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94th Congress
2d Session

COMMITTEE PRINT

FEDERAL AND STATE STATUTES RELATING TO FARMWORKERS

A COMPILATION

PREPARED FOR THE

SUBCOMMITTEE ON AGRICULTURAL LABOR

OF THE

COMMITTEE ON EDUCATION AND LABOR

UNITED STATES

HOUSE OF REPRESENTATIVES

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U.S. GOVERNMENT PRINTING OFFICE

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FEDERAL STATUTES AFFECTING MIGRANTS

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COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON AGRICULTURAL LABOR
617 HOUSE OFFICE BUILDING ANNEX
WASHINGTON, D.C. 20515

September 27, 1976

Hon. Carl D. Perkins, Chairman
Committee on Education and Labor
2181 Rayburn House Office Building

Dear Mr. Chairman:

During my tenure as Chairman of the Subcommittee on Agricultural Labor, I determined that there was a need for an up-to-date compilation of laws which impact on migrant and seasonal agricultural workers. A useful resource manual has been a Senate Print published in December 1972, Federal and State Statutes Relating to Farmworkers. Because much of the material in that print is dated, the Subcommittee decided to revise it.

Therefore, I am pleased to submit for use by those interested in the migrant and seasonal agricultural worker an updated compilation.

This compilation is the result of comprehensive research conducted by the Subcommittee staff and by the Library of Congress. Every effort has been made to assure the accuracy of the information contained in this print, including contact with each state regarding its laws. To the best of our knowledge, the information is accurate as of September 1, 1976.

I would like to express appreciation for the invaluable assistance provided in this project by Ray Schmitt and Stuart Schmitz, analysts of social legislation in the Education and Public Welfare Division of the Library of Congress, and to Karen Lewis and Kathleen Shea of the American Law Division of the Library of Congress.

Sincerely,

WILLIAM D. FORD
Chairman

WDF:pmp

Federal Statutes Affecting Migrants

I. LABOR

1. Wages

(a) *Fair Labor Standards Act Amendments of 1974* (F.L.S.A). (*Public Law* 93–259; 29 U.S.C. § 201 *et seq.*)

This Act is administered by the Secretary of Labor through the Administrator of the Wage and Hour Division. This law has been in effect since 1938 and sets minimum wage, maximum hours, overtime pay, equal pay, and child labor standards for employment subject to the Act unless a specific exemption applies.

The Act was last amended in 1974. It actually was not until 1966 that farmworkers were even included under the minimum wage protections of the F.L.S.A. In 1974 the amendments increased the minimum wage for agricultural workers from $1.30 to $1.60 an hour effective May 1, 1974. The amendments provided for further increases to $1.80 on Jan. 1, 1975; to $2.00 on Jan. 1, 1976; to $2.20 on Jan. 1, 1977; and to $2.30 on Jan. 1, 1978.

Only farmworker employers who utilized 500 man-days of agricultural labor in any quarter of the preceding calendar year and who were engaged in interstate commerce are required to pay minimum wages to their employees. It should be noted that the 500 man-day requirement in practice serves to exclude most farmworkers from the minimum wage provisions of the Act.

[See the following specific references: 29 U.S.C. § 206(a); § 211(c), 29 C.F.R. § 516.1—.2; 29 U.S.C. §§ 203(e), (u), § 213(a)(6)(A).]

(b) *Sugar Act of 1948* (7 U.S.C. § 1131(c) (last amended in 1962)*

This Act contains a provision that, as a condition for the payment of an allotment, a grower must have paid his workers in full and at a rate not less than the rate set by the Secretary of Agriculture. A grower who has not paid a minimum wage may still be entitled to an allotment if he meets other statutory standards. When allotments are continued under such circumstances, payments are to be used first for unpaid wages. The remainder, if any, belongs to the grower.

[The entire Sugar Act can be found at: 7 U.S.C. § 1100 *et. seq.;* the applicable regulations are at 7 C.F.R. Parts 862, 863, 864, 866 and 867.]

(c) *Wagner–Peyser Act* (29 U.S.C. § 49 *et seq.*) [Wages and Employment Service]

This Act authorizes the U.S. Employment Service to maintain a farm placement service through the state employment office system and to set standards for the use of this service. (See 29 U.S.C. § 49(b), as last amended in 1973).

---

*It should be noted that on June 5, 1974, legislation to extend and amend the Sugar Act of 1948 was defeated on the floor of the House of Representatives. No further action on this legislation was taken during the 93rd Congress. This Act remained in effect until December 31, 1974. Because litigation has arisen since that date and since there is a possibility of more litigation, we have chosen to include the Sugar Act of 1948 in our compilation.

The applicable regulations can be found in 20 C.F.R. Part 260 and Part 602.9. 20 C.F.R. 620 sets forth the minimum housing standards for workers recruited through this system. 20 C.F.R. 602.9 requires that wages offered interstate migrants must be no less than prevailing wages for local workers.

The interstate recruitment system operated through the state employment services is described in the court's opinion in *Gomez* v. *Florida State Employment Service*, 417 F. 2d 569 (5th Cir. 1969), and in an opinion of the Attorney General of the U.S. referred to in the *Gomez* case, *Migrant Farm Labor—Wagner-Peyser Act*, 41 Op. A.G. 406, 407 (July 2, 1959).

2. Hours

(a) *The Fair Labor Standards Act* (F.L.S.A.), as last amended in 1974, generally exempts agricultural workers from its overtime provisions.

The overtime provisions of the F.L.S.A. do not apply to farmworkers employed by employers who did not use more than 500 man-days of agricultural labor in any quarter of the preceding year. See 29 U.S.C. § 213(a)(6).

Also exempt from coverage are employees who meet the following three criteria: (1) work as hand harvest laborers paid on a piece rate basis in an operation customarily recognized as having been paid on a piece rate basis in the region of employment; (2) commute daily from permanent residence to the farm where employed; and (3) have been employed in agriculture less than thirteen weeks during the preceding calendar year.

Employees who are principally engaged in the range production of livestock are also exempt from F.L.S.A.'s overtime coverage. The exemption from overtime also extends to employees in specified agricultural operations (growing and harvesting and processing shade-grown tobacco; processing of maple sap into sugar, etc.). See 29 U.S.C. § 213(b).

3. Child Labor

(a) *Fair Labor Standards Act Amendments of 1974* (29 U.S.C. § 201 *et seq.*)

[See especially §§ 213(c)(1) and 214 as amended in 1974.]

Prior to 1974 there was no minimum age limitation for nonhazardous agricultural work outside school hours. The 1974 F.L.S.A. Amendments prohibited employment of children under 12 on farms covered by the Act's 500 man-day test (500 man-day test means that in order for the employer to be covered by F.L.S.A. he must have used more than 500 man-days of agricultural labor during peak quarter of previous calendar year); and on non-covered farms (those which do not meet the 500 man-day test), the law now requires parental consent.

Employers are required to obtain proof of age in accordance with the Secretary's regulation. Any person who violates the child labor provisions of any regulation thereunder shall be subject to a civil penalty not to exceed $1,000 for each violation. The Act also provides for enforcement by civil or criminal proceedings in the courts.

(b) *Sugar Act of 1948*

The Sugar Act provides that in order to receive allotment payments under the Act a grower must meet certain conditions relating to the

production or harvest of sugar crops (except children of the owner), children between 14 and 16 (except children of the owner) may not work longer than eight hours per day. However, the Act also provides that violations of the child labor provisions will not result in loss of the allotment. Instead $10 per day is deducted for each child employed in violation of the Act. (7 U.S.C. § 1131(a)).*

4. Unemployment Insurance

When Congress enacted the *Federal Unemployment Tax Act*, it excluded the services of farmworkers. (26 U.S.C. §§ 3306(c)(1) and (k)).

The *Employment Security Amendments of 1970* (*Public Law* 91–373) authorized the Department of Labor to conduct a study on the possibility of extending unemployment compensation coverage to agricultural workers. (42 U.S.C. § 1106(a)(2)).

To date, agricultural workers are still exempt from the unemployment compensation statute.

Special unemployment assistance *is* provided under Title II of the *Comprehensive Employment and Training Act of 1973* (*Public Law* 93–203) to any person who is not eligible for benefits under any state or federal unemployment benefits law and who in the 52 weeks before filing his claim, had sufficient employment experience to qualify him for benefits under state law—had that law provided coverage for his occupation or job. In determining whether the person had sufficient employment, all employment is counted even though it was not covered employment under state law.

Under Title III of the *Comprehensive Employment and Training Act of 1973*, the Secretary of Labor is given responsibility to operate manpower programs for special groups of individuals, including migrant and seasonal farmworkers.

5. Workmen's Compensation

Under the present system, States control workmen's compensation, and the federal government is limited to promoting voluntary acceptance of approved standards. In contrast to almost complete compulsory coverage of industrial workers under state workmen's compensation laws, farm occupations constitute the largest population group that has largely been excluded from its coverage.

See the survey of the state statutes for the specific provisions regarding the coverage of agricultural labor in the area of workmen's compensation in each state.

6. Labor Contractors

(a) *Farm Labor Contractor Registration Act* (7 U.S.C. §§ 2041–2053, last amended in 1974)

This Act requires a farm labor contractor to obtain a registration certificate from the Secretary of Labor and sets the qualifications for registration. The congressional findings and declaration of policy section of the Act stated in part that the channels and instrumentalities of interstate commerce were being used by certain irresponsible contractors for the service of the migrant agricultural laborers.

Migrant farm workers now have greater job protection under amendments to the Farm Labor Contractor Registration Act, signed

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*The Sugar Act of 1948 expired Dec. 31, 1974. Because litigation has arisen since that date and because there may be further litigation, we have chosen to include this Act in compilation.

into law on December 7, 1974 (Public Law 93–518). Major points in the new legislation include the following:

The term farm labor contractor "is broadened to include any person who, for a fee for himself or another, recruits, solicits, furnishes, or transports any migrant worker for agricultural employment, either within a state or across state lines." (Before amended, the law applied only to crew leaders who recruited 10 or more workers for interstate farm labor).

Contractors must, among other things:

(1) carry increased accident insurance to protect workers and their possessions;

(2) file a statement which identifies contractor-owned or controlled vehicles and housing to be used for workers (with proof that federal and state health and safety standards are met);

(3) refrain from requiring workers to purchase goods exclusively from the contractor or another person;

(4) report changes of address within 10 days of moving;

(5) pay employees promptly and explain any pay deductions;

(6) inform workers in writing and in a language clearly understandable to them of living and working conditions, the existence of any labor dispute at the work site, the period of employment, and the existence of any kickback arrangement between the contractor and local retail merchants catering to the workers.

More detailed payroll records must be kept by both the contractor and the person for whom labor is provided.

Peonage was added to the list of offenses for which the contractor could be refused a certificate of registration, or for which the certificate could be revoked.

No person is permitted to engage a contractor's services to furnish farm labor unless it is first determined that the contractor has a current registration certificate.

The amendments add a criminal penalty of imprisonment not to exceed one year or a fine of $500, or both, for a first offense. Maximum penalties for conviction of a subsequent violation of the act are a fine not to exceed $10,000, imprisonment not to exceed three years, or both. The Secretary is required to report on enforcement in his annual report to the Congress.

The amendments to the *Farm Labor Contractor Registration Act* also empower the Secretary of Labor to impose up to a $1,000 civil money penalty for a violation of the Act or any regulation promulgated under the Act. The civil penalty procedure is subject to the rights of agency review and judicial review by the person against whom a penalty is assessed. The report of the House Education and Labor Committee states that it is the intention of the Committee that the availability of both civil and criminal sanctions will not result in undue harassment or abuse of process.

The amendments provide further that any farm labor contractor who has not registered under the Act, or whose registration has been revoked or suspended, will be subject to a criminal penalty of up to a $10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. It is the intention of the Education and Labor Committee that the Secretary of Labor promulgate all regulations necessary for the

enforcement of the Act's prohibition against utilization of illegal aliens in employment.

The amendments also increase the Department's investigatory powers, allow migrants to bring civil suit against contractors in the appropriate district court of the United States without regard to the amount in controversy or the citizenship of the parties, and prohibit retaliatory action by contractors against workers who file complaints or suits.

7. Social Security

(a) *Federal Insurance Contributions Act* (F.I.C.A.) (26 U.S.C. §3101 *et seq.*)

The *Federal Insurance Contributions Act* imposes a tax on "wages" to fund the old age, survivors and disability insurance program under the Social Security Act. However, as defined by the F.I.C.A., the term "wages" does not include *non-cash payments* for agricultural labor (See 26 U.S.C. §3121(a)(8)(A)), nor does it include cash payments of less than $150 per year or payments for less than 20 days work (§3121(a)(8)(B)). Agricultural labor is defined by 26 U.S.C. §3121(g) and 42 U.S.C. §410(f). Also exempt from the tax are payments made to foreign agricultural employees (26 U.S.C. §3121(b)(1)), and payments for services performed under sharecropping arrangements (26 U.S.C. §3121(b)(16)). The Social Security Act provides that these categories of persons whose wages are not taxed under the F.I.C.A. do not qualify for O.A.S.D.I. coverage. (42 U.S.C. §§409(h) (1) and (2), 410(a) (16) and (19), 410(f)).

(b) *Old Age, Survivors, and Disability Insurance Act* (O.A.S.D.I.) (42 U.S.C. §409(h) *et seq.*)

Old age, survivors and disability insurance is one of the few major areas of conventional federal employee benefits programs from which agricultural migrants may receive benefits. Since 1956, farm employment has been covered for social security purposes if the worker received cash wages amounting to at least $150 from one employer during the year. Alternately, a farmworker gains coverage if he works with one employer 20 days or more during the year for cash remuneration computed on a time basis (by the hour, day, or week) rather than on a piece-rate basis. (42 U.S.C. §413(a)(2) (IV) and (V)). It should be noted, however, that the migratory farmworker, due to his low rate of compensation and short periods of employment, often does not meet even these meager qualifying requirements. Since a great number of migrant workers are paid on a piece-rate basis, the 20 day provision has had limited practical effect, and the $150 cash minimum is most often controlling. Lack of coverage would mean the exclusion from retirement, survivors, disability and medicare protection.

