2%         |             |             |             |
| Nursery and tree production                    | 356                     | 386                    | 27.4%  | 8.6%         | 3.1%         | 1.4%        | .5%         |             |
| Floriculture production                        | 276                     | 201                    | 18.8%  | 8.7%         | 4.0%         | 2.0%        | .9%         | .3%         |
| Sugar beet farming                             | 273                     | 195                    | 17.8%  | 9.8%         | 5.0%         | 3.0%        | 1.6%        | .7%         |
| All other crop production                      | 289                     | 218                    | 21.5%  | 11.1%        | 5.7%         | 2.7%        | 1.3%        | .6%         |
| <b>All crop production</b>                     | <b>295</b>              | <b>234</b>             | <b>21.4%</b>   | <b>10.3%</b> | <b>4.8%</b>  | <b>2.5%</b> | <b>1.1%</b> | <b>.4%</b>  |
| Beef cattle production                         | 377                     | 389                    | 37.0%  | 18.9%        | 9.1%         | 4.9%        | 2.4%        |             |
| Dairy cattle and milk production               | 445                     | 480                    | 46.2%  | 34.1%        | 20.9%        | 12.6%       | 6.2%        | 2.8%        |
| Hog and pig farming                            | 404                     | 474                    | 41.1%  | 17.1%        | 6.1%         | 2.7%        | 1.1%        | .4%         |
| Chicken egg production                         | 418                     | 470                    | 41.7%  | 22.0%        | 10.5%        | 6.2%        | 3.0%        |             |
| Other poultry production                       | 413                     | 473                    | 42.1%  | 22.5%        | 10.5%        | 5.0%        | 2.0%        | .6%         |
| All other animal production                    | 349                     | 357                    | 30.4%  | 10.7%        | 4.1%         | 2.2%        |             |             |
| <b>All animal production</b>                   | <b>419</b>              | <b>469</b>             | <b>42.7%</b>   | <b>24.8%</b> | <b>13.0%</b> | <b>7.3%</b> | <b>3.5%</b> | <b>1.4%</b> |
| Soil preparation, planting and cultivating     | 347                     | 333                    | 29.1%  | 14.8%        | 7.5%         | 4.0%        | 1.9%        | .7%         |
| Harvest, postharvest crop-support activs.      | 391                     | 433                    | 37.2%  | 18.0%        | 8.0%         | 4.3%        | 2.0%        |             |
| Support activities for animal production       | 298                     | 273                    | 19.1%  | 7.3%         | 3.3%         | 1.7%        | .9%         |             |
| <b>All agricultural support activities [3]</b> | <b>346</b>              | <b>345</b>             | <b>28.5%</b>   | <b>13.4%</b> | <b>6.3%</b>  | <b>3.4%</b> | <b>1.6%</b> | <b>.6%</b>  |
| <b>All agriculture</b>                         | <b>357</b>              | <b>345</b>             | <b>31.9%</b>   | <b>17.2%</b> | <b>8.7%</b>  | <b>4.8%</b> | <b>2.2%</b> | <b>.9%</b>  |

1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). The 10-year data range is used to achieve sufficient statistical accuracy for the percentages of workers with high quarterly hours.
2. The weekly hours in parentheses is an average assuming the employee worked all 13 weeks of the quarter. If the employee worked fewer than 13 weeks in the quarter, the weekly hours for the weeks worked would be higher. The percentages are only shown in those cells where the margin of statistical error (with 95-percent confidence) is no more than 15 percent of the estimated percentage. For example, 2.0 percent of employees in floriculture production were estimated to work more than 780 hours a quarter. The 95-percent confidence range for this number is no wider than 1.7 percent to 2.3 percent (i.e., 2.0 percent plus or minus 15 percent of 2.0 percent).
3. All agricultural support activities includes farm labor contractors and farm management services, which are not shown separately.

**Figure 2.4-B**  
**Higher-range quarterly hours in Minnesota agricultural subsectors, 2004-2013 combined [1]**



1. Numbers from Figure 2.4-A. See notes in that figure.
2. All agricultural support activities includes farm labor contractors and farm management services, which are not shown separately.

## 3

## Employer survey

DLI conducted a survey of agricultural employers to obtain information about the number of agriculture employees working more than 48 hours a week, the number of these employees who were covered by the overtime provisions of Minnesota law and the number of employers with such employees.

### Method

The survey (shown in Appendix B) was administered to Minnesota agricultural employers covered in the Unemployment Insurance (UI) system.<sup>4</sup> It requested data for four workweeks in 2013, specifically the workweeks containing the mid-point of each quarter of the year. These workweeks were chosen to give a representative sampling of the year, while recognizing that for some agricultural subsectors, much overtime occurs in some months not included in the survey. Employers were asked to report the numbers of employees by method of pay (salaried, hourly or piece-rate) and by whether the employee worked 48 or fewer hours or more than 48 hours during each survey week.

The survey also requested the numbers of workers in two categories exempt from the overtime provisions of the law:<sup>5</sup>

- Salaried agricultural employees are exempt if they are paid at least the weekly amount they would earn working 65 hours at the state minimum wage with the overtime differential applied after 48 hours.<sup>6</sup>
- Field workers under age 18 are exempt if a parent or guardian works with them.

The law also exempts from its overtime provisions up to two salaried employees of an agricultural employer regardless of pay,<sup>7</sup> but the survey did not include a related question because the number of affected employees could simply be counted from the survey responses.<sup>8</sup> The survey did not ask whether employers paid the mandated overtime differential for covered (nonexempt) employees.

Employer address information was taken from the Wage-Detail data. The survey was mailed Aug. 11, 2014, and employers were asked to respond by Aug. 30. Reminder postcards were sent twice before the due date. DLI provided an online data-entry form, but employers were also allowed to respond by mail.

<sup>4</sup> The UI system does not cover the following types of employees: (1) spouses, parents and minor children of a sole proprietor, (2) owners and officers of corporations and limited-liability companies who own at least 25 percent of the business and have chosen not to be covered and (3) business partners. The UI system covers only those employers with at least one employee not in one of these groups ([mn.gov/deed/business/starting-business/taxes/unemployment-insurance-taxes.jsp](http://mn.gov/deed/business/starting-business/taxes/unemployment-insurance-taxes.jsp)). In addition, for an agricultural employer to be covered, it must have paid, during the current or prior year, at least \$20,000 in wages during at least one quarter or had at least four employees in each of 20 weeks (Minn. Stat. § 268.035).

<sup>5</sup> Minn. Stat. § 177.23, subs. 2 and 3.

<sup>6</sup> For 2013, the survey year, the Minnesota minimum wage (for large employers) was \$6.15 an hour; therefore, the weekly pay threshold for exemption status for salaried agricultural employees (large employers) was \$452 (48 x \$6.15 + 17 x (1.5 x \$6.15)). For Aug. 1, 2014, to July 31, 2015, the state minimum wage (large employers) was \$8.00 an hour; therefore, the weekly pay threshold for exemption status for salaried agricultural employees (large employers) was \$588 for that period (48 x \$8.00 + 17 x (1.5 x \$8.00)).

<sup>7</sup> Minn. Stat. § 177.23, subd. 1.

<sup>8</sup> Minnesota also exempts other types of employees (such as executive, administrative and professional employees) from overtime (see Appendix A, p. 31), but the survey did not deal with these.

## Findings

**Response rate** — Of the 2,095 employers asked to complete the survey, 538 responded, for an overall response rate of 26 percent (Figure 3.1).<sup>9,10</sup> The response rate was fairly consistent across agricultural subsectors, ranging from 22 to 34 percent.

Survey responses were combined with the Wage-Detail data to obtain estimates of the total numbers of agricultural employers and employees in the categories concerned (e.g., the total number of employers with any employees working more than 48 hours a week).<sup>11</sup>

**Salaried and hourly employees** — An estimated 28 percent of agricultural employees for 2013 were salaried and the remaining 72 percent were hourly or piece-rate (Figure 3.2). On the whole, the salaried percentage was about the same in crop production and animal production, but higher in agricultural support activities. The salaried percentage was lowest in dairy farming and floriculture production (16 and 17 percent) and highest in hog and pig farming (42 percent).<sup>12</sup>

**Type of pay period** — An estimated 69 percent of all employees were paid bi-weekly — 55 percent for salaried employees and 74 percent for hourly and piece-rate employees (Figure 3.3).

**Employees above 48 hours a week** — An estimated 29 percent of employees, averaged over the four survey workweeks, were reported to have worked more than 48 hours a week — 16 percent for salaried employees and 35 percent for hourly and piece-rate employees (Figure 3.4). However, employers were unable to classify 29 percent of their salaried employees as above or below 48 hours; the corresponding figures were 43 percent in crop production and 24 percent in animal production. To render the data more useful for analysis, these “unknown” cases were allocated to the two hours categories (above or below 48 hours). Since the employer was being asked whether the employee was *above or below 48 hours*, as opposed to what their hours actually were, it seems reasonable to assume that the unknown cases were equally likely to be above or below 48 hours. On this basis, half of the unknowns were allocated to each of the two hours categories.

After this allocation, 34 percent of employees were estimated to be above 48 hours (Figure 3.5). This percentage was somewhat higher for hourly and piece-rate employees than for salaried (35 percent vs. 30 percent), but in crop production the difference was reversed. Among the subsectors shown, the percentage of all employees above 48 hours was highest in dairy farming (54 percent), soil preparation, planting and cultivating (47 percent) and sugar beet farming (43 percent).

The percentages of employees at more than 48 hours a week (Figure 3.5) are higher than the percentages at more than 624 hours a quarter (Figures 2.4-A and 2.4-B). This is expected, because the weekly hours numbers (Figure 3.5), from the employer survey, reflect the fact that hours are sometimes unevenly distributed over weeks in the quarter, while the quarterly hours

<sup>9</sup> See notes 2 and 3 in the figure.

<sup>10</sup> The number of employers is lower as tabulated from the Wage-Detail data (Figures 3.1 and 3.6) than from the Quarterly Census of Employment and Wages (QCEW) (Figure 2.3). This is partly because the QCEW statistics include employers with no employees as long as they are still “active” or only temporarily out of business for the period concerned, and partly because the QCEW statistics count separate employer establishments (locations) while the Wage-Detail statistics count each employer (including those with multiple establishments) once. For these reasons, and because the Wage-Detail data supplied the universe of employers for the survey, the Wage-Detail data was used for deriving estimates from the survey results.

<sup>11</sup> The estimation used weights, by agricultural subsector, reflecting the total numbers of employers and employees in the Wage-Detail data relative to the respective numbers of employers and employees represented in the survey responses.

<sup>12</sup> The number of employees is higher as tabulated from the Wage-Detail data (Figures 3.2, 3.3 and 3.7) than from the Quarterly Census of Employment and Wages (QCEW) (Figure 2.2). This is because the Wage-Detail data counts each employee who worked at any point during the quarter while the QCEW is an average over the three months of each quarter.

numbers (Figure 2.4-A and 2.4-B), from the Wage-Detail data, do not.<sup>13</sup>

**Employers with employees above 48 hours a week** — The survey results show 60 percent of agricultural employers having at least one employee working more than 48 hours during any of the four survey weeks, or 49 percent of employers averaged over the four survey weeks (Figure 3.6). An estimated 49 percent of employers had at least one *covered* employee at more than 48 hours in any of the survey weeks, or 37 percent averaged over the four weeks. On the whole, these percentages were higher in animal production than in crop production. The percentages were highest in dairy farming, sugar beet farming and harvest and post-harvest crop-support activities. An estimated 75 percent of employers in dairy farming, averaged over the survey weeks, had at least one employee working more than 48 hours, and 66 percent had at least one covered employee at more than 48 hours.

**Exempt and covered employees above 48 hours a week** — Among the 34 percent of employees working more than 48 hours in an average survey week, 22 percent were exempt from overtime pay requirements while the remaining 78 percent were covered (Figure 3.7). As a result, an estimated 26 percent of employees (78% x 34%) were covered and working more than 48 hours a week. As with employers, these percentages were higher on the whole in animal production than in crop production. Dairy farming had both the highest percentage of employees working more than 48 hours (54 percent) and the highest percentage of these being covered (92 percent). As a result, dairy farming had the highest percentage of employees who were covered and working more than 48 hours (49 percent).

**Exempt and covered employees among salaried and hourly employees above 48 hours a week**

— Among employees working more than 48 hours a week, virtually all of those exempt from the overtime provisions were salaried (Figure 3.8). Only 12 percent of salaried employees working more than 48 hours were covered, but essentially all hourly and piece-rate employees at more than 48 hours were covered. As a result, while salaried and piece-rate employees accounted for 75 percent of all employees working more than 48 hours, they constituted 96 percent of all *covered* employees working more than 48 hours.

**Basis of exemption for salaried employees above 48 hours a week** — As noted above, salaried employees are exempt from the overtime provisions if they meet the statutory pay threshold and up to two salaried employees are exempt regardless of pay. As estimated from the survey results, 81 percent of salaried employees working more than 48 hours were exempt under the pay-threshold condition, 61 percent were exempt under the “up to two” provision and 88 were exempt overall, by meeting either one or both conditions (Figure 3.9).<sup>14</sup> In some agricultural subsectors — nursery and tree production; floriculture production; and soil preparation, planting and cultivating — the pay threshold was met by almost all salaried employees above 48 hours. In some other subsectors — such as sugar beet farming and support activities for animal production — the “up to two” provision was the more important of the two. Of the subsectors shown, dairy farming showed the lowest overall exemption percentage — 67 percent — among salaried employees working more than 48 hours.

<sup>13</sup> For example, suppose an employee works 13 weeks during a quarter with 8 weeks at 50 hours and 5 weeks at 40 hours, for a total of 600 hours. In the Wage-Detail data (Figures 3-A and 3-B), this employee would be below the 624 hours corresponding to 13 weeks at an average of 48 hours. In the survey data, this employee could be counted as either above or below 48 hours depending on whether the survey week was one of the 50-hour or 40-hour weeks.

<sup>14</sup> The number of exempt salaried employees for a given employer is the number meeting the pay threshold plus two, not to exceed the total number of salaried employees. If all salaried employees, or all but one, meet the pay threshold, the total number exempt (equal to the total number of employees in this case) is less than the sum of the numbers who would be exempt under either condition alone. For example, if there are four salaried employees and three meet the pay threshold, these three are thereby exempt, but two salaried employees would be exempt otherwise under the up-to-two condition, but the total number exempt is four.

**Respondent comments** — Ninety-five of the 538 survey respondents (18 percent) offered open-ended comments (Figure 3.10). Commenters varied as to whether they paid the overtime differential above 48 hours a week, above 40 hours a week or not at all. Eighteen

percent said they had few or no overtime hours. Five percent said it would be a mistake to lower the overtime threshold to 40 hours a week for agriculture. Appendix C presents all comments verbatim.