The Social Security Administration has made increased efforts to reach migrants with education and information materials that encourage farmworkers to claim their maximum coverage and benefits, and encourages employers to report covered wages.

The Office of Economic Opportunity programs encourage migrants to obtain social security cards, and literature is made available for both employees and employers that contain easy-to-follow directions and information printed in English and Spanish.

It should be noted that under both F.I.C.A. and O.A.S.D.I. "farm crew leaders" who pay workers themselves are deemed employers if there is no agreement to the contrary. As employers they are liable for payment of F.I.C.A. taxes and other duties required of employers by statutes. (26 U.S.C. § 3121(o), 42 U.S.C. § 410(n)).

8. Working Conditions

(a) *Occupational Safety and Health Act* (O.S.H.A.) (29 U.S.C. §§ 651–678)

The enactment of O.S.H.A. in 1970 may have a significant effect on the migrants' working conditions. The Act empowers the Secretary of Labor to prescribe mandatory safety and health standards which are applicable in agriculture as well as in industry generally. Hazards from equipment and machinery as well as from toxic substances are within the Secretary's regulatory authority.

Several regulations relating to agricultural labor have been issued under this authority. As of March 20, 1975, standards applicable to agricultural operations cover:

(1) sanitation in temporary labor camps (29 C.F.R. § 1910.142)

(2) storage and handling of anhydrous ammonia (29 C.F.R. § 1910.111)

[NOTE.—See 29 CFR 1910.267 generally.]

(3) pulpwood logging (29 C.F.R. § 1910.266)

(4) slow-moving vehicles (29 C.F.R. § 1910.145)

9. Collective Bargaining

The *Taft-Hartley Act* (29 U.S.C. §§ 141 to 187) guarantees the right of employees to organize and engage in collective bargaining. However, the term "employee" is defined by the Act to exclude agricultural workers. (29 U.S.C. § 152).

In addition, all appropriation bills passed by Congress to implement the *Taft-Hartley Act* have stated that the appropriations may *not* be used to intervene in labor disputes in agriculture (as defined by the *Fair Labor Standards Act*).

10. Taxation

(a) *Income Tax Withholding*

Income tax withholding provisions of the *Internal Revenue Code* provide for the collection of income tax on wages by employers. (26 U.S.C. § 3042).

However, the term "wages" is defined to *exclude* wages paid for agricultural labor (which is defined by 26 U.S.C. § 3121(g)). (26 U.S.C. § 3401(a)(2)).

(b) *Tax Reduction Act of 1975*

Under the *Tax Reduction Act of 1975* (*Public Law 94–12*) migrant workers are specifically excluded from the definition of "eligible employee" for purposes of computing the federal welfare recipient employment incentive tax credit.

11. Transportation

(a) *Interstate Transportation of Migrant Farm Workers* (49 U.S.C. § 303 *et seq.*)

This Act amends the Interstate Commerce Act to provide for the regulation by the Interstate Commerce Commission of certain transportation in interstate and foreign commerce of migrant farmworkers.

The Interstate Commerce Act authorizes the Department of Transportation to set standards for interstate transportation of migrant workers if they travel more than 75 miles. (42 U.S.C. § 304(a)(3a)).

The Federal Highway Administration has issued regulations under this authority. Violations of the regulations may result in a fine of between $100 and $500 for the first offense, and between $200 and $500 for a subsequent offense. The Department of Transportation is also authorized to seek an injunction against violators. (49 U.S.C. § 322 (a) & (b)).

The regulations on "Transportation of Migrant Workers," 49 C.F.R. § 398.1 *et seq.*, were issued in compliance with the statute, 49 U.S.C. §§ 303, 304. These regulations seek to insure migrants' safety and comfort when they travel over long distance by motor vehicle. The regulations establish minimum qualifications for drivers of vehicles that haul migrants long distances, provide safety and comfort standards for such vehicles, limit the number of hours a driver may drive, and require the carrier to inspect and maintain each vehicle.

II. PROGRAMS TO AID MIGRANTS

1. Health

(a) *Health Act of 1975 (Public Law* 94–63)

This Act, which amends section 319 of the *Public Health Service Act*, contains a section dealing with migrant health centers. The Secretary of H.E.W. is given authority to assign high impact areas and any other areas (where appropriate) priorities for the provision of assistance to projects and programs in such areas. The highest priorities for such assistance shall be assigned to areas in which the greatest numbers of migratory workers and their families reside for the longest period of time.

The Act further provides that within 120 days of the enactment of this section (42 U.S.C. § 247d), the Secretary of H.E.W. shall appoint and organize a National Advisory Council on Migrant Health which shall "advise, consult with, and make recommendations to," the Secretary on matters relating to the organization, operation, selection and funding of migrant health centers and other entities under grants and contracts made pursuant to this Act.

(b) *Rehabilitation Act of 1973 (Public Law* 93–112)

Under Title III, Section 304, subsection (c) of this Act the Secretary of H.E.W. is authorized to make grants to state or local agencies to pay up to 90% of the cost of providing vocational rehabilitation services to handicapped migratory agricultural workers. The benefits of such grants, which include maintenance and transportation, may also be extended to the workers' families (whether or not handicapped). The agency receiving the grants must cooperate with other agencies skilled in providing services to such migratory farmworkers. The administration of this subsection is to be coordinated with other federal laws dealing with such workers.

2. Housing

(a) *Housing for Agricultural Workers* (20 C.F.R. 620)

The Department of Labor has established a policy of denying its interstate agricultural recruitment services to employers until it

has ascertained that the housing and facilities meet certain criteria. These factors are as follows:

(1) availability.

(2) hygienic and adequate to the climatic conditions of the areas of employment.

(3) large enough to accommodate the agricultural workers sought.

(4) will not endanger the lives, health or safety of workers and their families.

(b) *Housing Act of 1949*

Under the *Housing Act of 1949*, Section III on Farm Housing, the Secretary of the Department of Housing and Urban Development is authorized to provide financial assistance for low rent housing for groups of farmworkers including "domestic farm labor" as defined in 42 U.S.C. § 1814(f)(4).

(c) *Health Act of 1975* (*Public Law* 94–63)

The Migrant Health Center section of this law provides that the Secretary of H.E.W. shall conduct or arrange for the conduct of a study of:

(A) the quality of housing which is available to agricultural migratory workers in the U.S. during the period of their employment in seasonal agricultural activities while away from their permanent abodes;

(B) the effect on the health of such workers of deficiencies in their housing conditions during such period; and

(C) federal, state, and local government standards respecting housing conditions for such workers during such period and the adequacy of enforcement of such standards.

In conducting or arranging for the conduct of such study, the Secretary of H.E.W. shall consult with the Secretary of H.U.D. This study has to be completed and a report submitted within 18 months of the enactment of the Act making appropriations for the study. The report shall contain the findings and recommendations for federal action (including legislation) respecting such housing conditions. The report has to be submitted to the House Committee on Interstate and Foreign Commerce and Senate Committee on Labor and Public Welfare. (See *Congressional Record*, July 11, 1975, Vol. 121, No. 109, H. 6670–6673)

3. Welfare

(a) *Social Security Act* (42 U.S.C. § 606(e)(1)(2))

This section of the *Social Security Act* specifically provides that "emergency assistance to needy families with children" may be made available to migrant workers with families in the State.

As of December 31, 1973, twenty States have designated migrant workers with families as eligible for this assistance. (Arkansas, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming).

4. Food Stamps

(a) *Food Stamp Act of 1964* (7 U.S.C. §§ 2011–2025; regulations can be found at 7 C.F.R. Parts 270–274)

Although this Act does not specifically mention migrants, the Food Stamp Program is structured to benefit all low-income individuals. Therefore, there is a possibility for inclusion of migrant farmworkers.

Two cases have been reported in the CCH *Poverty Law Reporter* on this subject of food stamps for farmworkers. A summary of each case follows:

(1) *Enrique Saez, et al.* v. *O. J. Keller, et al.* (No. 73–1750–Civ., U.S. District Court, Southern District of Florida, September 12, 1974) [CCH *Poverty Law Reporter*, ¶ 19, 968]

The court held that food stamp eligibility could not be denied to a farmworker who failed to work at least a certain number of days or who failed to earn at least a certain income. In accordance with this finding, the court enjoined the enforcement of Section 1931 of the Florida Food Stamp Manual and the superseding regulation of May 23, 1974 that denied such eligibility. In addition, the development and implementation of a plan for the certification of itinerant farmworkers in Florida on a statewide basis were ordered.

(2) *Manuel Medina, et al.* v. *Denver L. White* (No. C74–151, U.S. District Court, Northern District of Ohio, Western Division, April 17, 1975) [CCH *Poverty Law Reporter*, ¶ 21, 005]

A class of migrant farmworkers, whose households were eligible for food stamps and who were not allowed to apply at the time they first came to the county welfare department, brought this suit. The court required the Ohio Department of Public Welfare to modify and clarify provisions of a letter regarding certification of eligibility for food stamps.

5. Education

(a) *Elementary and Secondary Education Act* (20 U.S.C. § 241e(c); regulations can be found at 20 C.F.R. Part 116)

Under Title I of the *Elementary and Secondary Education Act*, state education agencies may apply for grants from the Office of Education for projects to meet the special education needs of children of migratory agricultural workers. Beginning Fiscal Year 1975, the Act includes programs for the children of migratory fishermen.

Title I migrant programs concentrate on identifying and meeting the specific needs of migrant children through remedial instruction, health, nutrition, psychological services, cultural development, prevocational training and counseling. Special attention in instructional program is given to development of language arts—including reading, speaking and writing in both Spanish and English.

Each State Department of Education submits to the Office of Education an application which includes its plan and cost estimate for migrant education projects. Upon approval of its application the State is then awarded a grant, separate from its other Title I allocation, to finance the migrant program. Each year's allotment is based on a formula which estimates the number of migrant children in a State and per pupil expenditures.

A child is considered a migrant and eligible to participate if he has moved with his family from one school district to another during the past year in order that a parent or other member of his family may work in agriculture or related food processing activities. He can be considered a migrant child for 5 years after his parents have settled in one place.

(b) *Migrant Head Start Programs*

Since 1969, within H.E.W.'s Office of Child Development is the Division of Indian and Migrant Programs. It has sought to maintain and extensive effort to mobilize the resources needed to provide full service programs to preschool children of migrant families.

(c) *Transfer O.E.O. Programs* (*Economic Opportunity Act* (42 U.S.C. § 2861 *et seq.*))

It should be noted that O.E.O. under the authority of Title III–B of the *Economic Opportunity Act* provided assistance to migrants and other seasonally employed farmworkers and their families.

In 1973, some migrant programs which were administered by O.E.O. were transferred to the Department of H.E.W. Other programs were transferred elsewhere—e.g., housing to H.U.D. Title III–B programs (including the Migrant Division of O.E.O.) were transferred to the Department of Labor pursuant to a delegation of authority agreement between O.E.O. and the Department of Labor.

(d) *Headstart, Economic Opportunity and Community Partnership Act of 1974* (*Public Law* 93–644)

This Act extended certain programs under the *Economic Opportunity Act of 1964* through Fiscal Year 1977 and established the Community Services Administration as the successor agency to O.E.O. Although the new Act continues the legislative authority for migrant and seasonal farmworker programs, at present, Title III–B programs are still being administered by the Department of Labor.

(e) *Volunteers in Service to America*

The *Domestic Volunteer Service Act of 1973* (*Public Law* 93–113) consolidated various volunteer programs, including V.I.S.T.A. The director of the new V.I.S.T.A. program is given the authority to assign volunteers to work on programs to meet the needs of migratory and seasonal farmworkers and their families.

6. Manpower

The Comprehensive Employment and Training Act provides, as a special Federal responsibility, set-aside funds to operate manpower programs for migrant and seasonal farmworkers. The funds are distributed to the states by the Department of Labor.

State Laws and State Agencies Dealing Specifically With Migrant Farmworkers

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Alabama

I. LABOR PROVISIONS

Minimum Wage.—There is no minimum wage law in Alabama.

Collection of Wages.—Agricultural labor would not be covered by wage payment provisions. *Ala. Code*, Tit. 48, § 474.

Hours.—There are no maximum hours provisions in Alabama.

Child Labor.—Agricultural labor is exempt from the minimum age provisions applicable in other employments. *Ala. Code*, Tit. 26, § 343 and § 357. Agricultural labor is exempt from maximum hours provisions applicable to minors in other employments, *Ala. Code*, Tit. 26, § 343. No employment certificate is needed for farm labor jobs. *Ala. Code*, Tit. 26, § 352.

Working Conditions.—Agricultural employees are exempt from state health and safety provisions. *Ala. Code*, Tit. 26, § 12.

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—There is no comprehensive state labor relations law. Provisions of other labor laws, including the right to work law, would be broad enough to include farmworkers. *Ala. Code*, Tit. 26, § 375.

Workmen's Compensation.—Coverage of agricultural labor under workmen's compensation laws is elective only. *Ala. Code*, Tit. 26, § 263.

Unemployment Compensation.—Agricultural labor is excluded from unemployment compensation. *Ala. Code*, Tit. 26, § 186(K)(1).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Alaska

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from minimum wage and overtime provisions. *Alaska Stat.*, § 23.10.055.

Collection of Wages.—Wage payment provisions are broad enough to include agriculture. *Alaska Stat.*, § 23.05.140a.

Hours.—Maximum hours provisions apply to specified categories of workers, not including agriculture. *Alaska Stat.* § 43–2–2.

Child Labor.—During school hours the minimum age for employment is 16. Outside school hours, the minimum age for employment in agriculture is 14. Maximum hours legislation for minors applies to agricultural workers under the age of 16. *Alaska Stat.*, §§ 23.10.335 to 340.

Working Conditions.—Provisions of the health and safety statutes are broad enough to include agricultural workers, but do not specifically mention them. *Alaska Stat.*, § 43–2–21.

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—There is no state labor relations act or right to work law. Provisions of other labor laws would be broad enough to include farmworkers.

Workmen's Compensation.—"Harvest help" is exempt from the compulsory coverage of Alaska's workmen's compensation. *Alaska Stat.*, § 23.30.230.

Unemployment Compensation.—Agricultural labor is exempt from unemployment compensation. *Alaska Stat.*, § 23.20.526(15).

Transportation.—Provisions involving the transportation of employees for hire exist although agricultural labor is not specifically mentioned. *Alaska Stat.*, §§ 23.10.375 to 400.

Employee Housing.—No provisions found.

Arizona

I. labor provisions

Minimum Wage.—The minimum wage law covering minors exempts agricultural labor. *Ariz. Rev. Stat. Ann.* § 23–311.

Collection of Wages.—Wage payment provisions are broad enough to include farmworkers. *Ariz. Rev. Stat. Ann.* § 23–351.

Hours.—Maximum hours provisions can be found in wage orders. Agricultural labor is exempt. *Ariz. Rev. Stat. Ann.* § 23–311.

Child Labor.—Agricultural labor is exempt from the maximum hours provisions applicable to minors in other employment. *Ariz. Rev. Stat. Ann.* § 23–244. No minimum wage provisions are in force for employment in agriculture outside of school hours. Minors over 14 may be excused from school to work with parental consent. *Ariz. Rev. Stat. Ann.* § 15–321(6). Children under 16 are not permitted to use picker machines. *Ariz. Rev. Stat. Ann.* § 23–232.

Working Conditions.—Farm labor is not expressly excluded from the law creating the Division of Safety which may have regulations covering agricultural working conditions. *Ariz. Rev. Stat. Ann.* § 23–401 *et. seq.*

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—A seven member Farm Labor Relations Board is composed of persons appointed by the Governor. Procedures are provided under which farm workers may organize. Ten day restraining orders are authorized during harvest time and compulsory arbitration. *Ariz. Rev. Stat. Ann.* § 23–1386.

Workmen's Compensation.—Compulsory coverage exists in agricultural labor if machinery is used and the employer employs three or more workers. Other agricultural workers qualify for voluntary coverage. *Ariz. Rev. Stat. Ann.* § 23–902.

Unemployment Compensation.—Agricultural labor is exempt from coverage. *Ariz. Rev. Stat. Ann.* § 23–617.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Arkansas

I. labor provisions

Minimum Wage.—The Arkansas minimum wage law exempts three classes of agricultural laborers. If the employer did not use more than

500 man-days of agricultural labor in any calendar quarter of the preceding year, his employees are exempt from minimum wage protection. A hand harvest laborer employed on a piece rate basis in a customarily recognized piece-rate crop, who commutes daily from his permanent residence and worked in agricultural labor less than 13 weeks in the preceding year, is exempt from the minimum wage. A migrant who is 16 or younger, employed on a piece rate basis on the same farm as his parents and is paid the same rate as employees over 16, is exempt from the minimum wage law. *Ark. Stat. Ann.* §§ 81–320(g)(6), (8), (9).

Collection of Wages.—Corporations are covered by the wage payment statute. *Ark. Stat. Ann.* § 81–301.

Hours.—Maximum hours provisions apply to females in specified occupations. Agricultural labor is specifically exempt. *Ark. Stat. Ann.* § 81–601.

Child Labor.—The minimum age for employment during the school term is 14. Between the ages of 14 and 16 an employment certificate is required. Agricultural labor is not exempt from the maximum hours law applicable to other minors. *Ark. Stat. Ann.* §§ 81–701 to 81–706.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—There is no state labor relations act. Provisions of other laws, such as the right to work law, are broad enough to include farmworkers.

Workmen's Compensation.—Agricultural labor is exempt from the compulsory provisions of the workmen's compensation law. Voluntary coverage is available. *Ark. Stat. Ann.* § 81–1302(c)(1).

Unemployment Compensation.—Agricultural labor is excluded from unemployment compensation coverage. *Ark. Stat. Ann.* § 81–1103(i)(6).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Department of Labor.—Under the statute creating the state department of labor and outlining its duties, authority over farming is expressly denied. *Ark. Stat. Ann.* § 81–101. Other labor statutes, not expressly exempting agriculture, but enforceable by the department, could be interpreted as not applying to agriculture.

California

I. LABOR PROVISIONS

Minimum Wage.—Minimum wages are set by administrative order. *Cal. Labor Code* §§ 1171 to 1204. Administrative order #1–74 effective March 4, 1975 provides for the following wage rates:

2.030—Minimum Wage Rates—Agricultural Occupations

Piece Work Employees

Employer hiring adults on a piece rate basis shall pay piece rates sufficient to yield not less than $2.00 per hour to 80 percent of the adults employed in an agricultural occupation in each pay period. In no event shall the adult employees be paid less than $1.70 per hour.

Inapplicable to employer employing less than five employees. If at any one time during a calendar year an employer has in his employ five or more employees, these provisions shall be applicable to such employer through such calendar year.

Employer hiring minors age 16 and 17 on a piece rate basis shall pay piece rates sufficient to yield not less than $1.70 per hour to 80 percent of the minors, 16 years old or over, in each pay period. In no event shall they be paid less than $1.55 per hour. Minors under 16 shall be paid not less than $1.25 per hour for all hours worked. Inapplicable to employer employing less than five employees. If at any one time during a calendar year an employer has in his employ five or more employees, these provisions shall be applicable to such employer through such calendar year.

Other than Piece Work Employees

Employer shall pay to each employee wages not less than $2.00 per hour for all hours worked except:

(1) Learners. Employees during their first one hundred and sixty (160) hours of employment in occupations in which they have no previous similar or related experience, for whom the rate of pay shall be not less than one dollar and seventy cents ($1.70) per hour.

(2) Minors may be paid one dollar and seventy cents ($1.70) per hour; provided that the number of minors employed at said lesser rate shall not exceed twenty-five percent (25%) of the persons regularly employed in the establishment. An employer of less than ten (10) persons may employ three (3) minors at said lesser rate.

(3) Student Workers. A student is a person who is attending a school pursuing a systematic educational program to achieve proficiency in an activity requiring specific educational training. The status of student shall not be lost by absences from school which do not continue longer than six (6) months. The rate of pay for Student Workers shall be not less than one dollar and seventy cents ($1.70) per hour.

Inapplicable to employer employing less than five employees engaged in agricultural occupations. If at any one time during a calendar year an employer has in his employ five or more persons engaged in agricultural occupations, these provisions shall be applicable to such employer through such calendar year.

2.052—Waiting, Call-Pay

Each day an employee is required to report for work and does report, but is not put to work, such employee shall be paid for at least two hours at such employee's regular rate of pay.

If an employee is required to report for work and is put to work, such employee shall receive a minimum of four hours' work of four hours' pay at such employee's regular rate of pay. When the usual or scheduled day's work is four hours or less, such employee shall be paid not less than two hours at such employee's regular rate of pay.

The reporting time pay provisions are inapplicable when (1) operations cannot commence or continue due to threats to employees or property, or when recommended by civil authorities; or (2) public

utilities fail to supply electric, water, or gas, or there is a failure in the public utilities sewer system; or (3) the interruption of work is caused by an Act of God or other cause not within employer's control. If an employee is required to work a split shift in any one day and is furnished less than two hours of work on the second reporting, said employee shall be paid two hours at the employee's regular rate of pay.

The reporting time pay provisions are not applicable to agricultural employer employing less than five employees. If at any one time during a calendar year such employer has in his employ five or more employees, these provisions shall be applicable to such employer through such calendar year.

Collection of Wages.—If the farm laborer is lodged by the employer, he is entitled to payment of wages at least monthly. If the farm laborer is employed by a farm labor contractor, he is to be paid at least bi-weekly with a four day holdover. *Cal. Labor Code* § 205. The farm labor contractor is required to furnish an itemized statement showing deductions from pay. *Cal. Labor Code* § 1696.5.

Hours.—Farm laborers are exempt from maximum hours provisions applicable to other laborers. *Cal. Labor Code* § 554.

Child Labor.—Minors under the age of 18 years shall not be employed in any agricultural occupation for more than 20 hours in any school week in which such minor is required by law to attend school. Minors 16 and 17 years of age shall not work in any agricultural occupation more than six hours on a day they are required to attend school. Minors 14 and 15 years of age shall not work in any agricultural occupation more than four hours on a school day. Holidays and days school is not in session are not included in this provision. *Cal Educ. Code* § 12,774, as amended by Ch. 144 (1975 laws), Sec. 3. School districts are authorized to issue work permits to minors between 12 and 18 during school vacations, so that the minimum age for summer employment can be assumed to be 12. Fourteen is the minimum age for employment during the school session. *Cal. Educ. Code* § 12,768–12,769. A school district can rescind a work permit if health or school work is impaired. *Cal. Educ. Code* § 12,774. An agricultural employer is required to post notice of work permit requirements. *Cal. Educ. Code* § 12,781.

Working Conditions.—The Division of Industrial Safety is responsible for administering the state plan for the development and enforcement of occupational safety and health standards. *Cal. Labor Code* § 6300 *et. seq.*

Labor Contractors.—Farm labor contractors are required to be licensed and are subject to regulations promulgated by the Labor Commissioner. *Cal. Labor Code* §§ 1682 to 1699.

Organization—Collective Bargaining.—The California Agricultural Labor Relations Act, effective August 29, 1975, extends organization, representation and collective bargaining rights to agricultural workers. This Act also creates an agricultural labor relations board consisting of five members appointed by the Governor, with the advice and consent of the Senate. Ch. 1, L. 1975–1976 (3d Extraordinary Session).

Workmen's Compensation.—No express provisions exempt farmworkers, therefore they would be covered in California. *Cal. Labor Code* § 3352.

Unemployment Compensation.—Agricultural employees are entitled to temporary disability payments but are excluded from unemployment compensation. *Cal. Unep. Ins. Code* §§ 2606 and 4002.

Transportation.—A vehicle carrying seven or more agricultural workers must meet safety standards set out in the *Vehicle Code*. *Cal. Vehicle Code* §§ 322, 31,400 and 31,401. After July 1, 1975 no person, other than a person who possesses a schoolbus driver's certificate shall operate a farm labor truck unless he has a driver's license for the appropriate class of vehicle to be driven and the proper certificate issued by the Department of Motor Vehicles. *Cal. Vehicle Code* § 12,519.

Employment Agencies.—The state will not maintain an employment agency for farm labor if federal funds provide for a farm placement bureau. *Cal. Unep. Ins. Code* § 2054. Private farm labor employment services are required to be licensed. *Cal. Bus. & Prof. Code* § 9941(5). Farm labor contractors are exempt from the employment agency provisions. *Cal. Bus. & Prof. Code* § 9913.

Employee Housing—Labor Camps.—The Employee Housing Act established a Commission and a Department of Housing and Community Development. Labor camps are required to obtain a permit to operate and must abide by regulations providing standards for construction, use, sanitation and maintenance of the camps. *Cal Labor Code* §§ 2610–2646.

The Farm Labor Center Law authorizes the Department of Housing and Community Development to guide local agencies in obtaining federal funds for construction and maintenance of public housing for migrants. *Cal Health & Safety Code* §§ 36,050 to 36,068.

Alien Employment.—Civil action and fines were authorized against an employer who knowingly employed an illegally admitted alien if the employment had an adverse effect on lawful resident workers. *Cal. Labor Code* § 2805. This section has been declared unconstitutional by the California Court of Appeals as encroaching upon the federal scheme dealing with immigration. *Dolores Canning Co., Inc.* v. *Milias*, 115 Cal. Rptr. 435, 40 C.A. 3d 673 (1974).

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Department of Human Resources Development.—This agency was created to implement the migrant labor provisions of the Employment Opportunity Act of 1964. *Cal. Gov't. Code* § 11,200.

Local Application Advisory Board.—A Board of five members appointed by the Governor representing growers, labor, government and the public evaluates and recommends action on local applications for O.E.O. funds. *Cal. Gov't. Code* §§ 7100 to 7102.

COLORADO

I. LABOR PROVISIONS

Minimum Wage.—Minimum wage is to be set by wage order for women and minors under 18 "in any occupation." *Colo. Rev. Stat. Ann.* §§ 8–6–105 and 8–6–106.

Collection of Wages.—Payment of wages to farm laborers must be made monthly even if lodging is provided. *Colo. Rev. Stat. Ann.* § 8–4–105.

Hours.—Maximum hours provisions provide eight hour days for specific categories of workers, farmworkers not included. *Colo. Rev. Stat. Ann.* §§ 8–13–101 to 8–13–111.

Child Labor.—Outside school hours, the minimum age for employment in agricultural labor is 12. *Colo. Rev. Stat. Ann.* § 8–12–107. The statute, however, specifically states that the legislators encourage eligible migrant children to attend migrant education schools. *Colo. Rev. Stat. Ann.* § 8–12–107. Maximum hours legislation for those under 16 during the school term provides for 6 hours per day employment but does not specifically refer to agricultural workers. *Colo. Rev. Stat. Ann.* § 8–12–105, as amended by H.B. 1522, L. 1973.

Working Conditions.—No provisions found specifically applicable to migrant workers.

Labor Contractors.—Farm labor contractors are required to keep comprehensive payroll records and to issue detailed wage statements to farm laborers. The Director of the Division of Labor is to compile periodic reports of these records and present them to the Governor's Commission on Migrant Labor. *Colo. Rev. Stat. Ann.* § 8–4–102.