**Figure 3.1**  
**Survey response rates**

| Agricultural subsector [1]                     | Total employers [2] | Employers responding [3] | Response rate |
|--|---------------------|--------------------------|---------------|
| Corn farming                                   | 166                 | 37                       | 22%           |
| Nursery and tree production                    | 78                  | 22                       | 28%           |
| Floriculture production                        | 61                  | 21                       | 34%           |
| Sugar beet farming                             | 117                 | 26                       | 22%           |
| All other crop production                      | 516                 | 114                      | 22%           |
| <b>All crop production</b>                     | <b>938</b>          | <b>220</b>               | <b>23%</b>    |
| Dairy cattle and milk production               | 313                 | 88                       | 28%           |
| Hog and pig farming                            | 197                 | 62                       | 31%           |
| All other animal production                    | 245                 | 61                       | 25%           |
| <b>All animal production</b>                   | <b>755</b>          | <b>211</b>               | <b>28%</b>    |
| Soil preparation, planting and cultivating     | 114                 | 30                       | 26%           |
| Support activities for animal production       | 86                  | 21                       | 24%           |
| Support activities for animal production       | 155                 | 46                       | 30%           |
| <b>All agricultural support activities [4]</b> | <b>402</b>          | <b>107</b>               | <b>27%</b>    |
| <b>All agriculture</b>                         | <b>2,095</b>        | <b>538</b>               | <b>26%</b>    |

1. Only those agricultural subsectors with at least 20 employers responding are shown separately.
2. Computed by DLI from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). This is the number of employers reporting any employees during at least one quarter of 2013. At the time of the survey (according to the Wage-Detail data), 78 of these employers had ceased operations and were not included in the survey. An additional eight employers indicated in their responses that they were not agricultural businesses; these employers are also excluded from the survey results. The overall response rate becomes 27 percent if these employers are ignored. See note 28 in text.
3. Seventeen employers responded that they had no employees for 2013; this column excludes those employers.
4. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

**Figure 3.2**  
**Survey estimates: Salaried, hourly and piece-rate employees, 2013**

| Agricultural subsector [1]                     | All employees [2] | Salaried [3] |                | Hourly or piece-rate [3,4] |                |
|--|-------------------|--------------|----------------|----------------------------|----------------|
|  |                   | Number       | Pctg. of total | Number                     | Pctg. of total |
| Corn farming                                   | 1,080             | 280          | 26%            | 800                        | 74%            |
| Nursery and tree production                    | 1,290             | 380          | 30%            | 910                        | 70%            |
| Floriculture production                        | 1,650             | 280          | 17%            | 1,370                      | 83%            |
| Sugar beet farming                             | 910               | 330          | 36%            | 580                        | 64%            |
| All other crop production                      | 4,770             | 1,250        | 26%            | 3,520                      | 74%            |
| <b>All crop production</b>                     | <b>9,690</b>      | <b>2,520</b> | <b>26%</b>     | <b>7,170</b>               | <b>74%</b>     |
| Dairy cattle and milk production               | 4,640             | 760          | 16%            | 3,880                      | 84%            |
| Hog and pig farming                            | 3,160             | 1,320        | 42%            | 1,840                      | 58%            |
| All other animal production                    | 3,030             | 890          | 30%            | 2,140                      | 70%            |
| <b>All animal production</b>                   | <b>10,830</b>     | <b>2,970</b> | <b>27%</b>     | <b>7,850</b>               | <b>73%</b>     |
| Soil preparation, planting and cultivating     | 800               | 310          | 39%            | 490                        | 61%            |
| Harvest, post-harvest crop-support activs.     | 980               | 320          | 32%            | 670                        | 68%            |
| Support activities for animal production       | 760               | 250          | 33%            | 510                        | 67%            |
| <b>All agricultural support activities [5]</b> | <b>2,740</b>      | <b>1,000</b> | <b>36%</b>     | <b>1,740</b>               | <b>64%</b>     |
| <b>All agriculture</b>                         | <b>23,260</b>     | <b>6,490</b> | <b>28%</b>     | <b>16,770</b>              | <b>72%</b>     |

1. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
2. Computed by DLI from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). This total is averaged over the four quarters of 2013. See note 30 in text.
3. Estimated from survey responses in combination with the total number of employees by agricultural subsector from the Wage-Detail data. Averaged over the four survey weeks.
4. In all agriculture, piece-rate employees constituted 1 percent of hourly and piece-rate employees combined. The percentage exceeded 5 percent for two subsectors: support activities for animal production (9 percent) and sugar beet farming (6 percent).
5. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

**Figure 3.3**  
**Survey estimates: Type of pay period, 2013 [1]**

| Type of pay period [2] | All employees |  | Salaried     |  | Hourly or piece-rate |  |
|------------------------|---------------|--|--------------|--|----------------------|--|
|                        | Number        | Pctg. among those with type of pay period reported | Number       | Pctg. among those with type of pay period reported | Number               | Pctg. among those with type of pay period reported |
| Weekly                 | 2,420         | 11%  | 270          | 4%   | 2,140                | 13%  |
| Biweekly               | 15,800        | 69%  | 3,570        | 55%  | 12,220               | 74%  |
| Monthly                | 1,840         | 8%   | 1,430        | 22%  | 410                  | 2%   |
| Semimonthly            | 2,330         | 10%  | 960          | 15%  | 1,370                | 8%   |
| Other [4]              | 470           | 2%   | 200          | 3%   | 270                  | 2%   |
| <b>Total reported</b>  | <b>22,850</b> | <b>100%</b>  | <b>6,440</b> | <b>100%</b>  | <b>16,410</b>        | <b>100%</b>  |
| <b>Not reported</b>    | <b>410</b>    |  | <b>50</b>    |  | <b>360</b>           |  |
| <b>Total</b>           | <b>23,260</b> |  | <b>6,490</b> |  | <b>16,770</b>        |  |

1. Estimated from survey responses in combination with the total number of employees from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economics Development). Averaged over the four survey weeks. See note 30 in text.
2. The type of pay period was coded in some cases from responses to "other — specify."
3. Includes quarterly, annually, end of season and instances of more than one type of pay period being used.

Figure 3.4

Survey estimates: Employees above and below 48 hours a week, 2013

|  | Percentage of employees [2] |              |            |                    |              |            |                      |              |              |
|--|-----------------------------|--------------|------------|--------------------|--------------|------------|----------------------|--------------|--------------|
|  | All employees               |              |            | Salaried           |              |            | Hourly or piece-rate |              |              |
|  | At or below 48 hrs          | Above 48 hrs | Un-known   | At or below 48 hrs | Above 48 hrs | Un-known   | At or below 48 hrs   | Above 48 hrs | Un-known [3] |
| <b>Agricultural subsector [1]</b>              |                             |              |            |                    |              |            |                      |              |              |
| Corn farming                                   | 56%                         | 32%          | 12%        | 36%                | 16%          | 48%        | 63%                  | 37%          | 0%           |
| Nursery and tree production                    | 55%                         | 22%          | 23%        | 20%                | 3%           | 77%        | 70%                  | 30%          | 0%           |
| Floriculture production                        | 74%                         | 12%          | 13%        | 21%                | 1%           | 78%        | 86%                  | 14%          | 0%           |
| Sugar beet farming                             | 53%                         | 38%          | 9%         | 56%                | 24%          | 20%        | 51%                  | 46%          | 3%           |
| All other crop production                      | 64%                         | 27%          | 9%         | 49%                | 22%          | 29%        | 69%                  | 29%          | 1%           |
| <b>All crop production</b>                     | <b>63%</b>                  | <b>26%</b>   | <b>12%</b> | <b>41%</b>         | <b>17%</b>   | <b>43%</b> | <b>70%</b>           | <b>29%</b>   | <b>1%</b>    |
| Dairy cattle and milk production               | 44%                         | 51%          | 6%         | 45%                | 21%          | 35%        | 43%                  | 57%          | 0%           |
| Hog and pig farming                            | 72%                         | 21%          | 7%         | 75%                | 9%           | 16%        | 69%                  | 30%          | 1%           |
| All other animal production                    | 76%                         | 16%          | 8%         | 55%                | 17%          | 27%        | 84%                  | 16%          | 0%           |
| <b>All animal production</b>                   | <b>61%</b>                  | <b>32%</b>   | <b>7%</b>  | <b>61%</b>         | <b>14%</b>   | <b>24%</b> | <b>60%</b>           | <b>39%</b>   | <b>0%</b>    |
| Soil preparation, planting and cultivating     | 50%                         | 43%          | 7%         | 55%                | 28%          | 17%        | 47%                  | 53%          | 0%           |
| Harvest, post-harvest crop-support activs.     | 65%                         | 32%          | 3%         | 81%                | 14%          | 4%         | 57%                  | 40%          | 2%           |
| Support activities for animal production       | 76%                         | 21%          | 3%         | 83%                | 11%          | 6%         | 72%                  | 26%          | 2%           |
| <b>All agricultural support activities [4]</b> | <b>65%</b>                  | <b>31%</b>   | <b>4%</b>  | <b>74%</b>         | <b>17%</b>   | <b>9%</b>  | <b>60%</b>           | <b>39%</b>   | <b>1%</b>    |
| <b>All agriculture</b>                         | <b>62%</b>                  | <b>29%</b>   | <b>9%</b>  | <b>55%</b>         | <b>16%</b>   | <b>29%</b> | <b>65%</b>           | <b>35%</b>   | <b>1%</b>    |

1. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
2. Computed from survey responses. Percentages for groupings of agricultural subsectors (e.g., all crop production) are based on the percentages for the component subsectors and the total number of employees for those subsectors from the Wage-Detail data. Averaged over the four survey weeks.
3. Employers were not allowed to answer "unknown" for hourly employees; therefore, all employees in this column are piece-rate employees.
4. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

Figure 3.5

Survey estimates: Employees above and below 48 hours a week with "unknowns" allocated, 2013

|  | Percentage of employees [2] |              |                    |              |                      |              |
|--|-----------------------------|--------------|--------------------|--------------|----------------------|--------------|
|  | All employees               |              | Salaried           |              | Hourly or piece-rate |              |
|  | At or below 48 hrs          | Above 48 hrs | At or below 48 hrs | Above 48 hrs | At or below 48 hrs   | Above 48 hrs |
| Agricultural subsector [1]                     |                             |              |                    |              |                      |              |
| Corn farming                                   | 62%                         | 38%          | 60%                | 40%          | 63%                  | 37%          |
| Nursery and tree production                    | 67%                         | 33%          | 58%                | 42%          | 70%                  | 30%          |
| Floriculture production                        | 81%                         | 19%          | 60%                | 40%          | 86%                  | 14%          |
| Sugar beet farming                             | 57%                         | 43%          | 66%                | 34%          | 52%                  | 48%          |
| All other crop production                      | 68%                         | 32%          | 64%                | 36%          | 70%                  | 30%          |
| <b>All crop production</b>                     | <b>69%</b>                  | <b>31%</b>   | <b>62%</b>         | <b>38%</b>   | <b>71%</b>           | <b>29%</b>   |
| Dairy cattle and milk production               | 46%                         | 54%          | 62%                | 38%          | 43%                  | 57%          |
| Hog and pig farming                            | 75%                         | 25%          | 83%                | 17%          | 69%                  | 31%          |
| All other animal production                    | 80%                         | 20%          | 69%                | 31%          | 84%                  | 16%          |
| <b>All animal production</b>                   | <b>64%</b>                  | <b>36%</b>   | <b>74%</b>         | <b>26%</b>   | <b>61%</b>           | <b>39%</b>   |
| Soil preparation, planting and cultivating     | 53%                         | 47%          | 63%                | 37%          | 47%                  | 53%          |
| Harvest, post-harvest crop-support activs.     | 67%                         | 33%          | 84%                | 16%          | 58%                  | 42%          |
| Support activities for animal production       | 77%                         | 23%          | 86%                | 14%          | 73%                  | 27%          |
| <b>All agricultural support activities [3]</b> | <b>67%</b>                  | <b>33%</b>   | <b>78%</b>         | <b>22%</b>   | <b>60%</b>           | <b>40%</b>   |
| <b>All agriculture</b>                         | <b>66%</b>                  | <b>34%</b>   | <b>70%</b>         | <b>30%</b>   | <b>65%</b>           | <b>35%</b>   |

1. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
2. Computed from survey responses. Employees whose employers could not categorize them as above or below 48 hours a week were allocated equally between the two categories. Percentages for groupings of agricultural subsectors (e.g., all crop production) are based on the percentages for the component subsectors and the total numbers of employees for those subsectors from the Wage-Detail data (see text). Averaged over the four survey weeks.
3. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

Figure 3.6

Survey estimates: Employers with employees above 48 hours a week by employee overtime exemption status, 2013

|  | Number of employers during at least one survey week |  |            |  |            | Number of employers averaged over the four survey weeks |  |            |  |            |
|--|---|--|------------|--|------------|---|--|------------|--|------------|
|  | Total<br>[2]  | With any employees at more than 48 hours [3] |            | With any covered (nonexempt) employees at more than 48 hours [3,4] |            | Total<br>[2]  | With any employees at more than 48 hours [3] |            | With any covered (nonexempt) employees at more than 48 hours [3,4] |            |
|  |   | Number                                       | Pctg.      | Number   | Pctg.      |   | Number                                       | Pctg.      | Number   | Pctg.      |
| Agricultural subsector [1]                     |   |  |            |  |            |   |  |            |  |            |
| Corn farming                                   | 166   | 90   | 54%        | 72   | 43%        | 150   | 59   | 40%        | 44   | 29%        |
| Nursery and tree production                    | 78  | 35   | 45%        | 28   | 36%        | 70  | 24   | 34%        | 18   | 26%        |
| Floriculture production                        | 61  | 32   | 52%        | 26   | 43%        | 53  | 23   | 43%        | 16   | 30%        |
| Sugar beet farming                             | 117   | 92   | 79%        | 74   | 63%        | 109   | 62   | 57%        | 46   | 42%        |
| All other crop production                      | 516   | 322  | 62%        | 251  | 49%        | 474   | 218  | 46%        | 150  | 32%        |
| <b>All crop production</b>                     | <b>938</b>  | <b>571</b>                                   | <b>61%</b> | <b>451</b>   | <b>48%</b> | <b>856</b>  | <b>385</b>                                   | <b>45%</b> | <b>274</b>   | <b>32%</b> |
| Dairy cattle and milk production               | 313   | 253  | 81%        | 233  | 74%        | 303   | 226  | 75%        | 201  | 66%        |
| Hog and pig farming                            | 197   | 122  | 62%        | 94   | 48%        | 192   | 106  | 55%        | 79   | 41%        |
| All other animal production                    | 245   | 116  | 47%        | 84   | 34%        | 228   | 98   | 43%        | 66   | 29%        |
| <b>All animal production</b>                   | <b>755</b>  | <b>491</b>                                   | <b>65%</b> | <b>411</b>   | <b>54%</b> | <b>723</b>  | <b>430</b>                                   | <b>59%</b> | <b>346</b>   | <b>48%</b> |
| Soil preparation, planting and cultivating     | 114   | 53   | 47%        | 42   | 37%        | 102   | 36   | 35%        | 27   | 26%        |
| Harvest, post-harvest crop-support activs.     | 86  | 59   | 69%        | 57   | 67%        | 76  | 41   | 54%        | 37   | 49%        |
| Support activities for animal production       | 155   | 62   | 40%        | 47   | 30%        | 139   | 42   | 30%        | 28   | 20%        |
| <b>All agricultural support activities [5]</b> | <b>402</b>  | <b>198</b>                                   | <b>49%</b> | <b>165</b>   | <b>41%</b> | <b>355</b>  | <b>132</b>                                   | <b>37%</b> | <b>100</b>   | <b>28%</b> |
| <b>All agriculture</b>                         | <b>2,095</b>  | <b>1,260</b>                                 | <b>60%</b> | <b>1,027</b>   | <b>49%</b> | <b>1,934</b>  | <b>947</b>                                   | <b>49%</b> | <b>720</b>   | <b>37%</b> |

1. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
2. Computed by DLI from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). This is the number of employers reporting any employees during at least one quarter of 2013. See note 28 in text.
3. Estimated from survey responses in combination with the total number of employees by agricultural subsector from the Wage-Detail data. Employees whose employers could not categorize them as above or below 48 hours a week were allocated equally between the two categories.
4. Employees not exempt from the overtime provisions are referred to in this report as "covered."
5. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

**Figure 3.7**  
**Survey estimates: Overtime exemption status of employees working more than 48 hours a week, 2013**

|  | All employees [2] | Working more than 48 hours in survey week [3] |            |              |   |              |   |            |
|--|-------------------|---|------------|--------------|---|--------------|---|------------|
|  |                   | Pctg. of all employees                        |            | Exempt       |   | Covered      |   |            |
|  |                   | Number  | Pctg.      | Number       | Pctg. of those working more than 48 hours | Number       | Pctg. of those working more than 48 hours |            |
| <b>Agricultural subsector [1]</b>              |                   |   |            |              |   |              |   |            |
| Corn farming                                   | 1,080             | 410   | 38%        | 100          | 25%                                       | 300          | 75%                                       | 28%        |
| Nursery and tree production                    | 1,290             | 430   | 33%        | 130          | 30%                                       | 300          | 70%                                       | 23%        |
| Floriculture production                        | 1,650             | 310   | 19%        | 100          | 32%                                       | 210          | 68%                                       | 13%        |
| Sugar beet farming                             | 910               | 390   | 43%        | 110          | 28%                                       | 280          | 72%                                       | 31%        |
| All other crop production                      | 4,770             | 1,510   | 32%        | 440          | 29%                                       | 1,070        | 71%                                       | 22%        |
| <b>All crop production</b>                     | <b>9,690</b>      | <b>3,050</b>                                  | <b>31%</b> | <b>880</b>   | <b>29%</b>                                | <b>2,160</b> | <b>71%</b>                                | <b>22%</b> |
| Dairy cattle and milk production               | 4,640             | 2,490   | 54%        | 190          | 8%  | 2,290        | 92%                                       | 49%        |
| Hog and pig farming                            | 3,160             | 780   | 25%        | 180          | 23%                                       | 610          | 77%                                       | 19%        |
| All other animal production                    | 3,030             | 610   | 20%        | 260          | 43%                                       | 350          | 57%                                       | 12%        |
| <b>All animal production</b>                   | <b>10,830</b>     | <b>3,880</b>                                  | <b>36%</b> | <b>630</b>   | <b>16%</b>                                | <b>3,250</b> | <b>84%</b>                                | <b>30%</b> |
| Soil preparation, planting and cultivating     | 800               | 370   | 47%        | 110          | 31%                                       | 260          | 69%                                       | 32%        |
| Harvest, post-harvest crop-support activs.     | 980               | 330   | 33%        | 50           | 16%                                       | 280          | 84%                                       | 28%        |
| Support activities for animal production       | 760               | 170   | 23%        | 40           | 21%                                       | 140          | 79%                                       | 18%        |
| <b>All agricultural support activities [4]</b> | <b>2,740</b>      | <b>910</b>                                    | <b>33%</b> | <b>220</b>   | <b>24%</b>                                | <b>690</b>   | <b>76%</b>                                | <b>25%</b> |
| <b>All agriculture</b>                         | <b>23,260</b>     | <b>7,830</b>                                  | <b>34%</b> | <b>1,730</b> | <b>22%</b>                                | <b>6,110</b> | <b>78%</b>                                | <b>26%</b> |

1. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
2. Computed by DLI from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). This total is averaged over the four quarters of 2013. See note 30 in text.
3. Estimated from survey responses in combination with the total number of employees by agricultural subsector from the Wage-Detail data. Averaged over the four survey weeks. Employees whose employers could not categorize them as above or below 48 hours a week were allocated equally between the two categories.
4. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

Figure 3.8

Survey estimates: Overtime exemption status of salaried and hourly or piece-rate employees working more than 48 hours a week, 2013 [1]

|  | Employees working more than 48 hours in survey week |              |            |            |                      |              |                     |                      |                       |           |                      |
|--|---|--------------|------------|------------|----------------------|--------------|---------------------|----------------------|-----------------------|-----------|----------------------|
|  | Total   | Salaried     |            |            | Hourly or piece-rate |              | Percentage of total |                      | All covered employees |           |                      |
|  |   | Total        | Number     | Pctg.      | Total                | Covered      | Salaried            | Hourly or piece-rate | Total                 | Salaried  | Hourly or piece-rate |
| Agricultural subsector [2]                     |   |              |            |            |                      |              |                     |                      |                       |           |                      |
| Corn farming                                   | 410   | 110          | 10         | 9%         | 290                  | 290          | 28%                 | 72%                  | 300                   | 3%        | 97%                  |
| Nursery and tree production                    | 430   | 160          | 30         | 21%        | 270                  | 270          | 37%                 | 63%                  | 300                   | 11%       | 89%                  |
| Floriculture production                        | 310   | 110          | 10         | 11%        | 200                  | 200          | 37%                 | 63%                  | 210                   | 6%        | 94%                  |
| Sugar beet farming                             | 390   | 110          | 10         | 5%         | 280                  | 280          | 29%                 | 71%                  | 280                   | 2%        | 98%                  |
| All other crop production                      | 1,510   | 450          | 20         | 4%         | 1,060                | 1,050        | 30%                 | 70%                  | 1,070                 | 2%        | 98%                  |
| <b>All crop production</b>                     | <b>3,050</b>  | <b>950</b>   | <b>80</b>  | <b>8%</b>  | <b>2,090</b>         | <b>2,080</b> | <b>31%</b>          | <b>69%</b>           | <b>2,160</b>          | <b>4%</b> | <b>96%</b>           |
| Dairy cattle and milk production               | 2,490   | 290          | 90         | 33%        | 2,200                | 2,200        | 12%                 | 88%                  | 2,290                 | 4%        | 96%                  |
| Hog and pig farming                            | 780   | 220          | 40         | 20%        | 560                  | 560          | 28%                 | 72%                  | 610                   | 7%        | 93%                  |
| All other animal production                    | 610   | 280          | 20         | 6%         | 340                  | 340          | 45%                 | 55%                  | 350                   | 5%        | 95%                  |
| <b>All animal production</b>                   | <b>3,880</b>  | <b>790</b>   | <b>160</b> | <b>20%</b> | <b>3,100</b>         | <b>3,100</b> | <b>20%</b>          | <b>80%</b>           | <b>3,250</b>          | <b>5%</b> | <b>95%</b>           |
| Soil preparation, planting and cultivating     | 370   | 110          | 0          | 0%         | 260                  | 260          | 31%                 | 69%                  | 260                   | 0%        | 100%                 |
| Harvest, post-harvest crop-support activs.     | 330   | 50           | 0          | 0%         | 280                  | 280          | 16%                 | 84%                  | 280                   | 0%        | 100%                 |
| Support activities for animal production       | 170   | 40           | 0          | 0%         | 140                  | 140          | 21%                 | 79%                  | 140                   | 0%        | 100%                 |
| <b>All agricultural support activities [3]</b> | <b>910</b>  | <b>220</b>   | <b>0</b>   | <b>0%</b>  | <b>690</b>           | <b>690</b>   | <b>24%</b>          | <b>76%</b>           | <b>690</b>            | <b>0%</b> | <b>100%</b>          |
| <b>All agriculture</b>                         | <b>7,830</b>  | <b>1,960</b> | <b>240</b> | <b>12%</b> | <b>5,880</b>         | <b>5,870</b> | <b>25%</b>          | <b>75%</b>           | <b>6,110</b>          | <b>4%</b> | <b>96%</b>           |

1. Estimated from survey responses in combination with the total number of employees by agricultural subsector from the Wage-Detail data. Averaged over the four survey weeks. Employees whose employers could not categorize them as above or below 48 hours a week were allocated equally between the two categories.
2. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
3. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

Figure 3.9

Survey estimates: Source of overtime exemption status for salaried employees working more than 48 hours a week, 2013 [1]

|  | Salaried employees                        |   |                       |   |             |   |            |              |            |
|--|---|---|-----------------------|---|-------------|---|------------|--------------|------------|
|  | Working more than 48 hours in survey week |   |                       |   |             |   |            |              |            |
|  | Total                                     | Exempt  |                       |   |             |   |            |              |            |
|  |   | Total [3]                                       |                       | Exempt by meeting pay threshold [4]             |             | Exempt under automatic provision for up to two salaried employees [5] |            |              |            |
|  |   | Pctg. among salaried working more than 48 hours |                       | Pctg. among salaried working more than 48 hours |             | Pctg. among salaried working more than 48 hours                       |            |              |            |
| Number   |   | Pctg. of all salaried                           | Number                | hours   | Number      | hours   | Number     | hours        |            |
| Agricultural subsector [2]                     | Total                                     | Number  | Pctg. of all salaried | Number  | hours       | Number  | hours      | Number       | hours      |
| Corn farming                                   | 280                                       | 110   | 40%                   | 100   | 91%         | 80  | 79%        | 60           | 56%        |
| Nursery and tree production                    | 380                                       | 160   | 42%                   | 130   | 79%         | 120   | 97%        | 20           | 19%        |
| Floriculture production                        | 280                                       | 110   | 40%                   | 100   | 89%         | 100   | 96%        | 20           | 23%        |
| Sugar beet farming                             | 330                                       | 110   | 34%                   | 110   | 95%         | 70  | 66%        | 80           | 74%        |
| All other crop production                      | 1,250                                     | 450   | 36%                   | 440   | 96%         | 350   | 80%        | 310          | 70%        |
| <b>All crop production</b>                     | <b>2,520</b>                              | <b>950</b>                                      | <b>38%</b>            | <b>870</b>                                      | <b>92%</b>  | <b>720</b>  | <b>83%</b> | <b>490</b>   | <b>56%</b> |
| Dairy cattle and milk production               | 760                                       | 290   | 38%                   | 190   | 67%         | 140   | 72%        | 120          | 64%        |
| Hog and pig farming                            | 1,320                                     | 220   | 17%                   | 180   | 80%         | 150   | 84%        | 90           | 48%        |
| All other animal production                    | 890                                       | 280   | 31%                   | 260   | 94%         | 190   | 73%        | 210          | 82%        |
| <b>All animal production</b>                   | <b>2,970</b>                              | <b>790</b>                                      | <b>26%</b>            | <b>630</b>                                      | <b>80%</b>  | <b>480</b>  | <b>76%</b> | <b>420</b>   | <b>67%</b> |
| Soil preparation, planting and cultivating     | 310                                       | 110   | 37%                   | 110   | 100%        | 110   | 99%        | 50           | 40%        |
| Harvest, post-harvest crop-support activs.     | 320                                       | 50  | 16%                   | 50  | 100%        | 40  | 68%        | 40           | 74%        |
| Support activities for animal production       | 250                                       | 40  | 14%                   | 40  | 100%        | 30  | 72%        | 30           | 95%        |
| <b>All agricultural support activities [6]</b> | <b>1,000</b>                              | <b>220</b>                                      | <b>22%</b>            | <b>220</b>                                      | <b>100%</b> | <b>190</b>  | <b>86%</b> | <b>130</b>   | <b>60%</b> |
| <b>All agriculture</b>                         | <b>6,490</b>                              | <b>1,960</b>                                    | <b>30%</b>            | <b>1,720</b>                                    | <b>88%</b>  | <b>1,390</b>  | <b>81%</b> | <b>1,040</b> | <b>61%</b> |

1. Estimated from survey responses in combination with the total number of employees by agricultural subsector from the Wage-Detail data. Averaged over the four survey weeks. Employees whose employers could not categorize them as above or below 48 hours a week were allocated equally between the two categories.
2. Only those agricultural subsectors with at least 20 employers responding to the survey are shown separately.
3. Most salaried employees working more than 48 hours are exempt under both of the two exemption conditions (see notes 4 and 5). Therefore, the total number exempt under either or both of the conditions is less than the sum of the numbers exempt under each condition alone.
4. Salaried employees are exempt from the overtime differential if they are paid a weekly amount at least equal to 65 hours at the state minimum wage with the overtime differential applied after 48 hours (Minn. Stat. § 177.23, subd. 7(2)).
5. Up to two salaried employees are exempt from the overtime differential regardless of their level of pay (Minn. Stat. § 177.23, subd. 7(1)).
6. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

**Figure 3.10**

**Survey responses: Summary of open-ended comments [1]**

| Summary of comment   | Number of comments | Pctg. among surveys with comments |
|--|--------------------|-----------------------------------|
| Overtime is paid above 48 hours a week   | 7                  | 7%                                |
| Overtime is paid above 40 hours a week   | 11                 | 12%                               |
| Overtime is not paid/other forms of compensation are paid for extra hours      | 7                  | 7%                                |
| Few or no overtime hours   | 18                 | 19%                               |
| General remarks about overtime experience                                      | 24                 | 25%                               |
| All salaried employees are exempt/hours are not tracked for salaried employees | 6                  | 6%                                |
| Lowering the overtime threshold to 40 hours a week would be a mistake          | 5                  | 5%                                |
| Other  | 17                 | 18%                               |
| <b>Number of surveys with comments</b>   | <b>95</b>          | <b>100%</b>                       |
| <b>Total survey responses</b>  | <b>538</b>         |                                   |

1. All open-ended comments are presented verbatim in Appendix C.

## 4

## Wage-Detail data analysis

### Method

**Data** — The Wage-Detail data provides the total quarterly wages and hours of each employee for each employer covered under the Unemployment Insurance (UI) system, along with the employer’s industry (“agricultural subsector” in the current report). The DLI analysis of this data took advantage of the fact that the data tracks individuals over multiple quarters of work with the same employer. The analysis compared hourly wages — computed from quarterly wages and hours — for each employee between quarters with high and low numbers of hours worked for the same employer.

**Hypothesis** — It was expected that to the extent that an overtime differential is paid, an employee’s hourly wages would be relatively high for quarters with relatively high numbers of hours worked, especially where quarterly hours represent an average of more than 48 a week.

Data was pooled over 10 years, 2004 through 2013, to provide a large number of sample employees and a large number of observed quarters for each employee, which is important because otherwise the focus on employees with high numbers of hours worked would produce too small a sample size. Throughout the analysis, employees’ wages were adjusted for average wage growth over time to make them comparable across years.<sup>15</sup>

**Example of analytical approach** — Figure 4.1 exemplifies this approach with a hypothetical employee earning a straight-time wage of \$10.00 an hour, with hours evenly distributed over a 13-week quarter. In Case 1, no overtime differential

is paid at any level of hours, so the average hourly wage is \$10.00 at all hours worked. In Case 2, overtime is paid for all hours above 48 a week (624 for the quarter), so the overall hourly wage (averaged over all hours worked) becomes gradually higher for hours above 624. If overtime is paid after 40 hours a week (Case 3), the average hourly wage starts increasing for hours above 520.

**Benchmark wage rate** — In the analysis, a benchmark was needed against which to compare the employee’s overall hourly wage for each quarter. To establish this benchmark, a base pay rate, or “straight-time” hourly wage, was computed as the employee’s average hourly wage for those quarters where he or she worked no more than 300 hours. The underlying assumption was that all or nearly all hours in these quarters were below the 48-hour threshold even allowing for hours being concentrated in some weeks.<sup>16</sup> Only those employees who had different quarters below and above 300 hours were included in the analysis.<sup>17</sup>

<sup>16</sup> This assumption was supported by a preliminary analysis that showed little variation in hourly wages for different numbers of hours worked below 350 a quarter.

<sup>17</sup> The analysis disregarded the first two calendar quarters for each employee, starting with the employee’s first quarter in the data, because a relatively low training wage might be paid during that period. Because of data reliability issues, the analysis excluded quarters with fewer than three hours worked or more than 995 hours worked. It also excluded cases with wages (in 2013 dollars) less than \$5.00 an hour (because of data reliability issues) or more than \$25.00 an hour (because high-wage employees were not the main focus). Another data reliability issue was that employers often report hours in round numbers (e.g., a multiple of 100) or a multiple of a standard number of weekly hours (e.g., 520 = 13 x 40 or 624 = 13 x 48). The reported hours and consequently the computed hourly wages in these cases were suspect because of high concentrations of cases with these numbers. Therefore, the reported hours in these cases were replaced with an imputed figure calculated from the employee’s reported

<sup>15</sup> The adjustment was done separately by agricultural subsector, controlling for quarterly hours.

**Benchmark quarterly wage** — Using this estimated straight-time rate, a benchmark quarterly wage was computed for each employee for each quarter worked, assuming that quarterly hours were evenly distributed over the weeks in the quarter. Under this assumption, a 13-week quarter with 624 hours would amount to 48 hours a week. Accordingly, the benchmark quarterly wage was computed by applying the employee’s straight-time rate to the first 624 hours worked in the quarter and 150 percent of this rate to any hours above 624.

**Benchmark average hourly wage** — A benchmark average hourly wage was also computed for each employee for each quarter worked. This was equal to the benchmark quarterly wage divided by total hours in the quarter. Thus, the benchmark average hourly wage was equal to the employee’s estimated straight-time rate for quarterly hours no greater than 624, and gradually increasing amounts for higher numbers of quarterly hours. The benchmark hourly rate for total quarterly hours above 624 was less than 150 percent of the straight-time rate because it was an average over all hours in the quarter.

**Benchmarks are minimum estimates** — As previously mentioned, hours are often distributed unevenly over the weeks in the quarter. When this occurs, the overtime differential will take effect at some point below 624 quarterly hours. Thus, the benchmark quarterly wage and the benchmark average hourly wage are *minimum estimates* of what the employee would be paid if the overtime differential were applied to weekly hours above 48.

**Benchmarks are “what ifs,” not “shoulds”** — Also note that this analysis does not take account of the two exemption provisions for salaried employees because the data does not indicate salaried versus non-salaried status. Consequently, the benchmark hourly wage does not carry an implication that it is what “should” have been paid. It is merely an estimate — a

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quarterly wages and the average hourly wage for other employees in the same agricultural subsector with similar levels of quarterly wages (using adjusted wages throughout).

minimum estimate — of what the employee would be paid if weekly hours above 48 were paid under the overtime differential.

## Findings

**Benchmark and actual hourly wages for all Minnesota agriculture** — For the 2004 through 2013 analysis period, the estimated average straight-time wage for Minnesota agricultural employees was \$12.05 an hour in 2013 dollars (Figure 4.2). Thus, the benchmark wage was \$12.05 an hour for quarterly hours through 624 and gradually higher levels at higher numbers of hours. Actual average wages were approximately equal to the benchmark for quarterly hours through 350.<sup>18</sup>

**Actual wages are above the benchmark for mid-range quarterly hours** — From 351 to roughly 700 quarterly hours, actual wages were higher than the benchmark. For example, from 551 to 600 hours, actual hourly wages exceeded the benchmark by \$.68 an hour, or \$392 a quarter or 5.7 percent.

There are two reasons for this. First, as previously discussed, hours are often distributed unevenly over the weeks in the quarter, so the employee may exceed 48 hours in some weeks when quarterly hours are below 624. Second, some employers may pay the overtime differential beginning after 40 hours a week even though not required to do so. Some survey respondents indicated that they do this.<sup>19</sup>

**Actual wages are below the benchmark for high-range quarterly hours** — Actual hourly

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<sup>18</sup> Actual hourly wages for particular quarters with low numbers of hour worked can, and generally do, differ from the estimated straight-time hourly rate because the latter is an average over all quarters with 300 or fewer hours.

The estimated average straight-time hourly wage is less than the average hourly wage of \$13.68 in Figure 2.3 for all agriculture because (1) the \$13.68 includes both overtime and straight-time hours and (2) the \$12.05 is limited to the analysis sample of employees earning no more than \$25.00 an hour (2013 dollars) (see note 35).

<sup>19</sup> See Figure 3.10 and Appendix C. These two factors may also work in combination: if hours are unevenly distributed, this will have a larger effect on the employee’s wages if overtime is paid above 40 hours than if it is paid above 48 hours.

wages did not increase with hours above the 600-hour point. Consequently, actual hourly wages, on average, fell below the benchmark by increasing amounts for hours beyond 750. For example, for 801 to 850 hours, actual wages fell below the benchmark by an average of \$.77 an hour, or \$634 a quarter or 5.7 percent.

***Percentage of employees with high-range hours (actual wages below benchmark)*** —

While most quarters worked were at low- or mid-range hours where actual wages were about the same as or higher than the benchmark (first data column in Figure 4.2), more than 7 percent of quarters posted more than 750 hours, where actual wages fell short of the benchmark.<sup>20</sup>

***Interpretation (the benchmark is a minimum estimate)*** — If quarterly hours are concentrated in some weeks, the benchmark *under-states* what the employee would be paid if the overtime rate were applied to all weekly hours above 48. Given that average actual wages fall below the benchmark for higher-range hours, to the degree that quarterly hours are concentrated in some weeks, *the wage difference would be greater if actual wages were compared to what the employee would earn with overtime applied to all weekly hours above 48.*

But this is simply a mathematical statement. As shown by the survey results, many employees working more than 48 hours a week are exempt from the overtime requirement under one or both exemption provisions for salaried employees, but the Wage-Detail data does not allow an estimation of how many. An unanswered question is the degree to which the salaried-versus-nonsalaried designation is correctly applied.

Also note that since these numbers are averages, some employees have actual wages greater than those shown and some have less.

***Benchmark and actual wages for selected agricultural subsectors*** — Figure 4.3 shows a sampling of the findings for certain agricultural subsectors selected on the basis of employment

or average weekly hours.<sup>21</sup> To facilitate comparison across subsectors, benchmark and actual wages in this figure are expressed as percentages of straight-time wages.

In potato farming, the average actual wage was very close to 100 percent of the straight-time wage for all quarterly hours worked. In this subsector, in other words, most workers were paid their straight-time wage rate for all hours worked, with little if any overtime differential. In nursery and tree production, actual wages were significantly above the benchmark from 300 to 800 quarterly hours and were roughly equal to the benchmark above 800 hours.<sup>22</sup>

In dairy farming, average hourly wages, on average, were 2 to 5 percent above the straight-time rate at all quarterly hours above 350. Consequently, wages in this subsector were above the benchmark from 350 to 650 quarterly hours and below it from 700 to 1,000 hours. Chicken egg production showed a somewhat similar pattern though with some fluctuations in straight-time-equivalent wages at different quarterly hours.

All crop production and all animal production showed similar patterns to agriculture overall (Figure 4.2) and to dairy farming (Figure 4.3), in that wages were higher than the straight-time levels for quarterly hours above 350 to 400, but did not increase with hours beyond that point, and therefore fell increasingly below the benchmark for increasing hours beyond 700 to 750. Appendix D shows graphs similar to those in Figure 4.3 for all agricultural subsectors in this analysis.

***Benchmark and actual wages for employees with high-range hours*** — Employees who work

<sup>21</sup> These subsectors were selected for the following reasons (see Figure 2.3, p. 6): nursery and tree production because it had the highest average number of employees in crop production; potato farming because it had the highest estimated average weekly hours in crop production; dairy because it had the highest number of employees in animal production; chicken egg production because it had the highest estimated average weekly hours in animal production; and all crop production and all animal production because these are summary categories.

<sup>22</sup> The data point for actual wages for 950 to 1,000 hours is not shown for this subsector because of data issues.

<sup>20</sup> Also see Figures 2.4-A and 2.4-B.

high numbers of hours are the reason for the overtime law and for this report. In that spirit, Figures 4.4 and 4.5 compare benchmark and actual wages for quarters with hours worked from 700 to 900 hours. This range of hours represents anywhere from 2.5 percent of all quarters worked (apple orchards) to 31.8 percent (dairy farming). The quarters worked in this range are higher overall in animal production (22.9 percent) than in crop production (9.5 percent), echoing the data in Figures 2.4-A and 2.4-B. Figures 4.4 and 4.5 are similar except that Figure 4.4 deals with hourly wages and Figure 4.5 deals with quarterly wages.

**Percent differences** — For agriculture as a whole, actual wages fell below the benchmark by 2.9 percent in the 700- to 900-hour interval (the percent differences are the same in both figures). The shortfall was greater on the whole in animal production (4.1 percent) than in crop production (2.5 percent). For agricultural support activities, actual wages in the 700- to 900-hour range exceeded the benchmark by 5.0 percent. In crop and animal production, actual wages fell short of the benchmark in all but five subsectors.<sup>23</sup>

The greatest shortfalls occurred in potato farming (actual wages 9.2 percent below the benchmark), corn farming (-6.8 percent),

soybean farming (-5.7 percent) and dairy farming (-5.5 percent). Beef cattle ranching and feedlots stand out with actual wages roughly 11 percent above the benchmark.

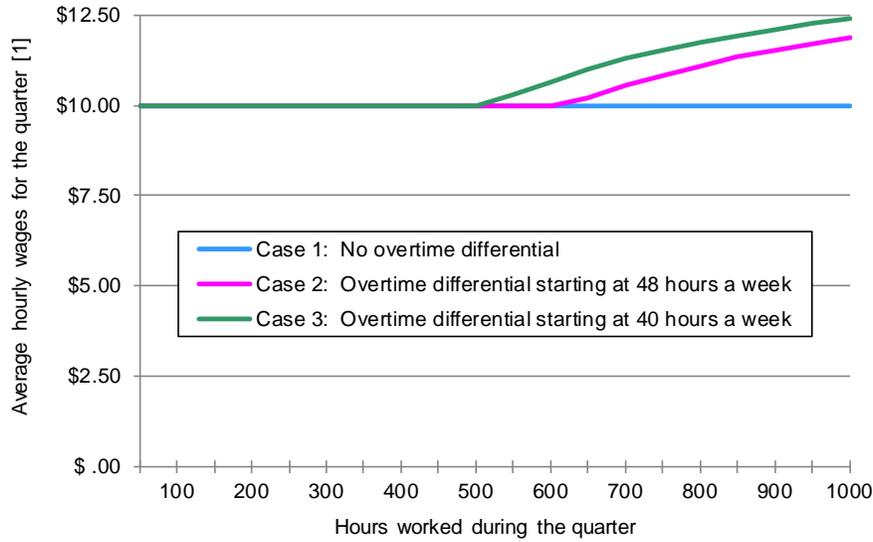
**Dollar differences** — For agriculture as a whole, actual wages in the 700- to 900-hour range fell short of the benchmark by \$.46 an hour (Figure 4.4) and \$360 a quarter (Figure 4.5). Note that the hourly difference is averaged over all hours in the quarter. The quarterly shortfall of \$360 translates to about \$1,400 a year. The quarterly shortfall was somewhat higher, overall, in animal production (\$460) than in crop production (\$350). In agricultural support services overall, actual wages exceeded the benchmark by an average of \$.95 an hour or \$730 a quarter.

As with the percent differences, the greatest shortfall within the high-hour range occurred in potato farming, where actual wages fell below the benchmark by \$1.65 an hour or \$1,270 a quarter, which translates to roughly \$5,000 a year. The next greatest shortfalls in dollar terms were in corn farming (\$1.28 an hour, \$1,000 a quarter) and soybean farming (\$1.03 an hour, \$790 a quarter).

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<sup>23</sup> The -0.3 percent in floriculture can be regarded as even.

**Figure 4.1**  
**Example of analytical approach with Wage-Detail data:**  
**Scenario — employee earns straight-time wage of \$10 an hour and quarterly hours are evenly spread over all weeks**

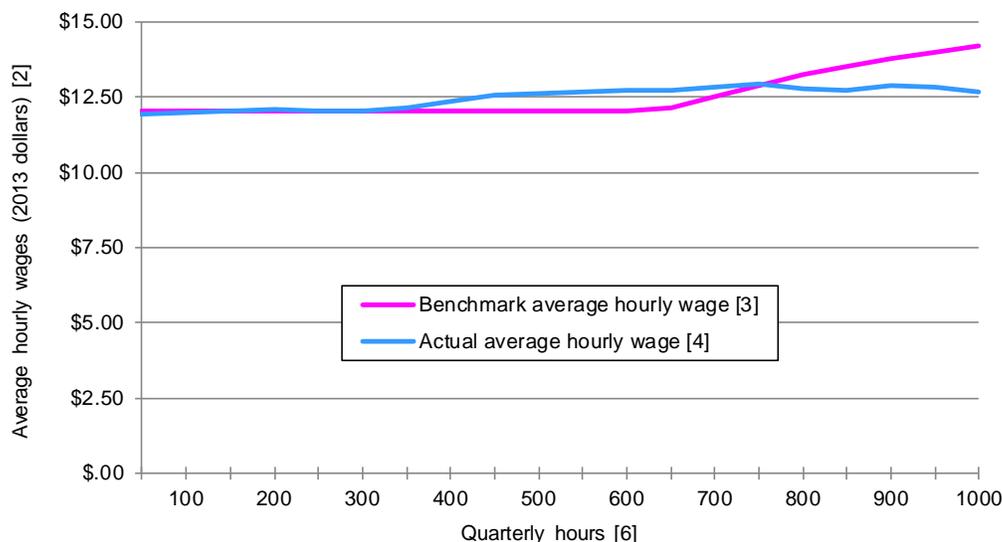


| Hours worked during the quarter | Average hourly wages for the quarter [1]          |  |  |
|---------------------------------|---|--|--|
|                                 | Case 1: Employee is paid no overtime differential | Case 2: Employee is paid overtime differential above 48 hours a week (624 for the quarter) | Case 3: Employee is paid overtime differential above 40 hours a week (520 for the quarter) |
| 50                              | \$10.00   | \$10.00  | \$10.00  |
| 100                             | \$10.00   | \$10.00  | \$10.00  |
| 150                             | \$10.00   | \$10.00  | \$10.00  |
| 200                             | \$10.00   | \$10.00  | \$10.00  |
| 250                             | \$10.00   | \$10.00  | \$10.00  |
| 300                             | \$10.00   | \$10.00  | \$10.00  |
| 350                             | \$10.00   | \$10.00  | \$10.00  |
| 400                             | \$10.00   | \$10.00  | \$10.00  |
| 450                             | \$10.00   | \$10.00  | \$10.00  |
| 500                             | \$10.00   | \$10.00  | \$10.00  |
| 550                             | \$10.00   | \$10.00  | \$10.27  |
| 600                             | \$10.00   | \$10.00  | \$10.67  |
| 650                             | \$10.00   | \$10.20  | \$11.00  |
| 700                             | \$10.00   | \$10.54  | \$11.29  |
| 750                             | \$10.00   | \$10.84  | \$11.53  |
| 800                             | \$10.00   | \$11.10  | \$11.75  |
| 850                             | \$10.00   | \$11.33  | \$11.94  |
| 900                             | \$10.00   | \$11.53  | \$12.11  |
| 950                             | \$10.00   | \$11.72  | \$12.26  |
| 1,000                           | \$10.00   | \$11.88  | \$12.40  |

1. Average hourly wages for the quarter are computed assuming the employee earns a straight-time rate of \$10.00 an hour and hours worked are evenly spread over the 13 weeks of the quarter. The overtime differential is assumed to be 50 percent, meaning the employee is paid \$15.00 an hour for hours above 48 a week in Case 2 and for hours above 40 a week in Case 3.

Figure 4.2

Wage-Detail estimates: Benchmark and actual hourly wages by quarterly hours, all Minnesota agriculture, 2004-2013 combined [1]



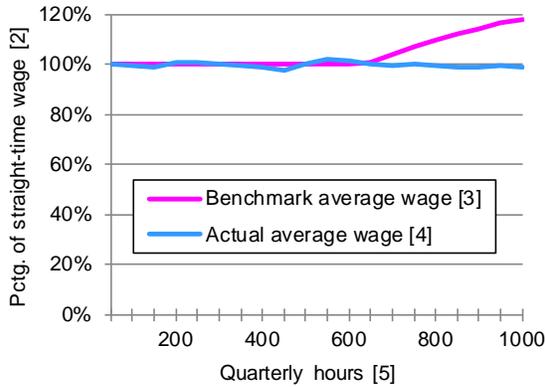
| Quarterly hours | Pctg. of all quarters worked | Average hourly wage (2013 dollars) [2] |            | Wage difference: actual wage compared to benchmark |               |                    |
|-----------------|------------------------------|--|------------|--|---------------|--------------------|
|                 |                              | Benchmark [3]                          | Actual [4] | Hourly   | Quarterly [5] | Percent difference |
| 1-50            | 9.3%                         | \$12.05                                | \$11.94    | -\$0.11  | -\$3          | -0.9%              |
| 51-100          | 8.0%                         | \$12.05                                | \$12.01    | -\$0.04  | -\$3          | -0.3%              |
| 101-150         | 6.9%                         | \$12.05                                | \$12.04    | -\$0.01  | -\$1          | -0.1%              |
| 151-200         | 5.3%                         | \$12.05                                | \$12.09    | +\$0.04  | +\$7          | +0.3%              |
| 201-250         | 4.7%                         | \$12.05                                | \$12.05    | +\$0.00  | +\$1          | +0.0%              |
| 251-300         | 4.1%                         | \$12.05                                | \$12.05    | -\$0.00  | -\$1          | -0.0%              |
| 301-350         | 3.8%                         | \$12.05                                | \$12.15    | +\$0.10  | +\$33         | +0.9%              |
| 351-400         | 4.0%                         | \$12.05                                | \$12.35    | +\$0.30  | +\$114        | +2.5%              |
| 401-450         | 4.9%                         | \$12.05                                | \$12.55    | +\$0.50  | +\$212        | +4.1%              |
| 451-500         | 7.0%                         | \$12.05                                | \$12.61    | +\$0.56  | +\$267        | +4.6%              |
| 501-550         | 8.8%                         | \$12.05                                | \$12.66    | +\$0.61  | +\$321        | +5.1%              |
| 551-600         | 8.7%                         | \$12.05                                | \$12.73    | +\$0.68  | +\$392        | +5.7%              |
| 601-650         | 7.2%                         | \$12.12                                | \$12.71    | +\$0.59  | +\$369        | +4.9%              |
| 651-700         | 5.4%                         | \$12.50                                | \$12.80    | +\$0.31  | +\$206        | +2.4%              |
| 701-750         | 4.4%                         | \$12.88                                | \$12.91    | +\$0.03  | +\$21         | +0.2%              |
| 751-800         | 3.1%                         | \$13.22                                | \$12.78    | -\$0.45  | -\$347        | -3.4%              |
| 801-850         | 2.0%                         | \$13.51                                | \$12.74    | -\$0.77  | -\$634        | -5.7%              |
| 851-900         | 1.2%                         | \$13.78                                | \$12.89    | -\$0.88  | -\$772        | -6.4%              |
| 901-950         | 0.8%                         | \$14.01                                | \$12.84    | -\$1.17  | -\$1,081      | -8.3%              |
| 951-1000        | 0.4%                         | \$14.20                                | \$12.64    | -\$1.56  | -\$1,517      | -11.0%             |

1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development).
2. Wages are adjusted for average wage growth by industry between the year worked and 2013, controlling for hours worked, and expressed in 2013 dollars.
3. The benchmark average hourly wage is what the employee would earn if they were paid their straight-time rate, estimated at \$12.05 an hour, for quarterly hours at or below 624 and 150 percent of this rate for additional hours (624 hours is the equivalent of 13 weeks at 48 hours a week). The straight-time rate was estimated as the average hourly wage for all quarters where the employee worked no more than 300 hours, on the assumption that none or nearly none of these hours were overtime.
4. The actual average hourly wage was computed directly from reported quarterly wages and hours.
5. The quarterly wage difference is equal to the hourly wage difference times quarterly hours for employees in the hours interval.
6. The quantity on the horizontal axis indicates the number of hours at the top end of a 50-hour interval.