Organization.—Collective Bargaining.—Farm and ranch laborers are exempt from coverage under general labor relations laws and under the Labor Peace Act. *Colo. Rev. Stat. Ann.* §§ 8–1–101 and 8–3–104.

Workmen's Compensation.—Farm labor employers are subject to the compulsory workmen's compensation law if they employ four or more farm labor employees. *Colo. Rev. Stat. Ann.* § 8–41–105.

Unemployment Compensation.—Agricultural labor is exempt. *Colo. Rev. Stat. Ann.* § 8–70–103.

Transportation.—No provisions found.

Employee Housing.—County government is granted authority to establish a county housing authority to oversee low-cost housing projects for agricultural and other low-income workers. *Colo. Rev. Stat. Ann.* § 29–4–501 *et. seq.*

Labor Camps.—The Department of Public Health is given authority to enforce sanitary standards for industrial and labor camps. *Colo. Rev. Stat. Ann.* § 25–1–107. The Occupational and Health Standards Board has adopted standards for labor camps pursuant to *Colo. Rev. Stat. Ann.* § 8–11–104.

Connecticut

I. LABOR PROVISIONS

Minimum Wage.—The 1971 minimum wage law amendments stated that agricultural laborers are entitled to $1.61/hr. effective October, 1971, $1.70/hr. effective October, 1972, $1.85/hr. effective October, 1973. The law does not set piece work rates. *Conn. Gen. Stat. Ann.* § 31–58(j). Minors between the ages of 14 and 18 who are agricultural employees are to be paid not less than 85% of the minimum fair wage set for adults. *Conn. Gen. Stat. Ann.* § 31–58a.

Collection of Wages.—Provisions of the wage payment statutes are broad enough to include farmworkers. *Conn. Gen. Stat. Ann.* § 31–71a.

Hours: Agricultural labor is exempt from the work-week provisions. *Conn. Gen. Stat. Ann.* § 31–76i(k).

Child Labor.—If an employer employs more than 15 workers in a week period, he is then subject to the child labor laws. The laws require the employer to possess a birth certificate or work permit for minors he employs. The minimum age for employment at any time is 14. A minor 14 or 15 is subject to maximum hours legislation. The Commissioner of Agriculture can establish regulations for the administration of the laws dealing with the employment of minors. *Conn. Gen. Stat. Ann.* §§ 22–13 to 22–17.

Working Conditions.—The provisions of the 1973 Occupational Safety and Health Act do not specifically exclude migrant workers. *Conn. Gen. Stat. Ann.* § 31–368 *et. seq.*

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—Agricultural workers are exempt from the Connecticut labor relations law. *Conn. Gen. Stat. Ann.* § 31–101(7).

Workmen's Compensation.—Connecticut workmen's compensation law is compulsory and there is no exemption for agriculture. *Conn. Gen. Stat. Ann.* §§ 31–275 to 31–355.

Unemployment Compensation.—Agricultural laborers are exempt from compulsory coverage but they may be voluntarily covered. *Conn. Gen. Stat. Ann.* § 31–222.

Transportation.—No provisions found.

Employee Housing.—Labor camps. The Commissioner of Agriculture, Conservation and Natural Resources is authorized to issue regulations concerning the standards of living quarters. *Conn. Gen. Stat. Ann.* § 22–17a.

Delaware

I. LABOR PROVISIONS

Minimum Wage.—The minimum wage law exempts agricultura labor. *Del. Code Ann.* Tit. 19, § 901(e)(1).

Collection of Wages.—Wage payment provisions are broad enough to include agriculture. *Del. Code Ann.* Tit. 19, § 1102.

Hours.—No provisions found.

Child Labor.—Agricultural labor is exempt from the child labor wages and hours laws. *Del. Code Ann.* Tit. 19, § 501(b).

Working Conditions.—Provisions apply to specified classes of workers, not including farmworkers. *Del. Code Ann.* Tit. 16, § 7701, 3505.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—There are no labor relations or right to work laws.

Workmen's Compensation.—Agricultural labor is exempt from coverage. *Del. Code Ann.* Tit. 19, § 2307.

Unemployment Compensation.—Agricultural labor is exempt from coverage. *Del. Code Ann.* Tit. 19, § 3302.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Employment Discrimination.—Agriculture exempt from the employment discrimination law. *Del. Code Ann.* Tit. 19, § 710(3).

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Department of Labor.—In the provisions outlining the duties of the Department, agriculture is specifically exempted from all provisions of the chapter. *Del. Code Ann.* Tit. 19, § 101(b). Farm labor may therefore be exempt from all provisions which do not specifically refer to such labor.

FLORIDA

I. LABOR PROVISIONS

Minimum Wage.—There is no minimum wage law in Florida.

Collection of Wages.—Farm labor contractors are to make written statements in English and Spanish, if applicable, stating the compensation rate received by the farm worker and the rate paid to other workers. *Fla. Stat. Ann.* § 450.33.

Hours.—Ten hours per day is the legal work day for an employee in "manual labor" but this can be changed by contract. Farm workers are not specifically excluded or exempted. *Fla. Stat. Ann.* § 448.01.

Child Labor.—Spraying of insecticides by persons under 16 years of age, where the insecticides may cause harm by contact or inhalation, is prohibited. *Fla. Stat. Ann.* § 450.061. No minimum age laws are applicable to farm labor employment when school is not in session. *Fla. Stat. Ann.* § 450.011. If school is not in session a farm laborer is not required to have an employment certificate if the laborer is working for a bonafide farmer or group of farmers; however, a certificate is required if the laborer is working for a contract harvester, crewleader, or the like. *Fla. Stat. Ann.* § 450.111. If school is in session the minimum age for employment is 16, unless the minor is legally excused from school, in which case the minimum age is 12 years. *Fla. Stat. Ann.* § 450.021. Maximum hours provisions specifically exempt farm laborers from coverage. *Fla. Stat. Ann.* § 450.081(4).

Working Conditions.—No applicable provisions.

Labor Contractors.—Farm labor contractors are required to register with the administrator of the farm labor and rural manpower service. They are to keep wage records and take out insurance for all transportation vehicles. *Fla. Stat. Ann.* §§ 450.27 and 450.38.

Organization—Collective Bargaining.—Florida has no general labor relations act comparable to the Federal Labor-Management Relations Act.

Workmen's Compensation.—Agricultural labor is exempt from Workmen's Compensation if "agricultural labor performed on a farm in the employ of a bona fide farmer, or association of farmers, who employs five or less regular employees and who employs less than twelve other employees at one time for seasonal agricultural labor that is completed in less than 30 days, provided such seasonal employment does not exceed 45 days in the same calendar year." *Fla. Stat. Ann.* § 440.02.

Unemployment Compensation.—Agricultural labor is exempt from unemployment compensation provisions. *Fla. Stat. Ann.* § 443.03(1)(1)

Transportation.—Safety and inspection requirements for vehicles transporting migrant laborers are set by statute. *Fla. Stat. Ann.* § 317.9931–317.9933. Non-resident farmworkers are exempt from

Florida driver's license and registration requirements for hauling on the farm. *Fla. Stat. Ann.* § 332.04 and 320.32.

Employee Housing.—Labor Camps are required to be licensed by the division of health of the Department of Health and Rehabilitative Services. The division is to issue regulations regarding the standards of the camps. *Fla. Stat. Ann.* §§ 381.422, 381.432–381.482.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Division of Migrant Labor.—Within the Department of Community Affairs, the division is to enforce the migrant labor camp law and coordinate operation of other state and federal laws, and agencies affecting migrants. *Fla. Stat. Ann.* § 450.191.

Legislative Commission on Migrant Labor.—A permanent joint committee of the Florida legislature consists of six members. It can establish an advisory committee with members representing state agencies, growers and labor organizations. *Fla. Stat. Ann.* § 450.201.

Interstate Migrant Labor Compact.—Florida has enacted an interstate migrant labor compact, the provisions of which are at *Fla. Stat. Ann.* § 450.251 *et. seq.*

Court Decision.—In *United Farmworkers of Florida Housing Project, Inc. v. City of Delray Beach*, the Fifth Circuit Court of Appeals held that the city's refusal to permit a proposed housing project to tie into its water and sewer systems was racially discriminatory. The housing project was to be built by an association of minority migrant workers. The court ordered the city officials to issue the requested permit and allow the farmworkers' housing project access to the city's services. (493 F. 2d 799 (5th Cir. 1974)).

Georgia

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *Ga. Code Ann.* § 54–1202.

Collection of Wages.—Farming is exempt from a biweekly payment provision. *Ga. Code Ann.* § 66–102.

Hours.—Maximum hours provisions apply to certain categories of laborers not including farmworkers. *Ga. Code Ann.* § 54–201.

Child Labor.—Agricultural labor is exempt from the child labor provisions. *Ga. Code Ann.* § 54–301.

Working Conditions.—Agricultural labor is excluded from health and safety provisions. *Ga. Code Ann.* § 54–101.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—"Seasonal industries" are exempt from the strike regulation law. An example of a seasonal industry is given in the statute as millinery. Farmworker unions would probably also be exempt. *Ga. Code Ann.* § 54–704. Provisions of other labor laws, eg., right to work laws, would be broad enough to include farmworkers. *Ga. Code Ann.* § 54–901.

Workmen's Compensation.—Agricultural labor is exempt from workmen's compensation. *Ga. Code Ann.* § 114–107.

Unemployment Compensation.—The Commissioner is authorized to prescribe regulations applicable to "seasonal workers" to determine under what conditions unemployment compensation benefits shall be payable to such workers. *Ga. Code Ann.* § 54–607.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Hawaii

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is subject to the minimum wage law if the employer employs 20 or more individuals during a workweek. Coffee harvesting employees, however, are specifically exempt. *Hawaii Rev. Stat.* Sec. 387–1. Overtime provisions apply if there is more than 48 hours of work in agriculture in a week period. *Hawaii Rev. Stat.* Sec. 387–3(e).

Collection of Wages.—Provisions of the wage payment statute are broad enough to include agricultural employees. *Hawaii Rev. Stat.* Sec. 95–2.

Hours.—Refer to overtime provisions above.

Child Labor.—A special statute permits minors under 14 to work in the harvesting of coffee if there is a labor shortage of adults. *Hawaii Rev. Stat.* Sec. 390–2(d). During the school term the minimum age for agricultural employment is 16, but an employment certificate is required. *Hawaii Rev. Stat.* Sec. 390–2. A minor between the ages of 14 and 16 can work during the school term if excused by school authorities. He is also subject to the maximum hours legislation. *Hawaii Rev. Stat.* Sec. 390–2(c). It can be inferred from the statutes that 14 is the minimum age for agricultural employment when school is not in session, except for the coffee harvesting provisions.

Working Conditions.—The industrial safety statute is general and does not mention agricultural employment. *Hawaii Rev. Stat.* Sec. 396.

Labor Contracts.—No provisions found.

Organization—Collective Bargaining.—The Employment Relations Act does not specifically cover or exclude agricultural labor. *Hawaii Rev. Stat.* Sec. 377–1.

Workmen's Compensation.—Agricultural labor would be covered by the compulsory provisions of the law as there is no exception for agricultural labor. *Hawaii Rev. Stat.* Sec. 386–1.

Unemployment Compensation.—Special unemployment compensation provisions exist for agriculture if the employer has less than 20 employees in a workweek, *Hawaii Rev. Stat.* Sec. 384–1. If the employer employs more than 20, then the laborer is covered by the regular provisions of the statute. *Hawaii Rev. Stat.* Secs. 383–7, 393–9. Temporary disability insurance has no exception for agriculture. *Hawaii Rev. Stat.* Sec. 392–1.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Idaho

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the state minimum wage law. *Idaho Code* § 44–1504.

Collection of Wages.—Provision is general with no specific reference to agricultural labor. *Idaho Code* §§ 45–601 to 45–615.

Hours.—Females harvesting fruits and vegetables are specifically excluded from minimum hours laws. Idaho Code § 44–1107. However, this provision was declared unconstitutional in *Idaho Trailer Coach Ass'n* v. *Brown*, 95 Idaho 910, 523 P. 2d 42 (1974).

Child Labor.—Minimum age when school is not in session is 12. Minimum age when school is in session is 16. Agricultural labor is treated the same as all other occupations employing minors. *Idaho Code* § 44–1301.

Working Conditions.—No provisions specifically applicable to farm labor.

Labor Contracts.—No provisions found.

Organization-Collective Bargaining.—An Idaho agricultural labor board with 5 members, 2 nominated by labor organizations, 2 nominated by growers, and 1 from a mutually agreed upon list is to enforce the agricultural labor relations act. This act provides procedures for establishing bargaining units and collective bargaining. S. B. 1604, L. 1972, as amended by S. B. 1300, L. 1974, effective July 1, 1974.

Workmen's Compensation.—Agricultural labor is exempt from the compulsory coverage provisions of the workmen's compensation act. Voluntary coverage is permitted. *Idaho Code* §§ 72–212 and –213.

Unemployment Compensation.—Agricultural labor is exempt from unemployment compensation. *Idaho Code* §§ 72–1304 and –1316.

Transportation.—No provisions found.

Employee Housing.—County Commissioners are authorized by statute to cooperate with the federal programs for migrant housing. *Idaho Code* § 31–856. Another statute gives the state authority to sell land to the federal government for migrant housing programs. *Idaho Code* § 58–705.