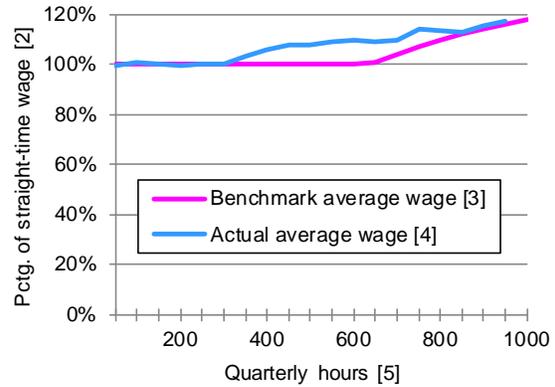
**Figure 4.3**

**Wage-Detail estimates: Benchmark and actual wages by quarterly hours, as percentage of straight-time wages, selected major Minnesota agricultural subsectors, 2004-2013 combined [1,2]**

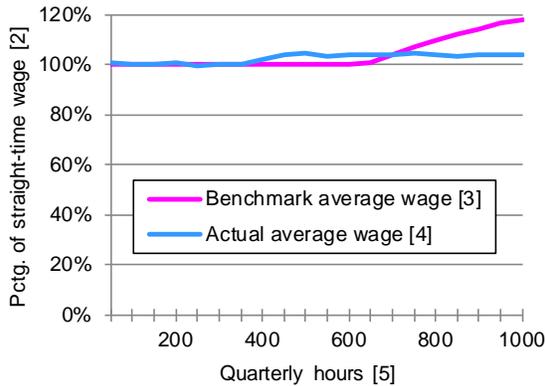
**A. Potato farming**



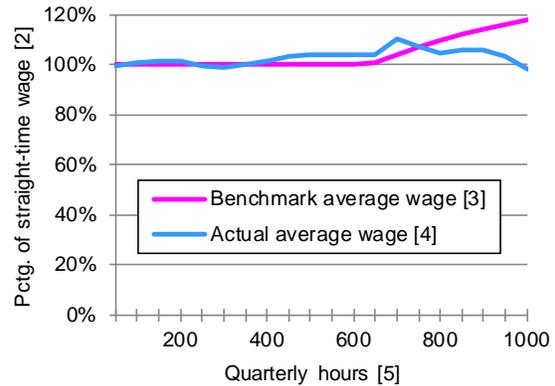
**B. Nursery and tree production**



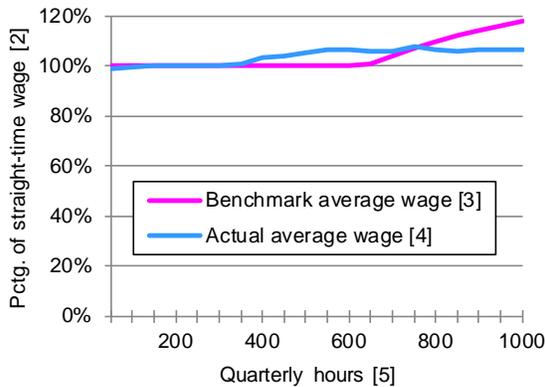
**C. Dairy cattle and milk production**



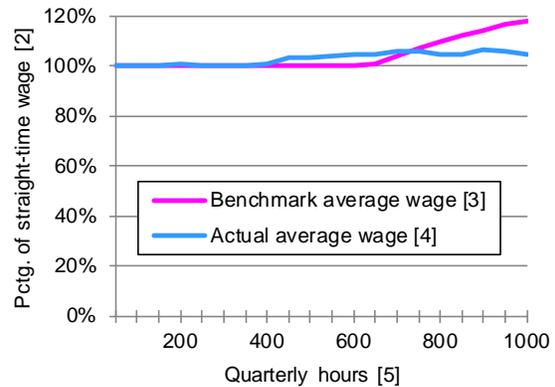
**D. Chicken egg production**



**E. All crop production**



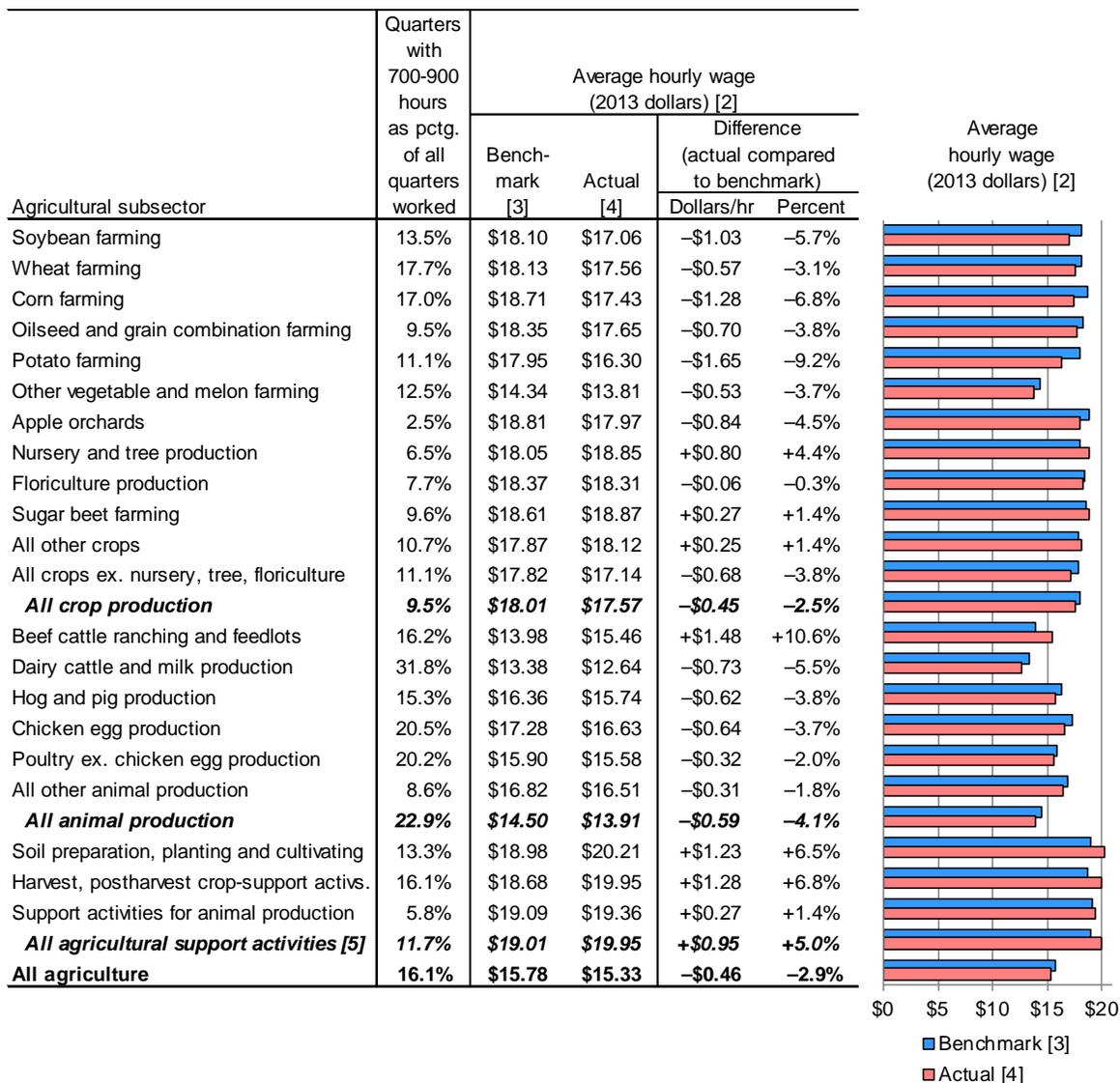
**F. All animal production**



1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). Wages are adjusted for average wage growth by industry between the year worked and 2013, controlling for hours worked.
2. The employee's straight-time hourly rate was computed as the average for all quarters in which he or she worked no more than 300 hours, on the assumption that none or nearly none of these hours were overtime.
3. The benchmark average wage is what the employee would earn if they were paid their straight-time hourly rate (see note 2) for quarterly hours at or below 624 and 150 percent of this rate for additional hours. This wage is expressed as a percentage of the employee's straight-time rate (see note 2).
4. The actual average wage was computed directly from reported quarterly wages and hours. This wage is expressed as a percentage of the employee's straight-time rate (see note 2). Any quarterly hours intervals with fewer than 15 sample cases are not shown (see note 5).
5. The quantity on the horizontal axis indicates the number of hours at the top end of a 50-hour interval.

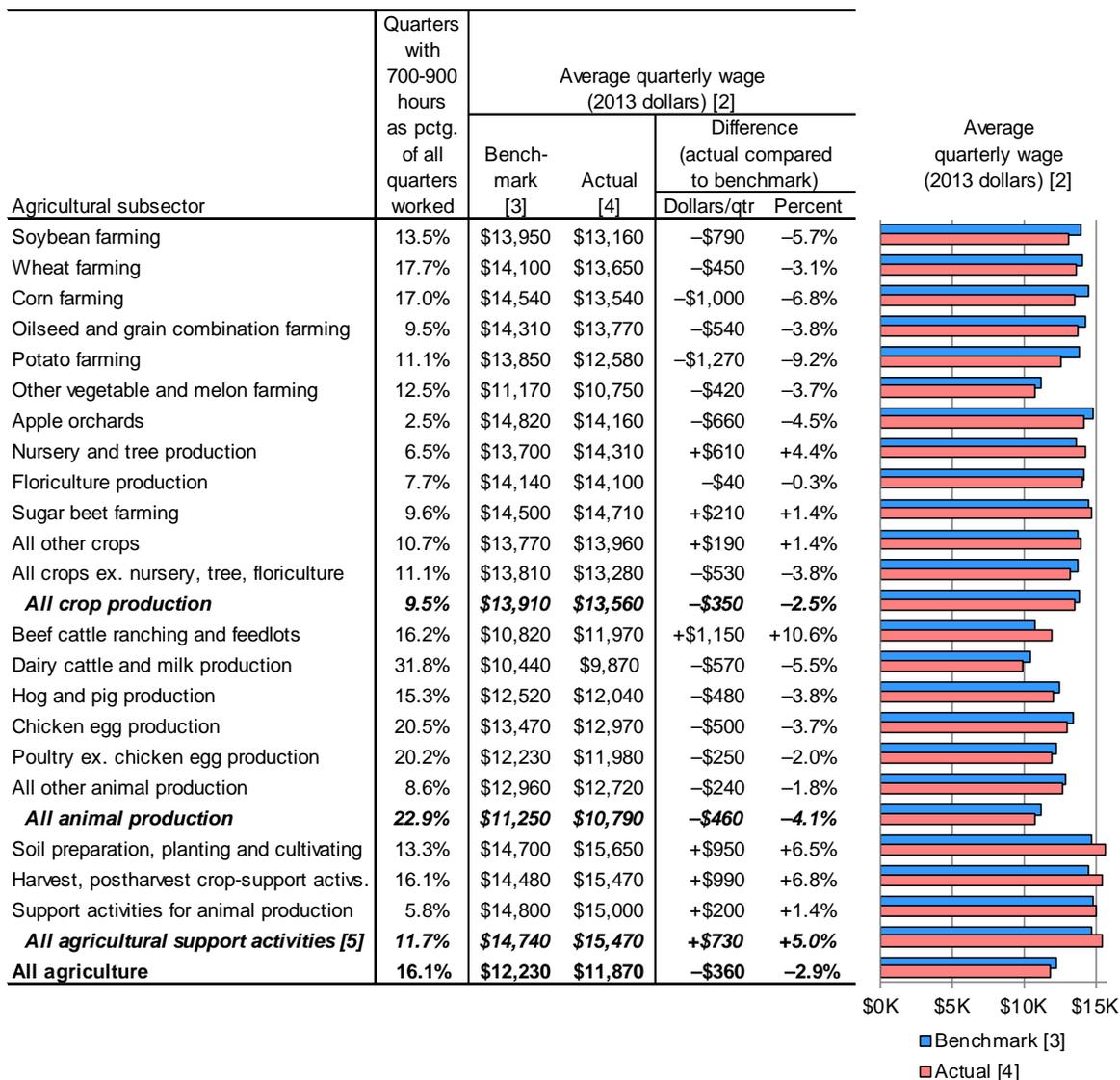
Figure 4.4

Wage-Detail estimates: Hourly wages — benchmark and actual levels for employees working between 700 and 900 quarterly hours, Minnesota agricultural subsectors, 2004-2013 combined [1]



1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development).
2. Wages are adjusted for average wage growth by industry between the year worked and 2013, controlling for hours worked.
3. The benchmark average hourly wage is what the employee would earn per hour if they were paid their straight-time rate for quarterly hours at or below 624 and 150 percent of this rate for additional hours (624 hours is the equivalent of 13 weeks at 48 hours a week). The straight-time rate was estimated as the average hourly wage for all quarters where the employee worked no more than 300 hours, on the assumption that none or nearly none of these hours were overtime.
4. The actual average hourly wage was computed directly from reported quarterly wages and hours.
5. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

**Figure 4.5**  
**Wage-Detail estimates: Quarterly wages — benchmark and actual levels for employees working between 700 and 900 quarterly hours, Minnesota agricultural subsectors, 2004-2013 combined [1]**



1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development).
2. Wages are adjusted for average wage growth by industry between the year worked and 2013, controlling for hours worked.
3. The benchmark average quarterly wage is what the employee would earn per quarter if they were paid their straight-time hourly rate for quarterly hours at or below 624 and 150 percent of this rate for additional hours (624 hours is the equivalent of 13 weeks at 48 hours a week). The straight-time rate was estimated as the average hourly wage for all quarters where the employee worked no more than 300 hours, on the assumption that none or nearly none of these hours were overtime.
4. The actual average hourly wage was computed directly from reported quarterly wages and hours.
5. "All agricultural support activities" includes farm labor contractors and farm management services, which are not shown separately.

# Appendix A

## Minnesota overtime statute

The following is Minnesota statutes § 177.23, 177.25 and 177.28 as of December 2014.<sup>24</sup>

### 177.23 DEFINITIONS.

Subdivision 1. **Scope.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 177.21 to 177.35, have the meanings given to them in this section.

Subd. 2. **Department.** “Department” means the Department of Labor and Industry.

Subd. 3. **Commissioner.** “Commissioner” means the commissioner of labor and industry or authorized designee or representative.

Subd. 4. **Wage.** “Wage” means compensation due to an employee by reason of employment, payable in:

- (1) legal tender of the United States;
- (2) check on banks convertible into cash on demand at full face value;
- (3) except for instances of written objection to the employer by the employee, direct deposit to the employee's choice of demand deposit account; or
- (4) an electronic fund transfer to a payroll card account that meets all of the requirements of section 177.255, subject to allowances permitted by rules of the department under section 177.28.

Subd. 5. **Employ.** “Employ” means to permit to work.

Subd. 6. **Employer.** “Employer” means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

Subd. 7. **Employee.** “Employee” means any individual employed by an employer but does not include:

- (1) two or fewer specified individuals employed at any given time in agriculture on a farming unit or operation who are paid a salary;
- (2) any individual employed in agriculture on a farming unit or operation who is paid a salary greater than the individual would be paid if the individual worked 48 hours at the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;
- (3) an individual under 18 who is employed in agriculture on a farm to perform services other than corn detasseling or hand field work when one or both of that minor hand field worker's parents or physical custodians are also hand field workers;
- (4) for purposes of section 177.24, an individual under 18 who is employed as a corn detasseler;
- (5) any staff member employed on a seasonal basis by an organization for work in an organized resident or day camp operating under a permit issued under section 144.72;
- (6) any individual employed in a bona fide executive, administrative, or professional capacity, or a salesperson who conducts no more than 20 percent of sales on the premises of the employer;

<sup>24</sup> Taken from the Minnesota Office of the Revisor of Statutes website, [www.revisor.mn.gov/statutes/?id=177](http://www.revisor.mn.gov/statutes/?id=177), Dec 2, 2014.

(7) any individual who renders service gratuitously for a nonprofit organization;

(8) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(9) any individual employed by a political subdivision to provide police or fire protection services or employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(10) any individual employed by a political subdivision who is ineligible for membership in the Public Employees Retirement Association under section 353.01, subdivision 2b, clause (1), (2), (4), or (9);

(11) any driver employed by an employer engaged in the business of operating taxicabs;

(12) any individual engaged in babysitting as a sole practitioner;

(13) for the purpose of section 177.25, any individual employed on a seasonal basis in a carnival, circus, fair, or ski facility;

(14) any individual under 18 working less than 20 hours per workweek for a municipality as part of a recreational program;

(15) any individual employed by the state as a natural resource manager 1, 2, or 3 (conservation officer);

(16) any individual in a position for which the United States Department of Transportation has power to establish qualifications and maximum hours of service under United States Code, title 49, section 31502;

(17) any individual employed as a seafarer. The term “seafarer” means a master of a vessel or any person subject to the authority, direction, and control of the master who is exempt from federal overtime standards under United States Code, title 29, section 213(b)(6), including but not limited to pilots, sailors, engineers, radio

operators, firefighters, security guards, pursers, surgeons, cooks, and stewards;

(18) any individual employed by a county in a single-family residence owned by a county home school as authorized under section 260B.060 if the residence is an extension facility of that county home school, and if the individual as part of the employment duties resides at the residence for the purpose of supervising children as defined by section 260C.007, subdivision 4; or

(19) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other members of religious orders who serve pursuant to their religious obligations in schools, hospitals, and other nonprofit institutions operated by the church or religious order.

**Subd. 8. Occupation.** “Occupation” means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed.

**Subd. 9. Gratuities.** “Gratuities” means monetary contributions received directly or indirectly by an employee from a guest, patron, or customer for services rendered and includes an obligatory charge assessed to customers, guests or patrons which might reasonably be construed by the guest, customer, or patron as being a payment for personal services rendered by an employee and for which no clear and conspicuous notice is given by the employer to the customer, guest, or patron that the charge is not the property of the employee.

**Subd. 10. On-site employee; hours worked.** With respect to any caretaker, manager, or other on-site employee of a residential building or buildings whose principal place of residence is in the residential building, including a caretaker, manager, or other on-site employee who receives a principal place of residence as full or partial compensation for duties performed for an employer, the term “hours worked” includes time when the caretaker, manager, or other on-site employee is performing any duties of employment, but does not mean time when the caretaker, manager, or other on-site employee is

on the premises and available to perform duties of employment and is not performing duties of employment.

**Subd. 11. Companionship services; hours.**

With respect to an individual who is (1) employed to provide companionship services to individuals who, because of age or infirmity, are unable to care for their own needs; (2) employed to stay overnight in the home of such an aged or infirm individual; and (3) paid the minimum wage or more for at least four hours associated with the overnight stay, the term “hours” for the purposes of requiring the payment of minimum wages and overtime premiums under sections 177.24 and 177.25, shall not include nighttime hours, from 10:00 p.m. to 9:00 a.m., up to a total of eight hours per night, during which the employee is available to perform duties for the aged or infirm individual, but is not in fact performing such duties and is free to sleep and otherwise engage in normal private pursuits in the aged or infirm individual’s home. For the purposes of this subdivision, the term “companionship services” is defined in Code of Federal Regulations, title 29, sections 552.6 and 552.106 as of March 1, 1984.

**History:**

*1973 c 721 s 3; 1974 c 406 s 88; 1975 c 399 s 1; 1977 c 369 s 1; 1978 c 586 s 1; 1978 c 731 s 1; 1979 c 281 s 1; 1980 c 415 s 1; 1982 c 424 s 46-48; 1982 c 625 s 14; 1983 c 60 s 1; 1983 c 122 s 1; 1984 c 614 s 1; 1984 c 628 art 4 s 1; 1Sp1985 c 13 s 274,275; 1986 c 390 s 2; 1986 c 444; 1990 c 418 s 1; 1992 c 464 art 1 s 24; 1999 c 139 art 4 s 2; 2001 c 178 art 1 s 44; 2005 c 10 art 1 s 33; 2005 c 158 s 1,4; 2007 c 87 s 1; 2008 c 168 s 1*

**177.25 OVERTIME.**

Subdivision 1. **Compensation required.** No employer may employ an employee for a workweek longer than 48 hours, unless the employee receives compensation for employment in excess of 48 hours in a workweek at a rate of at least 1-1/2 times the regular rate at which the employee is employed. The state of Minnesota or a political subdivision may grant time off at the rate of 1-1/2 hours for each hour worked in excess of 48 hours in a

week in lieu of monetary compensation. An employer does not violate the overtime pay provisions of this section by employing any employees for a workweek in excess of 48 hours without paying the compensation for overtime employment prescribed (1) if the employee is employed under an agreement meeting the requirement of section 7(b)(2) of the Fair Labor Standards Act of 1938, as amended, or (2) if the employee is employed as a sugar beet hand laborer on a piece rate basis, provided that the regular rate of pay received per hour of work exceeds the applicable wage provided in section 177.24, subdivision 1 by at least 40 cents.

Subd. 2. **Health care exception.** An employer who operates a health care facility does not violate subdivision 1 if the employer and employee agree before performance of the work to accept a work period of 14 consecutive days in lieu of the workweek of seven consecutive days for the purpose of overtime compensation and if for the employment in excess of eight hours in any workday and in excess of 80 hours in the 14-day period the employee receives compensation at a rate not less than 1-1/2 times the regular rate at which the employee is employed.

Subd. 3. **Motor vehicle salespeople; mechanics.** Subdivision 1 does not apply to any salesperson, parts person, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, or farm implements and paid on a commission or incentive basis, if employed by a nonmanufacturing establishment primarily engaged in selling the vehicles to ultimate purchasers.

Subd. 4. **Constructors of on-farm silos.** Subdivision 1 does not apply if the employee is employed in the construction of on-farm silos or the installation of appurtenant equipment on a unit or piece rate basis, if the regular rate of pay received per hour of work exceeds the applicable wage provided in section 177.24, subdivision 1.

Subd. 5. **Air carrier employees.** Subdivision 1 does not apply to employees of air carriers subject to the provisions of title II of the Railway Labor Act, when the hours worked by an employee in excess of 48 in a workweek are

not required by the carrier, but are arranged through a voluntary agreement among employees to trade scheduled work hours.

**History:** 1973 c 721 s 5; 1981 c 289 s 1,3; 1Sp1981 c 4 art 4 s 30; 1983 c 60 s 2,3; 1983 c 95 s 1; 1984 c 628 art 4 s 1; 1986 c 444; 2011 c 11 s 1

### 177.28 POWER TO MAKE RULES.

Subdivision 1. **General authority.** The commissioner may adopt rules, including definitions of terms, to carry out the purposes of sections 177.21 to 177.44, to prevent the circumvention or evasion of those sections, and to safeguard the minimum wage and overtime rates established by sections 177.24 and 177.25.

Subd. 2. [Repealed, 1988 c 629 s 64]

Subd. 3. **Rules required.** The commissioner shall adopt rules under sections 177.21 to 177.35 defining and governing:

- (1) salespeople who conduct no more than 20 percent of their sales on the premises of the employer;
- (2) allowances as part of the wage rates for board, lodging, and other facilities or services furnished by the employer and used by the employees;
- (3) bonuses;
- (4) part-time rates;
- (5) special pay for special or extra work;
- (6) procedures in contested cases;

(7) other facilities or services furnished by employers and used by employees; and

(8) other special items usual in a particular employer-employee relationship.

Subd. 4. [Repealed, 1996 c 305 art 1 s 52]

Subd. 5. **Rules regarding people with disabilities.** In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rates under sections 177.24 and 177.25, the department shall also issue rules providing for the employment of disabled workers at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and for periods of time as specified therein. The rules must provide for the employment of learners and apprentices at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and subject to limitations on number, proportion, length of learning period, occupations, and other conditions as the department may prescribe. The rules must provide that where a disabled person is performing or is being considered for employment where work must be performed which is equal to work performed by a nondisabled person, the disabled person must be paid the same wage as a nondisabled person with similar experience and skill.

Subd. 6. **Administrative Procedure Act to apply.** The rules are subject to the provisions of chapter 14.

**History:** 1973 c 721 s 8; 1976 c 165 s 2; 1977 c 369 s 3; 1982 c 424 s 50; 1984 c 628 art 4 s 1; 1984 c 636 s 1; 1Sp1985 c 13 s 280; 1986 c 444; 2005 c 56 s 1; 2007 c 135 art 3 s 9

# *Appendix B*

## Employer survey and cover letter

(See next page.)

443 Lafayette Road N.  
St. Paul, Minnesota 55155  
www.dli.mn.gov



(651) 284-5005  
1-800-342-5354  
TTY: (651) 297-4198

August 11, 2014

Employer name  
Address  
City, state, zip

Unemployment Insurance employer account number

Dear Agricultural Employer:

Our agency, the Minnesota Department of Labor and Industry (DLI), needs your help to gather information about overtime work in Minnesota's agricultural industry.

The 2014 Minnesota Legislature passed a law that requires DLI to first study and then submit a report about how agricultural employers use overtime and how many workers are affected.

We need agricultural employers, like you, to provide the information in the enclosed survey or on our website at [www.dli.mn.gov/survey](http://www.dli.mn.gov/survey).

**Survey information needed**

Because of the seasonal nature of agriculture, our agency asks you to provide the following information for **the middle week of each quarter in 2013**:

- the number of salaried, hourly and piece rate employees you have in Minnesota, and
- how many of them worked less than or more than 48 hours during the survey week.

Please complete the enclosed survey and submit it our agency by **August 30, 2014**.

**You can complete the survey online at: [www.dli.mn.gov/survey](http://www.dli.mn.gov/survey).**

The survey you submit is confidential. Your responses will only be seen by our research department staff. The final report to the legislature will only include summary information from the survey and will not identify your operation.

If you have any questions about how to complete the survey, please contact David Berry, DLI Research Scientist at (651) 284-5208, [david.berry@state.mn.us](mailto:david.berry@state.mn.us).

Sincerely,

A handwritten signature in black ink that reads "KBP".

Ken Peterson  
Commissioner

## Minnesota Department of Labor and Industry Survey of overtime in agriculture

**Please submit survey online at [www.dli.mn.gov/survey](http://www.dli.mn.gov/survey) by August 30, 2014.**

Employer business name: (pre-filled)  
 Unemployment insurance account number: (pre-filled)  
 Person completing survey \_\_\_\_\_  
 Phone number: \_\_\_\_\_  
 e-mail address: \_\_\_\_\_

| <b>Type of pay period</b> (Check one box for each type of worker.) |        |           |         |       |                                |
|--|--------|-----------|---------|-------|--------------------------------|
|  | Weekly | Bi-weekly | Monthly | Other | Describe pay period if "other" |
| Salaried workers*  |        |           |         |       |                                |
| Hourly workers   |        |           |         |       |                                |
| Piece-rate workers*  |        |           |         |       |                                |

\* Defined in table below.

|   |
|---|
| <b>First day of workweek for your operations</b> (This is the 7-day period you use to count hours of work for overtime purposes.) Check one: <input type="checkbox"/> Mon <input type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thu <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun |
|---|

| <b>Numbers of workers</b> (Fill in the boxes that apply to your operations; include all of your Minnesota locations.) |   |   |                                   |                                       |
|---|---|---|-----------------------------------|---------------------------------------|
| Workweek and type of worker   | Worked 48 hours or less during workweek [A] | Worked more than 48 hours during workweek [B] | Hours during workweek unknown [C] | Total number of workers (cols. A+B+C) |
| <b>1. Workweek including February 15, 2013</b>  |   |   |                                   |                                       |
| Salaried workers (paid a pre-set amount regardless of hours)  |   |   |                                   |                                       |
| Hourly workers  |   |   |                                   |                                       |
| Piece-rate workers (paid by amount of output, such as bushels)  |   |   |                                   |                                       |
| <b>Total number of workers (salaried + hourly + piece-rate)</b>   |   |   |                                   |                                       |
| Salaried workers paid \$452 or more for workweek (\$386 if your 2013 total revenues were less than \$625,000)         |   |   |                                   |                                       |
| Age-17-and-younger field workers with a parent or guardian also doing field work                                      |   |   |                                   |                                       |
| <b>2. Workweek including May 15, 2013</b>   |   |   |                                   |                                       |
| Salaried workers (paid a pre-set amount regardless of hours)  |   |   |                                   |                                       |
| Hourly workers  |   |   |                                   |                                       |
| Piece-rate workers (paid by amount of output, such as bushels)  |   |   |                                   |                                       |
| <b>Total number of workers (salaried + hourly + piece-rate)</b>   |   |   |                                   |                                       |
| Salaried workers paid \$452 or more for workweek (\$386 if your 2013 total revenues were less than \$625,000)         |   |   |                                   |                                       |
| Age-17-and-younger field workers with a parent or guardian also doing field work                                      |   |   |                                   |                                       |

(Continued on next page)

**Minnesota Department of Labor and Industry  
Survey of overtime in agriculture  
(continued)**

| <i>Numbers of workers (Fill in the boxes that apply to your operations; include all of your Minnesota locations.)</i> |  |  |                                      |                                       |
|---|--|--|--------------------------------------|---------------------------------------|
| Workweek and type of worker   | Worked 48 hours or less during workweek<br>[A] | Worked more than 48 hours during workweek<br>[B] | Hours during workweek unknown<br>[C] | Total number of workers (cols. A+B+C) |
| <b>3. Workweek including August 15, 2013</b>  |  |  |                                      |                                       |
| Salaried workers (paid a pre-set amount regardless of hours)  |  |  |                                      |                                       |
| Hourly workers  |  |  |                                      |                                       |
| Piece-rate workers (paid by amount of output, such as bushels)  |  |  |                                      |                                       |
| <b>Total number of workers (salaried + hourly + piece-rate)</b>   |  |  |                                      |                                       |
| Salaried workers paid \$452 or more for workweek (\$386 if your 2013 total revenues were less than \$625,000)         |  |  |                                      |                                       |
| Age-17-and-younger field workers with a parent or guardian also doing field work                                      |  |  |                                      |                                       |
| <b>4. Workweek including November 15, 2013</b>  |  |  |                                      |                                       |
| Salaried workers (paid a pre-set amount regardless of hours)  |  |  |                                      |                                       |
| Hourly workers  |  |  |                                      |                                       |
| Piece-rate workers (paid by amount of output, such as bushels)  |  |  |                                      |                                       |
| <b>Total number of workers (salaried + hourly + piece-rate)</b>   |  |  |                                      |                                       |
| Salaried workers paid \$452 or more for workweek (\$386 if your 2013 total revenues were less than \$625,000)         |  |  |                                      |                                       |
| Age-17-and-younger field workers with a parent or guardian also doing field work                                      |  |  |                                      |                                       |

*Please write any comments you would like to make about overtime in your operations:*

**Please submit survey online at [www.dli.mn.gov/survey](http://www.dli.mn.gov/survey) by August 30, 2014.  
Or mail to Research and Statistics, Minnesota Department of Labor and Industry,  
443 Lafayette Rd. N., St. Paul, MN 55155.**

**If you have questions, please contact David Berry, Research Scientist,  
at [David.Berry@state.mn.us](mailto:David.Berry@state.mn.us) or (651) 284-5208.**

# Appendix C

## Comments from the employer survey

| Agricultural subsector (abbreviated) | Comment |
|--------------------------------------|---------|
|--------------------------------------|---------|