Illinois

I. LABOR PROVISIONS

Minimum Wage.—The Minimum Wage Act exempts employees who work for an employer with less than five full time employees. *Ill. Ann. Stat.* Ch. 48, Sec. 1003(d)(1). Agricultural labor is exempt from the law if the employer did not use more than 250 man days of agricultural labor during any quarter of the preceding calendar year. A hand harvest laborer who is paid on a piece rate basis for a crop customarily paid in that manner, who commutes to the farm from a permanent residence, and who worked less than thirteen weeks in the previous year in agricultural labor, is also exempt from the minimum wage law. *Ill. Ann. Stat.* Ch. 48, Sec. 1003 (d)(2). If gratuities are provided to a covered employee under the minimum wage law, the employer is still required to pay at least 50% of the minimum wages in cash. *Ill. Ann. Stat.* Ch. 48, Sec. 1004 (c). (*Note:* During the 1975

Legislative Session, the former exemption for an employer not using more than 500 man days of labor was amended to exempt only those not using more than 250 man days of labor.)

Collection of Wages.—The Illinois Wage Payment and Collection Act does not exclude from its provisions migrant workers. *Ill. Ann. Stat.* Ch. 48, §§ 39 m–1 to 39 m–15.

Hours.—Agricultural labor is exempt from the maximum hours law providing for an eight hour work day. *Ill. Ann. Stat.* Ch. 48, Sec. 1.

Child Labor.—Agricultural labor is exempt from the child labor law providing for minimum age and maximum hours in employment. However, minors under 12 are subject to the minimum age laws. Exceptions are made for (1) members of the farmer's family and (2) children under 10 when not in school or outside of school hours. *Ill. Ann. Stat.* Ch. 48, § 31.1 and 31.2, and Public Act #79–912 (1975 Legislative Session).

Education laws provide for compulsory school attendance up to the age of 16, but school authorities have discretion to waive that provision. *Ill. Ann. Stat.* Ch. 122, § 26–1 (3).

Working Conditions.—Farm labor is included in the coverage of the Industrial Safety Act. *Ill. Ann. Stat.* Ch. 48, Sec. 137.2.

Labor Contractors.—During the 1975 Legislative Session the following Public Acts were passed: 79–900, 79–901, and 79–902.

Public Act 79–900 requires that farm labor contractors be certified and pay a fee before they can recruit and/or supervise migrant laborers.

Public Acts 79–901 and 79–902 also have an important effect upon migrant laborers. Illinois employers and private employment agencies must supply a statement in English and in a language which the migrant laborer is fluent concerning terms of employment and a summary of state laws regarding wages, deductions, and migrant labor camps. Also included must be a statement as to the existence of any strike, or other concerted stoppage, slow down or interruption of the work by the employees of such employer at the site of the proposed employment.

The sections of the Illinois Code which relate to labor contractors are: *Ill. Ann. Stat.* Ch. 48, §§ 184.1 to .3 and 197 (j) (1) to (3).

Organization-Collective Bargaining.—There is no general labor relations act in effect.

Workmen's Compensation.—During the 1975 Legislative Session, Public Act 79–79 was passed. It amends workmen's compensation coverage to cover any agricultural employers who employ less than 245 man days of labor during any calendar year. Excluded are the agricultural employer's spouse or any other member of his immediate family residing with him.

See *Ill. Ann. Stat.* Ch. 48, § 138.3(15). This is the section affected by the 1975 amendments.

Workmen's Occupational Diseases.—The 1975 Legislative Session enacted Public Act 79–78 which removes the exemption for agricultural labor from § 1 of Illinois Workmen's Occupational Diseases Act. *Ill. Ann. Stat.* Ch. 48, § 172.36.

Unemployment Compensation.—Agricultural labor is exempt from unemployment compensation provisions. *Ill. Ann. Stat.* Ch. 48, § 324.

Transportation.—While there are no specific provisions applicable to farm labor workers, Public Act 79–900 (1975 Legislative Session) does require farm labor contractors to show proof of insurance coverage for any vehicles used to transport farm laborers.

Employee Housing.—Labor Camps. The Department of Public Health is authorized to issue licenses for the operation of migrant labor camps. There exist inspection requirements and space, sanitary and other facility requirements. *Ill. Ann. Stat.* Ch. 111 1/2, § 185.1 to 185.14. The Mobile Home Act and the Recreational Area Licensing Act both have clauses expressly excluding migrant labor camps from their coverage. *Ill. Ann. Stat.* Ch. 111 1/2, §§ 730 and 785.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Department of Labor.—Effective July 1, 1972, the Department of Labor is authorized to study the nature and extent of labor and employment problems of migrant agricultural labor. Particular attention is to be given to the differences from the problems of resident agricultural labor. *Ill. Ann. Stat.* Ch. 127, § 43.15a.

INDIANA

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *Ind. Stat. Ann.* Sec. 22–2–2–3.

Collection of Wages.—Agricultural labor is exempt from the law making wages payable biweekly. *Ind. Stat. Ann.* Sec. 22–2–5–1.

Hours.—Agricultural labor is exempt from maximum hours legislation. *Ind. Stat. Ann.* Sec. 22–2–1–1.

Child Labor.—The maximum hours law excludes minors engaged in agricultural labor. *Ind. Stat. Ann.* Sec. 20–8–8–21. Agricultural labor is exempt from the law making 14 the minimum age for employment when school is not in session. *Ind. Stat. Ann.* Sec. 20–8.1–4–21. Agricultural labor is exempt from the provision requiring an employment certificate for minors between 14 and 16 when school is not in session. *Ind. Stat. Ann.* Sec. 28–8.1–4–1, as amended by H.B. 1974, L. 1975. Employment at farm labor by minors under 10 is forbidden unless minor is living with parents. *Ind. Stat. Ann.* Sec. 20–8.1–4–21.

Working Conditions.—Agricultural labor is exempt from the workmen's occupational disease act. *Ind. Stat. Ann.* Sec. 22–3–7–9.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—Indiana has no general labor relations act.

Workmen's Compensation.—Agricultural labor is exempt from the compulsory provisions of the workmen's compensation act. Employers may elect coverage. *Ind. Stat. Ann.* Sec. 22–3–2–9.

Unemployment Compensation.—Agricultural labor is exempt. *Ind. Stat. Ann.* Sec. 22–4–8–3.

Transportation.—No provisions specifically applicable to migrant workers found.

Employee Housing.—Labor Camps. A permit from the State Board of Health is required to operate a labor camp. The Board can issue regulations for the operation of labor camps. *Ind. Stat. Ann.* Sec. 13–1–9–1.

IOWA

I. LABOR PROVISIONS

Minimum Wage.—There is no minimum wage law in Iowa.

Collection of Wages.—Agricultural workers are included in Iowa's Wage Payment Collection Law except for the following persons who are not deemed "employees" under the law:

A. The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer; and

B. Any person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons. (Chapter 90, 1975 Session)

Hours.—No hours provisions except those concerning minors discussed below.

Child Labor.—Outside school hours the minimum age for employment as a migrant laborer is 12; however, the labor commissioner may issue a work permit to someone younger if a judge of a juvenile court has specifically given approval. *Iowa Code* Sec. 92.1 (2). Permits are required for any migrant laborer under 16. If he is under 14, a permit is also required from an R.N. or doctor that the minor is in good health. *Iowa Code* Sec. 92–12. A minor between 12 and 14 may not work prior to or during school hours. *Iowa Code* Sec. 92.3.

Working Conditions.—No statutes were found specifically applicable to migrants.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—Iowa has no general labor relations law comparable to the Federal Labor-Management Relations Act.

Workmen's Compensation.—Agricultural labor is exempt from the mandatory provisions. *Iowa Code* Sec. 85.1.

Unemployment Compensation.—Agricultural labor is exempt from the provisions. *Iowa Code* Sec. 96.19.

Transportation.—No provisions found.

Employee Housing.—Labor Camps. Iowa requires a license to operate a migrant labor camp issued by the Department of Health. The statute also specifies many health and sanitation requirements. *Iowa Code* Sec. 138.1 to Sec. 138.18.

KANSAS

I. LABOR PROVISIONS

Minimum Wage.—Kansas has a minimum wage law for women and minors in any "occupation." However, no wage orders are in effect. *Kan. Stat. Ann.* Sec. 44–640.

Collection of Wages.—The statute applies to corporate employers only and makes no reference to farm labor. *Kan. Stat. Ann.* Sec. 44–314.

Hours.—The statute applies to females in any occupation. No orders affecting farm laborers are in effect. *Kan. Stat. Ann.* Sec. 44–650.

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Child Labor.—The minimum age for employment in any occupation during school hours is 14. *Kan. Stat. Ann.* Sec. 38–601. No minimum age applies for summer employment except in hazardous jobs. Work permits are required if the minor is under 16 and not attending high school. *Kan. Stat. Ann.* Sec. 38–604.

Working Conditions.—No provisions specifically applicable to migrants.

Labor Contractors.—Any "crew chief" who brings migrant workers into Kansas or who is responsible for migrant workers in Kansas must register with a local state employment office. *Kan. Stat. Ann.* Sec. 44–127 and 44–129.

Organization-Collective Bargaining.—The labor management relations law is broad enough to permit coverage of farm laborers. *Kan. Stat. Ann.* Sec. 44–801 to 44–817

Workmen's Compensation.—Agricultural labor is exempt from the compulsory provisions. *Kan. Stat. Ann.* Sec. 44–505.

Unemployment Compensation.—Agricultural labor is exempt from coverage. *Kan. Stat. Ann.* Sec. 44–703.

Transportation.—No provisions specifically applicable to farm labor.

Employee Housing.—No provisions found.

Kentucky

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. Acts 1974, ch. 391, Sec. 1.

Collection of Wages.—Wage payment provisions apply to certain categories of workers. For example, the statute requiring payment of wages biweekly applies to corporate employers. *Ky. Rev. Stat.* Sec. 337.020.

Hours.—Maximum hours legislation applies to females in certain occupations. None of the categories of occupations include agricultural labor. *Ky. Rev. Stat.* Sec. 337–380.

Child Labor.—Agricultural labor is exempt from the child labor laws. *Ky. Rev. Stat.* Sec. 339.210.

Working Conditions.—No statutes found to be specifically applicable to farm labor.

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—There is no general labor management relations law in Kentucky.

Workmen's Compensation.—Kentucky's workmen's compensation law is compulsory for certain categories of hazardous employment. One category makes workmen's compensation mandatory in the operation of threshing machinery if there are three or more employees. Agricultural labor, however, is specifically exempt from the compulsory provisions of the act. *Ky. Rev. Stat.* Sec. 342.005.

Unemployment Compensation.—Agricultural labor is exempt. *Ky. Rev. Stat.* Sec. 341.055.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Louisiana

I. LABOR PROVISIONS

Minimum Wage.—The minimum wage for women exempts agricultural labor. *La. Rev. Stat.* § 23:355.

Collection of Wages.—Provisions for payment of wages biweekly apply to certain categories of workers which are not broad enough to include agricultural labor. *La. Rev. Stat.* § 23:633. Other provisions of the wage statutes would be broad enough to include agricultural labor. *La. Rev. Stat.* § 23:631 *et seq.*

Hours.—Women are covered by maximum hours legislation. Women employed in agricultural labor are exempt. *La. Rev. Stat.* § 23:332.

Child Labor.—Agricultural labor is exempt from all child labor provisions. *La. Rev. Stat.* § 23:151. Agricultural labor is exempt from maximum hours provisions applicable to other minors. *La. Rev. Stat.* § 23:315.

Working Conditions.—Agricultural labor is exempt from a safety standards act. *La. Rev. Stat.* § 23:13.

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—Agricultural labor is expressly covered by a right to work law. *La. Rev. Stat.* § 23:881 to 23:888. A law prohibiting the importation of strikebreakers from out of state does not apply to agricultural labor. *La. Rev. Stat.* § 23:900 to 23:904. Agricultural labor is expressly exempt from the mediation and arbitration statute. *La. Rev. Stat.* § 23:862(2).

Workmen's Compensation.—Compulsory coverage exists for only certain classes of hazardous employment, none of which includes agricultural labor. *La. Rev. Stat.* § 23:1035.

Unemployment Compensation.—Agricultural labor is exempt. *La. Rev. Stat.* § 23:1472 (12) (F) (I).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Maine

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *Me. Rev. Stat. Ann.* tit. 26, § 663.

Collection of Wages.—Maine's payment of wages statutes do not specifically mention agricultural workers. *Me. Rev. Stat. Ann.* tit. 26, as amended by L.D. 991 and chs. 420 & 512, L. 1975.

Child Labor.—During the school term the minimum age for employment of all minors is 15. *Me. Rev. Stat. Ann.* tit 30, § 25, 42. There is no applicable provisions for a minimum age when school is not in session. Agricultural labor is exempt from a provision requiring minors under 16 to acquire a work permit. *Me. Rev. Stat. Ann.* tit. 26, § 775.

Working Conditions.—Hazardous working conditions provisions do not cover farm labor. *Me. Rev. Stat. Ann.* tit. 26, § 45–A.

Labor Contractors.—No provisions found.

Organization-Collective Bargaining.—Maine has no general labor management relations law.

Workmen's Compensation.—Seasonal farmworkers are exempt from the mandatory provisions of the workmen's compensation law. *Me. Rev. Stat. Ann.* tit. 39, § 148.

Unemployment Compensation.—Agricultural labor is exempt. *Me. Rev. Stat. Ann.* tit. 26, § 1043.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Maryland

I. LABOR PROVISIONS

Minimum Wage.—Farm labor is exempt from the minimum wage law under certain circumstances, as follows. *Md. Ann. Code* art. 100, Sec. 82(e), as amended by Chs. 429 and 780, Ls. 1975, both effective July 1, 1975.

Inapplicable also to individual employed in agriculture if (1) individual is employed by employer who did not use more than 500 man-days of agricultural labor during any calendar quarter during the preceding calendar year; (2) individual is parent, spouse, child or other member of his employer's immediate family; (3) individual (a) is employed as hand-harvest laborer paid on piece rate basis in operation which has been, and is customarily recognized as having been, paid on piece rate basis in region of employment, (b) commutes daily from his permanent residence to farm on which he is employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year; (4) individual, other than individual described in (3), is (a) age 16 or under, employed as hand-harvest laborer and is paid on piece rate basis in operation which has been, and is customarily and generally recognized as having been, paid on piece rate basis in region of employment, (b) employed on same farm as his parent or person standing in place of his parent, and (c) paid at same piece rate as employees over age 16 are paid on same farm; or (5) individual is principally engaged in range production of livestock.