**Comment summary: Overtime is paid above 48 hours a week (7 comments)**

|                     |   |
|---------------------|---|
| Corn farming        | We paid time and 1/2 for all hours over 48 each week.   |
| Corn farming        | We pay all employees 1 1/2 times for overtime rate after 48 hours a week.   |
| Sugar beet farming  | We pay overtime to employees who work over 48 hrs a week. Most of our hour workers are part-time and didn't work on the weeks listed. We mainly need part time during spring planting and harvest.  |
| Sugar beet farming  | We pay overtime--time and 1/2 to hourly employees who work more than 48hrs. a week. It happens rarely, sometimes during beet harvest.Hourly workers are in April and October.   |
| Dairy farming       | We pay our employees overtime at 45 hours.  |
| Dairy farming       | We pay overtime to employees with 96 hours or more figured bi-monthly. I think it is fair . If you were to mandate overtime pay for employees I don't think it would cause any harm . In fact it would probably be a good idea. Most employees are very deserving of it. Thanks. I hope this helps. |
| Hog and pig farming | We pay time & a half for any non-exempt employee who works more than 48 hours a week (Sun thru Sat)   |

**Comment summary: Overtime is paid above 40 hours a week (11 comments)**

|                           |  |
|---------------------------|--|
| Corn farming              | Overtime over 40 hr weeks.   |
| All other grains          | We pay OT over 40 hours, not 48.   |
| All other grains          | We pay overtime at 40 hours.   |
| Potato farming            | We pay overtime after 40 hours.  |
| Floriculture              | We hardly have any. We pay overtime when over 40 hours in a week.  |
| Cattle feedlots           | We pay overtime after 40 hours per week rather than after 48 hours.  |
| Dairy farming             | All employees are paid time and a half overtime at 40 hrs.   |
| Support activities (crop) | We are a commercial aviation service not involved with farm labor therefore overtime is paid for over 40 hours. Owners wages were not considered for this survey.  |
| Support activities (crop) | We pay our hourly employees overtime after 40 hours.   |
| Support activities (crop) | We pay overtime after forty hours like everyone else in the business world does, most of the overtime time work is seasonal but most employees like to put in 40 to 50 hours a week regardless of the time of years. It is getting harder to find employees for the agriculture industry due to the road construction season and the state of MN prevailing wage for road workers. |
| Support activs (animal)   | I pay OT to my hourly employees after 40 hrs.  |

**Comment summary: Overtime is not paid / other forms of compensation are paid for extra hours (7 comments)**

|                           |   |
|---------------------------|---|
| Corn farming              | Many workers are given bonuses but it is not called overtime, but that is essentially what it is. |
| Corn farming              | We don't pay overtime, just a good hourly or monthly wage for the job.                            |
| Hog and pig farming       | This is a farm - work 7 days a week - no overtime.  |
| Hog and pig farming       | We have not paid overtime in the 19 years of our operation.                                       |
| Support activities (crop) | No overtime paid.   |
| Support activs (animal)   | It is unknown to me how many hrs each field rep works. There is no overtime pd at all.            |
| Support activs (animal)   | We do not pay any overtime.   |

| Agricultural subsector (abbreviated)                           | Comment   |
|--|---|
| <b>Comment summary: Few or no overtime hours (18 comments)</b> |   |
| Grape vineyards  | We manage overtime to a minimum. Rarely encounter overtime unless a uncontrolled event takes place. example frost warnings.   |
| Other crops  | As of June 2014, no hourly workers are allowed to work more than 48 hours per week.   |
| Other crops  | Only one salaried worker-manager. No overtime.  |
| Other crops  | Usually no overtime for hourly workers. Hard to guess if the salary workers work overtime since this is a family, small, beekeeping business where the 3 salaried workers are family members and work until the work is completed with no keeping track of hours since this is an agriculture business.   |
| Beef cattle  | Most employees of [employer name] are salaried. There are a few hourly employees that work less than 48 hours per week; therefore [employer name] does not have overtime.   |
| Cattle feedlots  | We have one hourly employee that doesn't exceed 40 hours per week.  |
| Dairy farming  | The salaried workers are the farm owner and his spouse. The hourly worker working less than 48 hours a week is working much less than 48 hours a week (about .5 FTE)  |
| Hog and pig farming  | We have never been close to overtime as our employees work less than 30 hours per week  |
| Hog and pig farming  | We have no full time employees. Only have extra workers in fall to help with harvest. The one employee in August worked 9 hours. Our November employees receive one check after harvest is complete. They don't work over 40 hours per week.  |
| Other poultry  | We do not have our one hourly employee work overtime. Any additional hours are handled by the owners/salaried people.   |
| Apiculture   | No overtime 48 hr max   |
| Equine (incl. horses)  | We are quite loose about the hours for our hourly, weekly employee. She can make up hours if she needs to, leave early if she needs to, etc. Overtime is not accrued, as she typically doesn't work an 8 hour day. Our salaried employee is paid for 5 hours in the summer on weekend mornings. She normally is finished in less than 4 hours, so, again, there is no OT. |
| Support activities (crop)                                      | Very little overtime at our facility  |
| Support activities (crop)                                      | We do not have overtime worked.   |
| Support activs (animal)  | No one works overtime. I have set hrs for one salaried EE. If she works more than those hrs I pay \$10 per hour more but we figure salary on a 36 hr week and she's never been more than 45 hrs in a week.  |
| Support activs (animal)  | No overtime.  |
| Support activs (animal)  | No overtime. We have one guy who works 20 hrs.  |
| Support activs (animal)  | We really do not offer much overtime except in the fall and typically it doesn't go over 48 hours.  |

**Comment summary: General remarks about overtime experience (24 comments)**

|                         |  |
|-------------------------|--|
| Soybean farming         | Went to salary for main workers for more consistency in monthly pay for them as opposed to hourly wages. In ag based work, hours tend to fluctuate thruout the year. Normally, spring planting & fall harvest are the busy times. Salary averages it out.  |
| Soybean farming         | With a small grain/sugar beet farm operation in MN there isn't much to do in the winter, but lots to do in the summer. Salaried workers are assured a job, and expected to work more hours during the busy season, and have more time to play during the off season. In a farm community, this is not unreasonable, and our workers know it. |
| Wheat farming           | Employees work added hours as needed (planting & harvest) and less during other times. Total annual hours aprox. 2000.   |
| Rice farming            | The overtime would be during harvest late August to about November 7th when deer hunting starts. Only a couple of workers would work more than 48 hours during most of that time. During the busiest 3 weeks of harvest we all work more than 48 hours.  |
| Oilseed, grain comb     | Depending on various factors such as, or primarily, weather, employees hired as part-time seasonal may or may not have a significant amount of overtime while working on a farm.   |
| All other grains        | On the farm overtime all depends on the weather and the crop. The busiest months are April, May, June, September and October.  |
| Other vegetable & melon | We are a small family farm. We have a short growing season that only requires extra help in the summer months.   |
| Nursery and tree        | We are a seasonal business. Operating with employees April through October.  |

| Agricultural subsector<br>(abbreviated) | Comment |
|---|---------|
|---|---------|

**Comment summary: General remarks about overtime experience (24 comments) (continued)**

|                          |   |
|--------------------------|---|
| Floriculture             | Try to keep it to a minimum.  |
| Beef cattle              | Most of the overtime is during calving season and some planting and harvesting.   |
| Dairy farming            | Employees are scheduled for no more than 48 hours per week and when one or more employees calls in sick or has requested vacation other employees must fill in. This is where the overtime comes in. We are a 24 hour dairy operation and besides that there are some times of the year such as planting and harvest that employees must work long hours. |
| Dairy farming            | Fall/harvest is the busiest time, but some OT occurs once haying season starts in late may/early June then once a month until fall harvest. We also had one employee gone most of the year due to family medical issues which raised 2 employees hours  |
| Dairy farming            | It's rare we have overtime hours during off season cropping. The major labor is milking dairy cows which is consistant hours. Family members-owners-provide majority of seasonal labor not paid OT or recorded as EEs.  |
| Dairy farming            | We have only one employee who gets overtime pay. It is his choice to put in the extra hours.  |
| Dairy farming            | We never force any of our employees to work overtime. Even during field season, if they don't want to, they don't have to. Most of them are very willing to work overtime to get the field jobs done. --Our full time milking employees all WANT to work overtime.  |
| Dairy farming            | We only have one employee who works overtime and it is occasional during crop harvesting. He is a college student so he wants to put in as much time as he can during the summer.   |
| Dairy farming            | With a dairy and the time needs involved it is hard to keep hours under 48. It is also difficult to find extra workers.   |
| Hog and pig farming      | Because of the fact that the pigs still need to be fed and cared for on weekends, we expect our employees to work weekends which is why they sometimes go over 48 hours.  |
| Hog and pig farming      | It all depends on weaning days, heat and number of employees we have working at that time   |
| Chicken eggs             | Family Farm. Management approved OT only.   |
| Other poultry            | We pay by-monthly with pay periods starting on the 11th and 27th of each month! Our seasonal busy tine is in the fall during hunting season! In summer we cut back hours for all full time employees from 40 to 32 hours per work week!   |
| Other animals            | This is a family farm corp and everyone works until the job is finished. Planting and harvesting can be longer times as needed.   |
| Support actives (animal) | We have animals and property that has grass that grows and needs lots of attention in the summer.   |
| Support actives (animal) | We seldom have overtime hours. However, being a farming operation, there will be occasional needs for employees to work extra time. Other than the full time salaried employee, all the others are part-time.   |

**Comment summary: All salaried are exempt / hours are not tracked for salaried employees (6 comments)**

|                           |  |
|---------------------------|--|
| Support activities (crop) | We do not have our salary workers punch a time clock so average hours worked vary by the season.   |
| Dairy farming             | We don't use a 7 day week for any overtime calculations - we are an ag. based business so we only pay overtime past 96 hours in a 15-16 days pay period. We do not track hours for any salaried employees. |
| Hog and pig farming       | All of our salaried employees earn more then 452 per week. We only had 4 in the 1st quarter, 5 in the 2nd quarter, 4 in the 3rd quarter, and 3 in the 4th quarter. Thanks, [respondent name]               |
| Dairy farming             | All salaried workers that work over 48 hours at this operation are owner/shareholders.   |
| Equine (incl. horses)     | We have no overtime due to our employee being paid a salary.   |
| Support activities (crop) | We have no overtime. Just a corporate officer that is salaried.  |

| Agricultural subsector (abbreviated) | Comment |
|--------------------------------------|---------|
|--------------------------------------|---------|

**Comment summary: Lowering the overtime threshold to 40 hours a week would be a mistake (5 comments)**

|               |   |
|---------------|---|
| Other crops   | Most of the time we see more than 48 hours around harvest time, other than that - it is always pretty close to 40-48 hours a week. Funny how the weeks that were selected for this survey we had "hot times" when we had to work harder and longer due to transportation issues. I feel what the state of MN has for Ag rules for overtime are fine and don't need to be changed.   |
| Dairy farming | Agriculture is not a 5 day work,and most of our employees want more hours than the 40-48/wk. With that said, if we are forced to pay overtime for any more than 48 hours we will go to all salaried workers. We pay much more than minimum wage and our emplo   |
| Dairy farming | Our workforce hrs per employee are balanced for the day to day work, but during peak crop seasons, employees have incentive to pitch in because they are at time and a half wages. Temporary help is difficult to find. 40 HR threshold not good for AG.  |
| Dairy farming | We have tried lately to limit overtime, but our workers do not like that and are required to work another job in order to make more money. So we went back to allowing some overtime and figuring that in as part of their wages. We hope mn does not change the overtime rules for agriculture such as reducing it to 40. It makes us uncompetitive with other states and is unaffordable. In that event we would look to more automation to reduce jobs, so we hope this does not happen. |
| Dairy farming | We pay 2x per month 15 and last day of month based on 48hr week. Unless a worker is salaried or PT OT is available. To decrease the 48hr week to 40 would force us to hire a worker and cut current worker wages. OT at reasonable rates work for both.   |

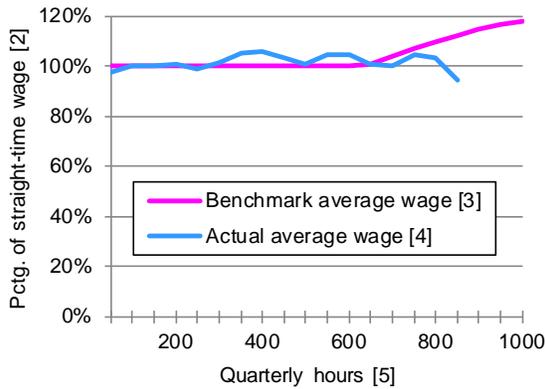
**Other comments (17 comments)**

|                           |   |
|---------------------------|---|
| Sugar beet farming        | 12 hourly workers were employed for beet harvest in October and not included in your workweek time frames.  |
| Support activities (crop) | Crop farming any of first four weeks of last quarter is harvest and more accurate for overtime hours, season winding down by Nov 15 week. 2013 we had flooding unable to plant half of our acres to crop less labor than normal needed spring and fall.   |
| Potato farming            | For these dates, the only overtime paid was to family (who are part owners).  |
| Beef cattle               | I don't have any full time help. I rely on part-time high school or college age help. Mostly after school or Saturdays during the school year and then summer jobs.   |
| Corn farming              | I have one EE that is salaried between April 1 and Dec. 1 He gets paid a set amount regardless of hrs worked. I also hire one additional EE this is seasonal, usually [unreadable] between middle of June through Oct 1. Hours really vary.   |
| Oilseed, grain comb       | One of the salaried workers for Feb and May is an owner of [employer name] and only draws a wage for six months a year. His hours of work are unknown.  |
| Support activs (animal)   | Our one employee in Minnesota in 2013 was a salaried member of our sales team.  |
| Other vegetable & melon   | Our overtime varies greatly.  |
| Support activs (animal)   | Owner is only paid salary worker. Does not work or get paid overtime.   |
| Support activs (animal)   | Owner is the only salaried person.  |
| Apple orchards            | Seasonal business for hourly workers mid-august through Thanksgiving.   |
| Other poultry             | The 1 salary employee is the owner.   |
| Support activities (crop) | The responses provided above relating to hourly workers are the same whether utilizing actual physical hours worked or total hours worked plus any time entered for Personal Time Off.  |
| Corn farming              | The salaried employee works less hours in the winter and summer and longer hours in the fall. Many times at work he has down time that he is able to do personal things on the internet, cell phone, etc.   |
| Other vegetable & melon   | The week including Aug 15th the hourly employees also worked piece work. with the exception of 1  |
| All other grains          | We have one employee who mows a farm yard during the months of April through October.   |
| Support activities (crop) | Yes [employer name] is considered an agricultural business. However, we are a processing plant for soybeans and our pay structure is such that overtime is paid after 40 hours. Your formula was followed except that 48 hours would include overtime. So anything over 48 hours would also include overtime that brought the hours from 40 plus whatever was earned over and above allowing employees to have 9, 10 etc hours over the 40. So we would be considered an anomaly in the agriculture business. |

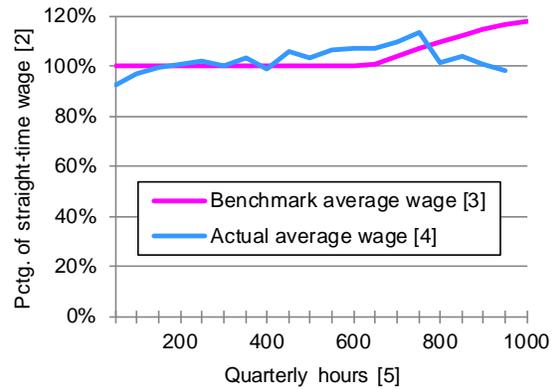
# Appendix D

## Wage-Detail estimates: Benchmark and actual wages by quarterly hours, as percentage of straight-time wages, major Minnesota agricultural subsectors, 2004-2013 combined

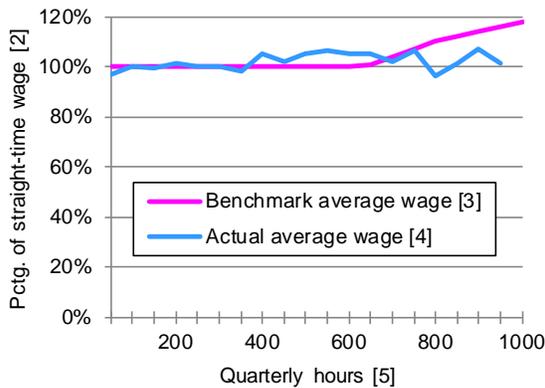
A. Soybean farming



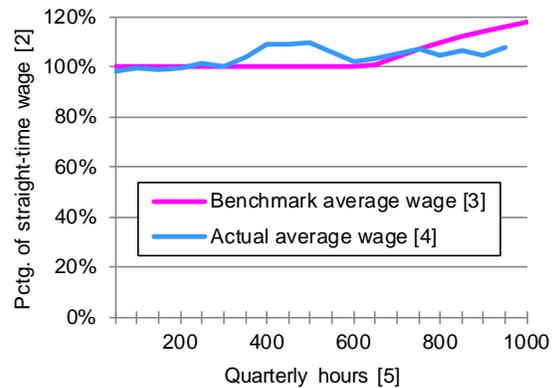
B. Wheat farming



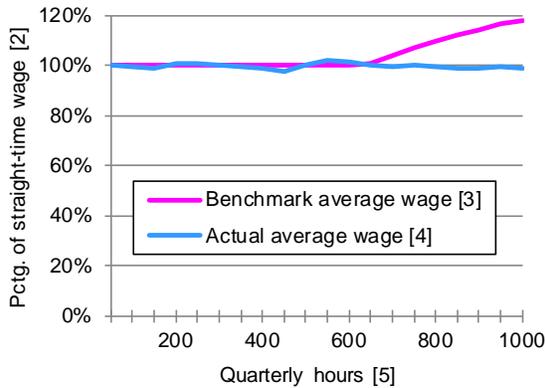
C. Corn farming



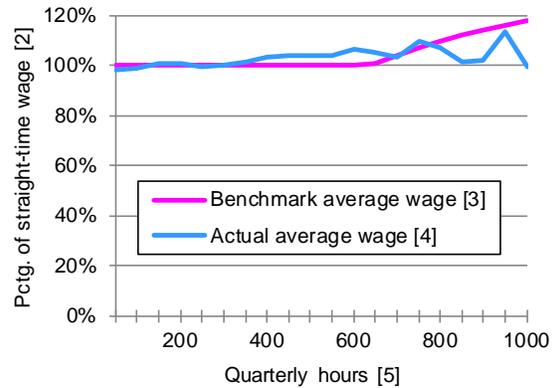
D. Oilseed and grain combination farming



E. Potato farming

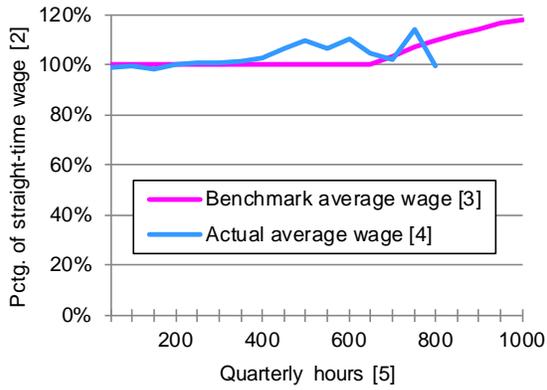


F. Other vegetable and melon farming

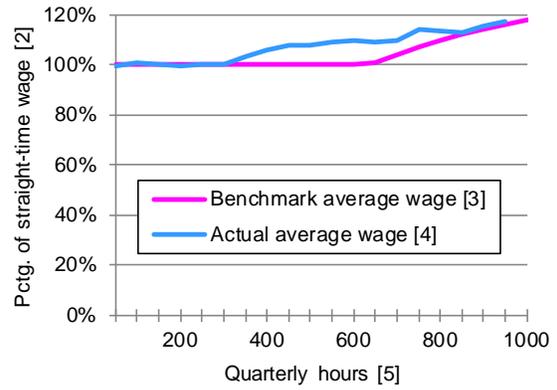


(notes on p. 46)

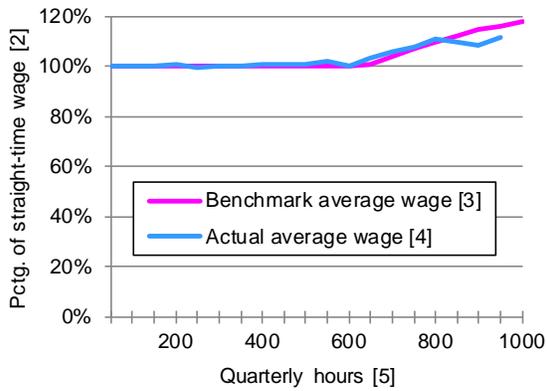
**G. Apple orchards**



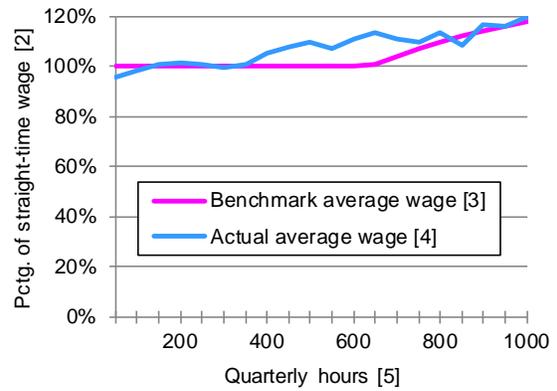
**H. Nursery and tree production**



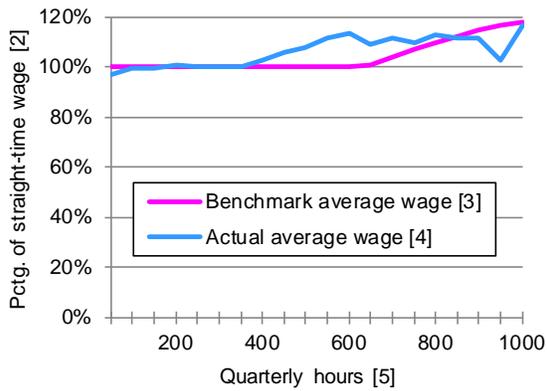
**I. Floriculture production**



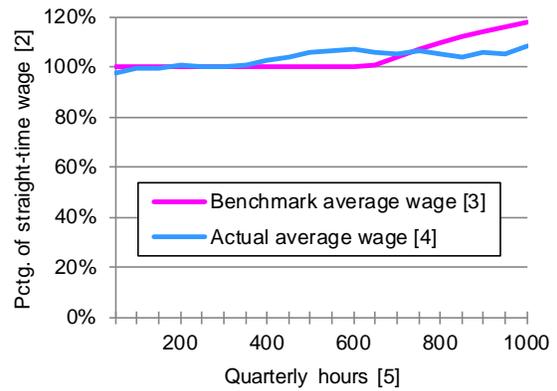
**J. Sugar beet farming**



**K. All other crops**

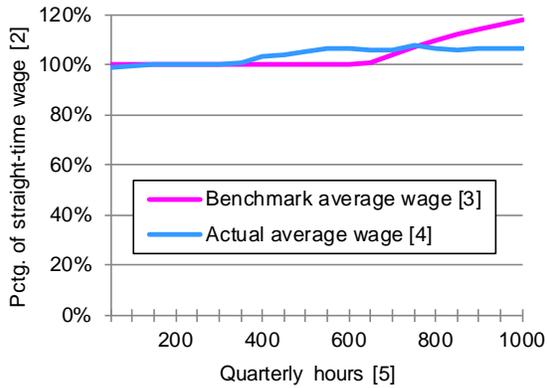


**L. All crops other than nursery, tree and floriculture**

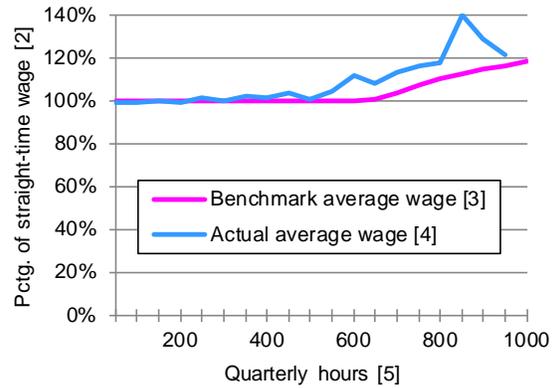


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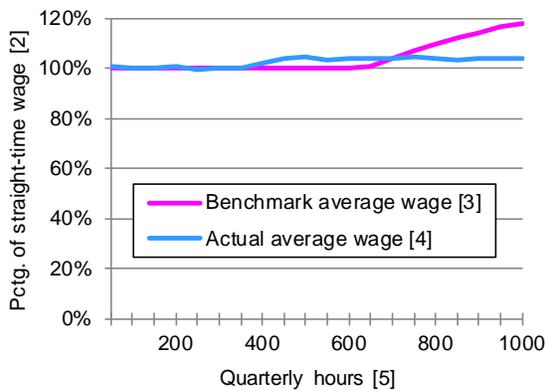
**M. All crop production**



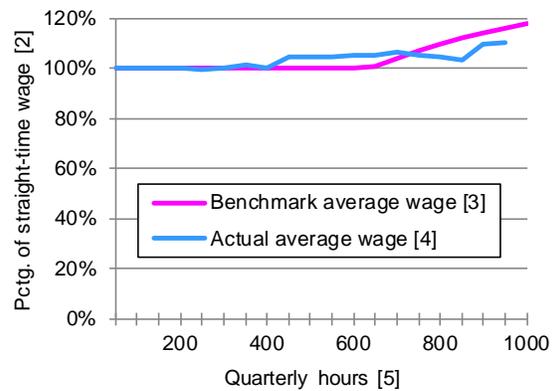
**N. Beef cattle ranching and feedlots**



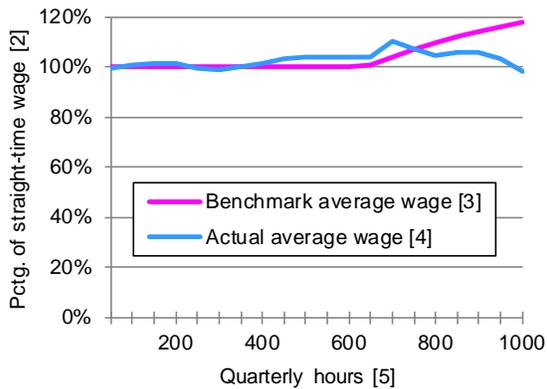
**O. Dairy cattle and milk production**



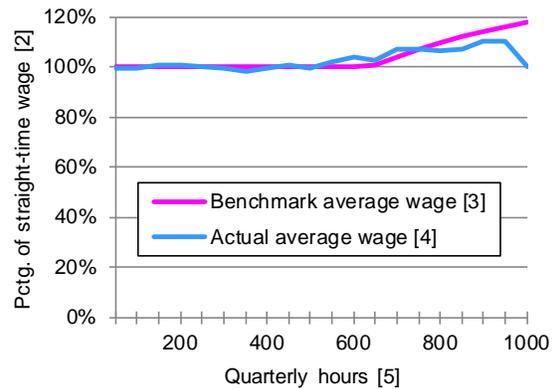
**P. Hog and pig production**



**Q. Chicken egg production**

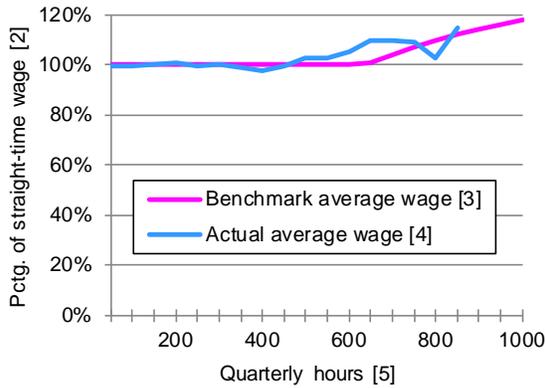


**R. Poultry other than chicken egg production**

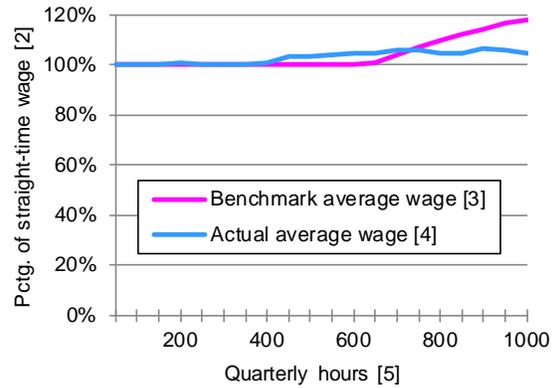


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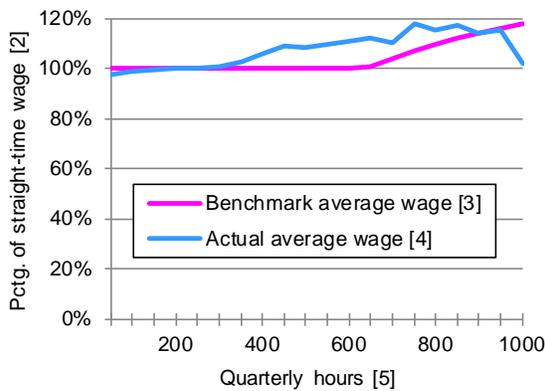
**S. All other animal production**



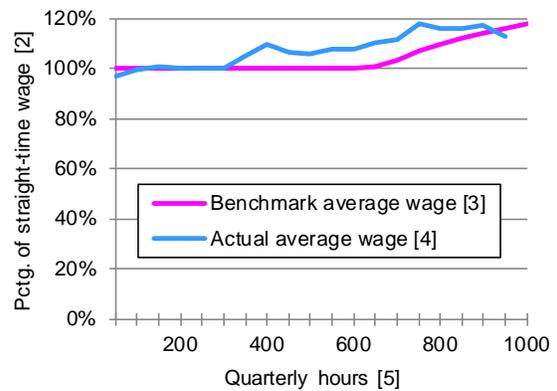
**T. All animal production**



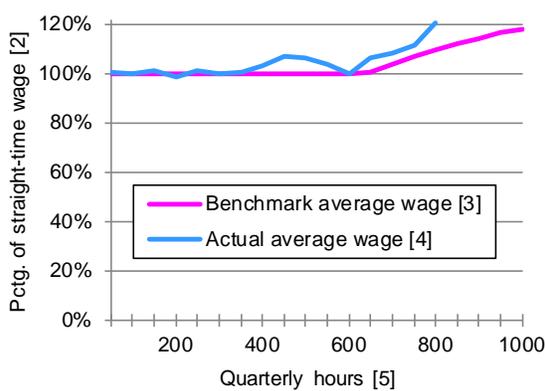
**U. Soil preparation, planting and cultivating**



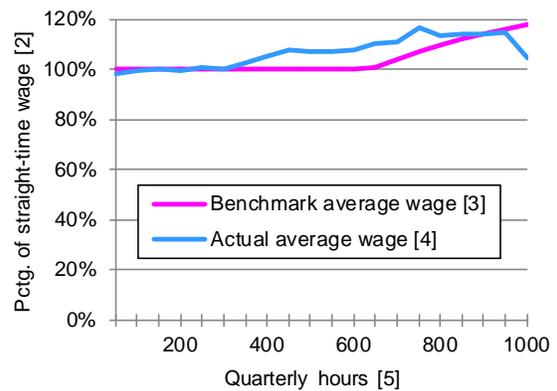
**V. Harvest and postharvest crop support activities**



**W. Support activities for animal production**



**X. All agricultural support activities**



1. Computed from the Wage-Detail data of the Minnesota Unemployment Insurance system (Minnesota Department of Employment and Economic Development). Wages are adjusted for average wage growth by industry between the year worked and 2013, controlling for hours worked.
2. The employee's straight-time hourly rate was computed as the average for all quarters in which he or she worked no more than 300 hours, on the assumption that none or nearly none of these hours were overtime.
3. The benchmark average wage is what the employee would earn if they were paid their straight-time hourly rate (see note 2) for quarterly hours at or below 624 and 150 percent of this rate for additional hours. This wage is expressed as a percentage of the employee's straight-time rate (see note 2).
4. The actual average wage was computed directly from reported quarterly wages and hours. This wage is expressed as a percentage of the employee's straight-time rate (see note 2). Any quarterly hours intervals with fewer than 15 sample cases are not shown (see note 5).
5. The quantity on the horizontal axis indicates the number of hours at the top end of a 50-hour interval.