Collection of Wages.—The wage payment statute is broad enough to cover farm workers. *Md. Ann. Code* art. 100, Sec. 94.

Hours.—No provisions specifically applicable to migrants.

Child Labor.—The definition of "gainful occupation" excludes employment in agriculture outside school hours. The statutes providing for minimum ages in agricultural employment all are based on "gainful occupations" *Md. Ann. Code* art. 100, Secs. 4 to 39. Children between 6 and 16 are required by the compulsory school attendance statute to attend school regularly. *Md. Ann. Code* art. 77, Sec. 92.

Working Conditions.—No provisions specifically applicable to migrants.

Labor Contractors.—No provisions found.

Organization Collective Bargaining.—Maryland has no general labor management relations act.

Workmen's Compensation.—The compulsory provisions of the workmen's compensation law would apply to migratory laborers who operate machinery, but not to other seasonal laborers. *Md. Ann. Code* art. 101, Sec. 21(8).

Unemployment Compensation.—Farm labor is excluded from coverage. *Md. Ann. Code* art. 95A, Sec. 20(7).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Massachusetts

I. LABOR PROVISIONS

Minimum Wage.—The minimum wage law provides for $1.60/hr. The wage law does not provide for piece rate wages. Agricultural and seasonal labor are exempt from overtime pay provisions. *Mass. Gen. Laws.* ch. 151, Secs. 1A and 2A. The Commissioner of Labor and Industry is granted authority to determine the value of lodging.

Collection of Wages.—Monthly payment of wages is provided for agricultural workers. *Mass. Gen. Laws.* ch. 149, Sec. 50.

Child Labor.—Minors under 17 are exempt from the minimum wage law discussed above. Minors over 14 may work during school hours in agricultural labor if they have a work permit. *Mass. Gen. Laws* ch. 149, Sec. 168A. Minors under 14 are limited to four hours per day in farm work. No minimum age is set. *Mass. Gen. Laws* ch. 149, Sec. 56.

Working Conditions.—No provisions specifically available.

Labor Contractors.—Labor contractors are required to register with the Commissioner of Labor and Industry. *Mass. Gen. Laws* ch. 149, Sec. 168A.

Organization Collective Bargaining.—The state labor relations act provided coverage if the agricultural employer has a permanent work force of more than four agricultural workers. It expressly provides that the act will not apply if a contract with migrant workers has been approved by the federal government. *Mass. Gen. Laws* ch. 150A, Sec. 5A.

Workmen's Compensation.—Compensation is elective for employers of three or less persons other than farm laborers and workers engaged in hazardous occupations. *Mass. Gen. Laws* ch. 152, Sec. 1.

Unemployment Compensation.—Agricultural labor is excluded. *Mass. Gen. Laws* ch. 151A, Sec. 6.

Transportation.—No provisions specifically applicable to migrants.

Employment Agencies.—State employment agencies are to inform alien agricultural workers if there are strikes in progress and are to comply with the regulations in the employment of agricultural workers. This section does not specifically mention "migrants". *Mass. Gen. Laws* ch. 149, § 162.

Employee Housing.—Labor camps. Visitation rights are specifically guaranteed to migrants housed in labor camps. The superior courts are granted equity jurisdiction to enjoin violations of this section. (L. 1971, ch. 373). The Department of Health is required to make annual inspections of farm labor camps and a procedure for filing complaints is set out. *Mass. Gen. Laws* ch. 111, § 128b and 128H.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Health.—If a contract for migrant labor is not approved by the federal government after 10 days of employment the employer must

provide health insurance. The amounts are given in the statute. *Mass. Gen. Laws*. ch. 151, Sec. 2B.

Michigan

I. LABOR PROVISIONS

Minimum Wage.—Exempt from the minimum wage law are employees of agricultural fruit growers, pickle growers, and tomato growers or employees of other agricultural employers who traditionally contract for harvesting on a piecework basis. *Mich. Comp. Laws Ann.* § 123.4. The agricultural piece work rates are determined by the Wage Deviation Board to be equivalent to the prevailing minimum hourly wage rate applicable to the harvesting of vegetables, fruits, etc. Mich. Rule 408.712.

Collection of Wages.—No provisions specifically applicable to migrants.

Hours.—Farm laborers are exempt from a provision which compels employers to pay overtime to employees who are required to work more than 10 hours per day. *Mich. Comp. Laws Ann.* § 408.405.

Child Labor.—The Juvenile Employment Act does not apply to farm work. *Mich. Comp. Laws Ann.* § 409.14.

Working Conditions.—No provision specifically applicable to migrant labor.

Labor Contractors.—Emigrant farm labor agents are required to be licensed by the state director of labor. *Mich. Comp. Laws Ann.* §§ 286.651 to 286.657.

Organization Collective Bargaining.—Agricultural labor is excluded rom the labor mediation act. *Mich. Comp. Laws Ann.* § 423.1(2).

Workmen's Compensation.—The Michigan statute provides:

418.115 Private employers, agricultural employers; public employers; applicability of act; relatives as employees

"Sec. 115. This act shall apply to:

(a) All private employers, other than agricultural employers, who regularly employ 3 or more employees at 1 time.

(b) All private employers, other than agricultural employers, who regularly employ less than 3 employees if at least 1 of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.

(c) All public employers, irrespective of the number of persons employed.

(d) All agricultural employers of 3 or more regular employees paid hourly wages or salaries, and not paid on a piece work basis, who are employed 35 or more hours per week by that same employer for 13 or more consecutive weeks during the preceding 52 weeks. Coverage shall apply only to such regularly employed employees. The average weekly wage for such an employee shall be deemed to be the weeks worked in agricultural employment divided into the total wages which the employee has earned from all agricultural occupations during the 12 calendar months immediately preceding the injury, and no other definitions pertaining to average weekly wage shall be applicable.

(e) All agricultural employers of 1 or more employees who are employed 35 or more hours per week by that same employer for 5 or

more consecutive weeks shall provide for such employees, in accordance with rules established by the director, medical and hospital coverage as set forth in section 315 for all personal injuries arising out of and in the course of employment suffered by such employees not otherwise covered by this act. The provision of such medical and hospital coverage shall not affect any rights of recovery that an employee would otherwise have against an agricultural employer and such right of recovery shall be subject to any defense the agricultural employer might otherwise have. Section 141 shall not apply to cases, other than medical and hospital coverages provided herein, arising under this subdivision nor shall it apply to actions brought against an agricultural employer who is not voluntarily or otherwise subject to this act. No person shall be considered an employee of an agricultural employer if the person is a spouse, child or other member of the employer's family, as defined in subdivision (b) of section 353 residing in the home or on the premises of the agricultural employer.

All other agricultural employers not included in subdivisions (d) and (e) shall be exempt from the provisions of this act.[1]

P.A. 1969, No. 317, §115, Eff. Dec. 31.

Unemployment Compensation.—Agricultural labor is exempt from coverage. *Mich. Comp. Laws Ann.* § 421.42(d).

Transportation.—The Public Service Commission of the Department of Commerce is required to adopt rules and regulations to protect migrants proceeding to or returning from employment in agriculture in any motor vehicle carrier. The regulations must include minimum requirements for motor vehicles (including accessories, equipment, and safety devices) and for the operators of motor vehicles. The Department may also require additional licensing for operators of vehicles used to transport migrant workers. *Mich. Comp. Laws Ann.* §§ 286.601, 286.602.

Employee Housing.—Labor Camps. The State Department of Health is authorized to make grants to employers of migratory farm workers for construction or remodeling of housing for the workers. The state must pay up to 50% of costs up to $10,000. *Mich. Comp. Laws Ann.* §§ 286.611 to 286.616.

A license is required for the operation of an agricultural labor camp for five or more workers. The Commissioner of Public Health may promulgate rules and regulations and require compliance with the rules as a prerequisite to licensing. *Mich. Comp. Laws Ann.* §§ 286.621 to 286.634.

Minnesota

I. LABOR PROVISIONS

Minimum Wage.—§§ 177.01 to 177.20 Repealed by laws 1973, C. 721, §16, eff. Jan. 1, 1974.

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[1] A January, 1976, letter from the Commission on Agricultural Labor, Michigan Department of Labor interpreted the Michigan Workers Compensation Act to cover:

(1) All private employers who regularly employ three or more employees at one time; and (2) All private employers who regularly employ less than three employees if at least one of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.

Agricultural employers are treated as any other employers and are no longer given a different classification under the Michigan Act. Different treatment of agricultural employers and employees was deemed violative of equal protection and thus held unconstitutional in *Gutierrez and Gallegos* v. *Glaser Crandell Co.* 388 Mich. 654 (1972).

§§177.21 to 177.35 may be cited as the Minnesota Fair Labo Standards Act, laws of 1973, C. 721, § 1, eff. Jan. 1, 1974. The law provides that an "employee" means any individual employed by an employer but shall not *include*:

(1) any individual employed in agricultural on a farming unit or operation employing less than the equivalent of two full time workers and on any given day employing no more than four employees. For the purpose of this clause, equivalent of a full time worker means 40 weeks of employment in a calendar year;

(2) an individual who has not attained the age of 18 who is employed in agriculture on a farm. *Minn. Stat. Ann.* § 177.23(7) (1) and (2).

Collection of Wages.—A 1960 *Attorney General's Opinion* dated October 5th, at p. 846 exempts migrants from a statute requiring payment of wages every 15 days for "transitory" workers. *Minn. Stat. Ann.* § 181.10.

Agricultural labor is exempt from the requirement of written notice of hire. *Minn. Stat. Ann.* § 181.57.

Agricultural labor is exempt from provisions dealing with separated employees. *Minn. Stat. Ann.* § 181.16.

Hours.—§§ 181.18 to 181.27 Repealed by laws of 1974, C. 432 § 13.

§ 181.24 *Minn. Stat. Ann.* had exempted agricultural labor from the maximum hours provision. This section was repealed in 1974.

Child Labor.—§§ 181.31 to 181.51 Repealed by laws of 1974, C. 432, § 13. Ch. 181A is the new child labor chapter. Pertinent sections contain the following provisions.

181A.04 Minimum age and maximum hours

Subdivision 1. No minors under the age 14 shall be permitted employment in this state except as authorized by section 181A.07.

Subd. 2. On school days, during school hours, no minor under the age of 16 years shall be permitted employment except as provided in section 181A.05.

Subd. 3. No minor under the age of 16 shall be permitted to work any day before 7 a.m. or after 9:30 p.m.

Subd. 4. No employer shall be permitted to work a minor under the age of 16 more than 40 hours a week or more than eight hours in any 24 hour period.

Subd. 5. No minor under the age of 18 shall be permitted to work in any occupation which the commissioner shall find to be particularly hazardous for the employment of children under 18 years of age or detrimental to their well-being. A list of such occupations shall be established and promulgated by regulation pursuant to section 181A.09 *Minn. Stat. Ann.* § 181A.04.

Laws 1974, c. 432, § 4.

181A.07 Exemptions

Subdivision 1. Minors employed in corn detasseling operations and other agricultural operations, with the permission of their parents or guardian, shall be exempt from the provisions of section 181A.04, subdivision 4. Such minors 12 years of age or older are exempt from the age provision of section 181A.04, subdivision 1.

Subd. 2. Any minor employed as an actor, model, or performer shall be exempt from the minimum age provisions of section 181A.04, subdivision 1.

Subd. 3. Newspaper carriers shall be exempt from the minimum age provision of section 181A.04, subdivisions 1 and 3. Such carriers shall be at least 11 years of age.

Subd. 4. Any minor employed to do home chores, to babysit or employed by his parents shall be exempt from all provisions of sections 181A.01 to 181A.12.

Subd. 5. The commissioner may grant exemptions from any provisions of sections 181A.01 to 181A.12 for an individual minor if he finds that such an exemption would be in the best interest of the minor involved. Such exemptions shall be granted only in accordance with the established regulations of the department.

Subd. 6. Any minor's parent or guardian, school official, or youth employment specialist may request an exemption as provided in subdivision 6. Laws 1974, c. 432, § 7. Amended by Laws 1975, c. 204, § 78. *Minn. Stat. Ann.* § 181A.07.

§ 181A.05 provides for the issuance of employment certificates in certain instances. Subdivision 1 states that, "any minor 14 or 15 years of age who wishes to work on school days during school hours shall first secure an employment certificate . . ."

Working Conditions.—§§ 182.10 to 182.49. Repealed by laws 1973, C. 732, § 27. For provisions generally regulating occupational health and safety and authorizing the promulgation of rules and regulations to carry out such responsibilities, see § 182.65 *et seq.*

§ 182.651 Subdivision 10 defines "Place of employment" as "any factory, plant, foundry, construction site, farm workplace, premises, vehicle or any other work environment where any employee is during the course of his employment."

Labor Contractors.—No provision found.

Organization—Collective Bargaining.—The Labor Relations Act excludes agricultural laborers. § 179.01 subdivision 4 defines "Employee" as including "in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice, as defined in § 179.12, on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does *not* include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home."

Workmen's Compensation.—§ 176.041 discusses the employments excluded under Minnesota's Workmen's Compensation law.

§ 176.041 subdivision 1 provides, "This chapter does not apply to persons employed by . . . persons employed by family farms, spouses, parents and children, regardless of their age, of a farm employer working for him or on a family farm corporation as defined in § 500.24, subdivision 1(c) or otherwise, or other farmers or members of their families exchanging work with the farmer employer in the same community . . ."

There is an assumption of liability provision in the Minnesota Code. § 176.051 states that "an employer of workers on a family farm or domestics may assume the liability for compensation imposed by this chapter and such employer's purchase and acceptance of a valid insurance policy, which includes in its coverage a classification of workers on a family farm or domestics constitutes an assumption by the employer of such liability. This assumption of liability takes

effect and continues from the effective date of the policy and as long as the policy remains in force. If during the life of any such insurance policy, any employee who is a worker on a family farm or domestic, suffers personal injury or death arising out of and in the course of his employment, the exclusive remedy of the employee or his dependents is under this chapter." (Amended by laws 1973, C.657, § 3, eff. Jan. 1, 1974).

Unemployment Compensation.—Agricultural labor is exempt. *Minn. Stat.* § 268.04 subdivision 12 (13). The statute provides as follows:

(13) The term "employment" shall not include:

(a) Agricultural labor. The term "agricultural labor" includes all services performed subsequent to December 31, 1939:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the agricultural marketing act, as amended (46 Stat. 1550, sec. 3; 12 U.S.C. 1141j) or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one half of the commodity with respect to which such service is performed, or in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described herein, but only if such operators produced more than one half of the commodity with respect to which such service is performed; however, the provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used herein, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarly for the raising of agricultural or horticultural commodities, and orchards.

Notwithstanding the provisions of clause (13)(a) (1), (2), (3), (4) and (5), services performed after January 1, 1974, for an employing unit which has four or more persons performing services in agricultural labor for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time, shall not be excluded from the term "employment".

Transportation.—No provisions specifically applicable to migrants.

Employee Housing.—Labor camps—The State Board of Health is authorized to regulate labor camps. *Minn. Stat. Ann.* § 144.12 (12).

II. MISCELLANEOUS LAWS SPECIFICALLY DEALING WITH MIGRANT FARMWORKERS

Health.—§ 181.73 provides for health insurance coverage of migrant labor. It states:

181.73 Migrant labor; health insurance

Subdivision 1. Any person, association, organization, or other group employing five or more persons, full time, part time or otherwise, who come within the definition of recruited migrant laborers as hereafter defined and who are employed or are recruited to be employed in the processing of agricultural produce other than as field labor, shall provide at his or its expense health care insurance during the period of employment or for illness or injury incurred while employed. Such health care insurance shall be in accordance with such regulations as the commissioner or employment services may prescribe by rule or regulation for each such recruited migrant laborer who is not a resident of Minnesota and who does not have health care insurance meeting the requirements of the rules and regulations promulgated by the commissioner or employment services.

Subd. 2. No such insurance need be purchased for any employee performing exclusively agricultural labor as defined by section 3121(g) of the Internal Revenue Code of 1954.

Subd. 3. For the purposes of this section, a recruited migrant laborer is a migrant laborer who is offered some type of housing or transportation expense by an employer as an inducement to his employment or anticipated employment.

Laws 1971, c. 752, § 1, eff. June 5, 1971; Amended by Laws 1973, c. 254, § 3.

Welfare.—A migrant family specifically qualifies for consideration for aid under the Emergency Assistance Act. *Minn. Stat. Ann.* §256.871 provides:

256.871 Emergency assistance to needy families with children under age 21

Subdivision 1. County welfare agency; duties. The county welfare agency shall grant emergency financial assistance and services to any needy family with a child under the age of 21 years who is or was within six months prior to application living with an eligible relative specified in section 256.12, subdivision 14.

Subd. 2. Eligibility for emergency assistance. Notwithstanding any other eligibility provision of this chapter, any child without resources immediately available to meet emergency needs shall be furnished assistance for a period not in excess of 30 days during any 12-month period. Assistance shall be furnished under the following conditions:

(a) The child is without resources immediately available to meet emergency needs.

(b) Assistance is necessary to avoid destitution or provide emergency shelter arrangements.

(c) The child's destitution or need for living arrangements did not arise because he or the relative refused without good cause to accept employment or training for employment.

(d) Assistance shall be in the form of money payments, vendor payments, payments in kind or interest-free loans for tools, equipment or expenses required for return to employment. Such loans shall not exceed $100 and shall be considered only when other private or public resources are not immediately available.

Subd. 3. County of responsibility. No state or county durational residence is required to qualify for such assistance. The county which shall grant assistance shall be the county wherein the child resides who is found to be in emergency need. Such county may obtain reimbursement from another county wherein the child has residence as provided in section 256.73.

Subd. 4. Emergency defined. Emergencies which create the need for such assistance include natural disasters such as floods, fires, or storms; civil disorders, strikes, illness, accident, death, eviction from shelter, migrant families in necessitous circumstances, or other crises, as defined by the commissioner, in accordance with directives of the United States Secretary of Health, Education, and Welfare.

Subd. 5. County welfare authority. The county welfare board shall designate a person or persons who shall be authorized to immediately grant emergency assistance pursuant to this section.

Subd. 6. Estimated expenditures; payments. The county agency shall submit to the state agency an estimate of expenditures for each succeeding month in such form as required by the state agency. Payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month, together with an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds so available. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

Subd. 7. Authority of the commissioner. The commissioner is hereby authorized, subject to the provisions of Minnesota Statutes 1969, Chapter 15, to promulgate regulations not inconsistent with this section as necessary to qualify for maximum federal funds.

Added by Laws 1971, c. 943, § 1, eff. June 8, 1971.

A migrant can also qualify for medical assistance in certain situations. § 256B.06 describes eligibility requirements.

256B.06 Eligibility requirements

Subdivision 1. Medical assistance may be paid for any person:

(1) Who is eligible for or receiving public assistance under the aid to families with dependent children program; or

(2) Who is eligible for or receiving supplemental security income for the aged, blind and disabled; or

(3) Who except for the amount of income or resources would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children and is in need of medical assistance; or

(4) Who is under 21 years of age and in need of medical care that neither he nor his relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(5) Who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; and

(6) Who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the regulations of the state agency; and

(7) Who alone, or together with his spouse, does not have equity in real property in excess of $15,000; and

(8) Who, is single, does not have more than $750 in cash or liquid assets or, if married, whose cash or liquid assets do not exceed $1,000 plus $150 for each additional legal dependent; and

(9) Who has or anticipates receiving an annual income not in excess of $2,600 for a single person, or $3,250 for two family members (man and wife, parent and child, or two siblings), plus $625 for each additional legal dependent, or who has income in excess of these maxima and in the month of application (or during the three months prior to the month of application) incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the regulations of the state agency. In such excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred.

Who has continuing monthly expenses for medical care that are more than the amount of his excess income, computed on a monthly basis, in which case eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred, and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, both excess income and income over and above that required for justified needs are to be applied to the cost of institutional care; and

(10) Who has applied or agrees to apply all proceeds received or receivable by him or his spouse from health and accident insurance policies on the costs of medical care for himself, his spouse, and children.

Subd. 2. Repealed by Laws 1974, c. 525, § 3.

Subd. 3. Notwithstanding any law to the contrary, a migrant agricultural worker who meets all of the eligibility requirements of this section other than that he has a permanent place of abode in another state, shall be eligible for medical assistance and shall have his medical needs met by the county in which he resides at the time of making application.

Amended by Laws 1973, c. 717, § 18, eff. Jan. 1, 1974; Laws 1974, c. 525, §§ 1, 2.

Mississippi

I. LABOR PROVISIONS

Minimum Wage.—There is no state minimum wage law for migrant workers.

Collection of Wages.—Agricultural labor is not included in categories of employees covered by wage payment provisions. *Miss. Code Ann.* § 71–1–35.

Hours.—Provisions apply to certain enumerated industries not including agriculture. *Miss. Code Ann.* §§ 71–1–21; 71–1–33.

Child Labor.—Agricultural labor is not covered by the child labor laws. *Miss. Code Ann.* § 71–1–17.

Working Conditions.—No provisions specifically applicable to migrants.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—There is no state labor relations act.

Workmen's Compensation.—§ 71–3–5 of the *Miss. Code Ann.* provides that, domestic servants, farmers and farm labor, and handicapped persons employed in sheltered workshop programs under the authority and supervision of the department of public welfare and vocational rehabilitation division, state department of education are *not* included under the provisions of this chapter, *but* this exemption does *not* apply to the processing of agricultural products when carried on commercially.

Unemployment Compensation.—Agricultural labor is exempt. *Miss. Code Ann.* § 71–5–11 specifically provides:

(13) The term "employment "shall not include—

(a) agricultural labor. The term "agricultural labor" includes all services performed—

(i) On a farm, in the employ of any employing unit in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife.

(ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(iii) In connection with the production or harvesting of naval stores products or any commodity defined in the Federal Agricultural Marketing Act, 12 USCA sec 1141j(g), or in connection with the raising

or harvesting of mushrooms, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(iv) [a] In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one half (½) of the commodity with respect to which service is performed;

[b] in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph [a], but only if such operators produced more than one half (½) of the commodity with respect to which such service is performed;

[c] the provisions of subparagraphs [a] and [b] shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business, or is domestic service in a private home of the employer.

(vi) As used in paragraph (13)(a) of this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, green-houses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Transportation.—No provisions specifically applicable to migrants.

Employee Housing.—No provisions found.

Missouri

I. LABOR PROVISIONS

Minimum Wage.—There is no state minimum wage law.

Collection of Wages.—Agricultural labor is not included in the definition of employees covered by wage payment provisions. *Vernon's Mo. Stat. Ann.* § 290.080.

Hours.—There is no state maximum hour law. *Vernon's Mo. Stat. Ann.* § 290.040 was repealed by laws 1972.

Child Labor.—Child labor provisions apply to minors employed in "gainful occupations." The definition excludes occasional work performed with consent of parents.

Minor under 16 may not be employed during regular school term unless he has been issued a work certificate. Except for this requirement, minor who has passed his 14th birthday but is under 16 may be employed at any "gainful occupation" other than those hazardous occupations prohibited by § 294.040. *Vernon's Mo. Stat. Ann.* § 294.024.

Minors under 14 may not be employed in any "gainful occupation."

Maximum hours provisions are provided in § 294.030. The statute provides:

294. 030 Hours of work for minors

1. A child under sixteen years of age shall not be employed, permitted or suffered to work at any gainful occupation for more than eight hours in any day nor more than six days or forty hours in any week, nor before the hour of seven o'clock in the morning nor after the hour of ten o'clock in the evening.

2. During a school term a child under sixteen years of age shall not be employed, permitted or suffered to work at any gainful occupation after the hour of seven o'clock in the evening on days immediately preceding days when school is in session; except that this subsection does not apply to those children who have been permanently excused from school under the provisions of chapter 167, RSMo.
Amended by Laws 1970, p. 96, § 1.

Laws 1971, p. 96, § 1 repealed § 483.385 and amended the following 33 sections: 51.460, 57.113, 88.703, 104.550, 112.067, 113.330, 120.140 to 120.200. 121.010, 122.980, 148.320, 163.017, 182.510, 202.790, 202.807, 202.813, 202.890, 202,857, 202.870, 275.190, 288.290, 294.027, 294.030, 301.265, 307.355, 362.500, 411.220, 552.020, 552.050 and 561.340.

Working Conditions.—No provisions specifically applicable to migrants.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—There is no labor relations act in Missouri comparable to the Federal Labor-Management Relations Act.

Workmen's Compensation.—Agricultural labor is basically exempt from Workmen's Compensation coverage. § 287.090 of *Vernon's Mo. Stat. Ann.* provides:

287.090 Employments not subject to law—election to come within law

1. Sections 287.050 to 287.080 and 287.120 shall not apply to any of the following employments:

(1) Employments by minor employers not determined to be engaged in an occupation hazardous to employees.

2. Any employer in this section exempted from the operation of sections 287.050 to 287.080 and 287.120 may bring himself within the provisions of this chapter by filing with the division notice of his election to accept the provisions, or by the purchasing and accepting by the employer of a valid compensation insurance policy, and the election by the purchase and acceptance of the insurance policy shall include the exempted employments described in subsection 1 if such intent is shown by the terms of the policy. The election shall take effect and continue from the date of filing with the division by the employer of his election to accept liability under this chapter, or from the effective date of the insurance policy. Any employer electing to become liable under this chapter may withdraw his election by filing with the division a notice that he desires to withdraw his election, which withdrawal shall take effect thirty days after the date of the filing, or at such later date as may be specified in the notice of withdrawal.

1.[1] Any insurance company authorized to write insurance under the provisions of this chapter in this state shall file with the division a memorandum on a form prescribed by the division of any workmen's compensation policy issued to any employer and of any renewal or cancellation thereof.

2.[1] This chapter shall not apply to employment of farm labor or domestic servants including family chauffeurs, unless the employer shall have an annual payroll, therefor in excess of two thousand five hundred dollars.

Amended by Laws 1965, p. 397, § 1; Laws 1971, p. 84, § 2; Laws 1974, p.—, S.B. No. 417, § 1.

The text of this section, as amended in 1974, is being published subject to changes, if any, that may be made in the 1975 Supplement to RSMo 1969.

Unemployment Compensation.—Agricultural labor is exempt. §288.034 of *Vernon's Mo. Stat. Ann.* provides:

12. The term "employment" shall not include:

(1) Service performed by an individual in agricultural labor;

(a) For purposes of this subdivision, the term "agricultural labor" means any service performed prior to April 27, 1972:

a. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, fish, and furbearing animals and wildlife;

b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane or flood, if the major part of such service is performed on a farm;

c. In connection with the production or harvesting of maple syrup or maple sugar or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry and fish, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water or for the drainage of land for farming purposes;

d. In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

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[1] Numbering so in printer's copy.

e. As used in the preceding four subparagraphs, the term "farm" includes stock, dairy, poultry, fish, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, hatcheries, orchards, ranges, greenhouses, mushroom sheds and caves or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(b) For purposes of this subdivision, the term "agricultural labor" means remunerated service performed after April 27, 1972:

a. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm:

c. In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended. (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

d. i. In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

ii. In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of services described in subparagraph d. i., but only if such operators produced more than one-half of the commodity with respect to which such service is performed;

iii. The provisions of subparagraph d. i. ii. shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

e. On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

Transportation.—No provision specifically applicable to migrants.

Employee Housing.—No provisions found.

Montana

I. LABOR PROVISIONS

Minimum Wage.—Seasonal farmworkers are covered by the state minimum wage law.

$1.80 is the rate set for work per hour, effective July 1, 1975; and $2.00 an hour, effective July 1, 1976. This provision, however, is inapplicable to farm workers. *Montana Revised Code Ann.* § 41–2303 (a)(1) and (2), as amended by Ch. 421, L. 1975, effective July 1, 1975.

Total wages paid by employers to farm workers shall not be less than the applicable minimum wage rate multiplied by the total number of hours worked, or employers must pay farm workers a monthly wage which shall not be less than $420 a month effective July 1, 1975, and $460 a month effective July 1, 1976 (§ 41–2303(c), as amended by Ch. 421, L. 1975, effective July 1, 1975).

Wages include the reasonable cost to employer of furnishing employees with board, lodging, or other facilities, provided that none of these shall exceed 40% of total wages paid to employees. § 41–2302(b), Ch. 417, L. 1971.

Farmers are excluded from the overtime provisions of the minimum wage law. § 41–2303(b), as reenacted by Ch. 421, L. 1975, effective July 1, 1975.

Collection of Wages.—No provisions were found that applied to migrant workers as such.

Hours.—Farming and stock raising are exempt from maximum hours provisions by the State Constitution, Art. XVIII, § 4.

Child Labor.—Agricultural laborers are not treated any differently from other minors. Minors between 14 and 16 may be employed during school hours if they acquire age and employment certificates. *Mont. Rev. Code Ann.* § 10–201.

Working Conditions.—No provisions were found.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—There is no labor relations act in Montana comparable to the Federal Labor-Management Relations Act.

Workmen's Compensation.—Coverage is compulsory as to all private employers. It is also compulsory as to all public employments including public contractors. Domestic servants, agricultural employments and railroad employments are not covered. However, because coverage is voluntary as to the exempt employments, agricultural labor can be covered if the voluntary election is made. *Mont. Rev. Code Ann.* § 92–1102.

Unemployment Compensation.—Farm labor is exempt. *Mont. Rev. Code Ann.* § 87–148.

Transportation.—No provisions were found.

Employee Housing.—No provisions were found.

Nebraska

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt. *Neb. Rev. Stat.* § 48–1202(3), as amended by L.B. 343, L. 1973.

Collection of Wages.—No provisions applicable to farm labor were found.

Hours.—No provisions were found.

Child Labor.—Hours of labor in a beet field are regulated by statute. *Neb. Rev. Stat.* § 48–310.

Age requirements for farm laborers are no different from any other occupation.

Working Conditions.—No provisions were found.

Labor Contractors.—Out of state labor agents doing business in Nebraska hiring agricultural workers for work out of state are required to be licensed and make monthly reports. *Neb. Rev. Stat.* § 48–515 and § 48–516.

Organization—Collective Bargaining.—Nebraska has no law comparable to the Federal Labor-Management Relations Act or the general labor relations acts adopted in some of the states. However, other labor acts are broad enough to include farmworkers (eg. right-to-work law at *Neb. Rev. Stat.* § 48–217).

Workmen's Compensation.—The coverage is compulsory as to all employments in the private area of employment, including executive officers. It is also compulsory in the public realm, including officials elected or appointed for fixed terms and civil defense agency.

With regard to farm labor, the coverage is voluntary. *Neb. Rev. Stat.* § 48–106.

Unemployment Compensation.—Agricultural labor is exempt. *Neb. Rev. Stat.* § 48–604(6).

Transportation.—An out-of-state driver's license of an agricultural worker is good for 60 days. *Neb. Rev. Stat.* § 60–410. No other provisions were found.

Employee Housing.—No provisions.

Nevada

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the state minimum wage law, however, the exemption is a limited one. Minimum wage rates are inapplicable to employees engaged in agricultural pursuit for employer who did not use more than 500 man-days of agricultural labor in any calendar quarter of the preceding calendar year. *Nevada Revised Stat.* § 608.250(4), as amended by A.B. 256, L. 1975, effective July 1, 1975.

Collection of Wages.—The wage payment statute is broad enough to cover farm labor. *Nev. Rev. Stat.* § 608.060.

Hours.—Maximum hours legislation contains an overtime premium provision, however, this provision is inapplicable to agricultural employees. *Nev. Revised Stat.* § 608(7)(1) and (2), as added to N.R.S. by Ch. 741. L. 1975.

Child Labor.—Fourteen years of age is the minimum age in any business or service whatever when public schools are in session. *Nev. Revised Stat.* § 609.250, as amended by Ch. 396, L. 1973.

No child under 16 years of age shall be employed, permitted or suffered to work at any gainful occupation, except domestic service or farm work, more than 48 hours in any one week, or more than 8

hours in any one day. *Nev. Revised Stat.* § 609.240(1) as amended by A.B. 672, L. 1973.

Working Conditions.—No provisions found.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—There is no labor relations act in Nevada comparable to the Federal Labor-Management Relations Act.

Other labor laws are broad enough to include farmworkers. See *Nev. Rev. Stat.* § 613.230 for the right-to-work law.

Workmen's Compensation.—Farm labor is exempt from the compulsory provisions. Coverage is elective. *Nev. Rev. Stat.* § 6; 6/285; § 616.060.

Unemployment Compensation.—Agricultural labor is exempt. *Nev. Rev. Stat.* § 612.090.

Transportation.—No provisions found.

Employee Housing.—Labor Camps. If 5 or more employees are housed, the Board of Health is authorized to issue standards. The statute also sets out health and sanitation standards. *Nev. Rev. Stat.* § 444.130.

New Hampshire

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from coverage. *New Hampshire Rev. Stat. Ann.* § 279:1.

Collection of Wages.—Under the general wage payment laws no exception is made for agriculture. *N.H. Rev. Stat. Ann.* § 275.41.

Hours.—Women employed in agriculture are exempt from maximum hours provisions applicable to women and minors. *N.H. Rev. Stat. Ann.* § 275:15.

Agricultural labor is exempt from the Sunday Blue Law. *N.H. Rev. Stat. Ann.* § 275.35.

Child Labor.—Maximum hours provisions for minors under 16 may be suspended for agricultural labor. *N.H. Rev. Stat. Ann.* § 276A:2.

Agricultural labor is exempt from the provision making 14 the minimum age when school is not in session and 16 the minimum age when school is in session. *N.H. Rev. Stat. Ann.* § 276:1, 2. Twelve is the minimum age for employment if other provisions do not apply.

Working Conditions.—No provisions specifically applicable.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—New Hampshire has no general labor relations act comparable to the Federal Labor-Management Relations Act. The provisions of other labor acts are broad enough to cover agricultural labor. *N.H. Rev. Stat. Ann.* § 57:21.

Workmen's Compensation.—Agricultural labor is covered by the statute in the sense that the law is elective as to farm labor of 3 or more employees. *N.H. Rev. Stat. Ann.* § 281:2; § 281:3.

Unemployment Compensation.—Agricultural labor is exempt. *N.H. Rev. Stat. Ann.* § 282:1.

Transportation.—No provision found.

Employee Housing.—No provisions found.

Employment Discrimination.—Agricultural labor is exempt. *N.H. Rev. Stat. Ann.* § 275:36.

New Jersey

I. LABOR PROVISIONS

Minimum Wage.—The minimum wage law does protect agricultural labor.

However, overtime rate under the minimum wage law is not applicable to employees engaged in work on a farm in the raising or care of livestock. *N.J. Stat. Ann.* § 34:11–56a4.

Employees engaged on a piece rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the number of hours worked. *N.J. Stat. Ann.* § 34:11–56a4.

The Commissioner of Labor and Industry can issue regulations defining the value of lodging and services. *N.J. Stat. Ann.* § 34.11–56a1 (d).

Collection of Wages.—Wages are to be paid bi-weekly to all laborers. Farmworkers are not specifically excepted from the provision. *N.J. Stat. Ann.* §34:11–4.2.

Hours.—Farmworkers are exempt from the overtime provisions applicable to other workers. *N.J. Stat. Ann.* § 34:11–56a4.

Child Labor.—Minors under 12 are prohibited from farm labor at any time. *N.J. Stat. Ann.* § 34:2–21:15.

Employment permits may be issued permitting employment of a child under 16 in agricultural pursuits during times school is not in session if it is found that such work will not interfere with his health or school standing. Such work shall be subject to maximum hours provisions for minors under 16. *N.J. Stat. Ann.* § 34:2–21.3 and § 34:2–21.15.

Minors from 12 to 16 require a permit to work in farm labor, renewable every 6 months. No minors under 16 may work greater than 10 hours per day in farm labor. *N.J. Stat. Ann.* § 34:2–21:15.

Working Conditions.—The 1971 Amendments regulate the drinking water and toilets of farmworkers while in the fields. The law requires that a farm operator shall provide in the working area a sufficient supply of cool and potable water for seasonal farmworkers. (Ch. 193, L. 1971) *N.J. Stat. Ann.* §§ 34:9A–37—34:9A–41.

The Department of Labor and Industry is to promulgate rules for the enforcement of the act. Violation of the Act is subject to fine. The farmworker is specifically entitled to bring an action asking for injunctive relief if the provisions are violated. *N.J. Stat. Ann.* §33: 9A–37—34:9A–41, Ch. 193—Session Laws of 1971.

Labor Contractors.—Crew leaders are required to be licensed by the Commissioner of the State Department of Labor and Industry. *N.J. Stat. Ann.* §§ 34:8A–7 and 34:8A–8, Ch. 1922—Sessions Law of 1971.

Collective Bargaining.—New Jersey has no general labor relations act comparable to the Federal Labor Management Relations Act.

The *Employer-Employee Relations Act*, however, is broad enough to include farm laborers. *N.J. Stat. Ann.* § 34:13A–1.

Workmen's Compensation.—Farmworkers are covered by the N.J. Workmen's Compensation statute. They are covered in all respects,

the same as other workers . The exemption with regard to farmworkers was repealed in 1969, and coverage has been compulsory since 1969. Laws of 1969, Ch. 212. *N.J. Stat. Ann.* § 34:15–92.

Unemployment Compensation.—Agricultural labor is exempt from unemployment and disability compensation. *N.J. Stat. Ann.* § 43: 21–19.

Transportation.—No specific provisions for farm laborers, though the broad transportation safety statute would apply to them. *N.J. Stat. Ann.* § 26:1A–19.

Employee Housing.—The Occupational Safety and Health Act of 1970 preempted New Jersey's housing laws and regulations governing migrant workers.

New Mexico

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law unless the employer meets the standards of the F.L.S.A.

The exemption applies to employees in agriculture if (1) the employer did not use more than 500 man-days of agricultural labor in any quarter during the preceding calendar year; (2) employee is parent, spouse, child, or other family member of the employer; (3) employee is employed in hand harvest and paid on piece-rate basis in operation generally recognized as paying on this basis; (4) employee commutes daily to farm; (5) employee has been employed less than 13 weeks in preceding year; (6) employee is sixteen or under in hand harvest and paid on same piece-rate basis as employees over 16 or employed on same farm as his parent or person standing in place of his parent; (7) employee is engaged principally in range production of livestock. *New Mexico Stat. Ann.* § 59–3–21(c), as amended by Ch. 71, L. 1975, effective March 3, 1975.

Collection of Wages.—Agricultural labor is exempt from the wage payment laws. *N.M. Stat. Ann.* § 59–3–1.

Hours.—Farm and ranch labor is exempt from the maximum hours provision providing for a maximum day of 16 hrs. *N.M. Stat. Ann.* § 59–3–27.

Child Labor.—A minor 16 or under is exempt from the minimum wage law if he is employed as a hand harvest laborer on a piece rate basis where his parent is working and is paid the same as adults. *N.M. Stat. Ann.* § 59–3–21.

Under the minimum age provisions, farm labor is not treated differently from other occupations.

No minor under 16 and over 14 shall be employed in any gainful occupation during term of school of the district in which such minor resides, unless such minor has procured or filed a permit certificate. *N.M. Stat. Ann.* § 59–6–2, as amended by Ch. 115, L. 1973.

Working Conditions.—No provisions found.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—New Mexico has no labor relations act comparable to the Federal Labor-Management Relations Act or similar laws enacted in some states. The other labor laws make no specific mention of farm labor.

Workmen's Compensation.—Farm or ranch labor is exempt from the compulsory coverage of the Act; however, farm labor can become covered on a voluntary basis. *N.M. Stat Ann.* § 59–10–2 *et seq.*; see especially § 59–10–4.

New York

I. LABOR PROVISIONS

Minimum Wage.—In N.Y., minimum wage standards shall apply to farm workers. *McKinney's N.Y. Stat. Ann. Labor Law* §§ 670–683.

Workers employed on an hourly basis are to receive a minimum of the following:

$1.80/hr. on and after January 1, 1975.
$2.00/hr. on and after January 1, 1976.

Piece work rates and the value of housing and services are determined by regulation. Such regulations shall be promulgated by the Commissioner: (a) after consultation with and due consideration of the recommendations of the advisory council; and (b) after a public hearing held after due notice. *McKinney's N.Y. Stat Ann. Labor Law* § 673 and § 674.

An agricultural employee can bring civil action under the Act for recovery of wages to which he is entitled. He may recover in a civil action the amount of any such underpayments, together with costs and such reasonable attorney's fees as may be allowed by the court. If an underpayment is found to be willful, an additional amount as liquidated damages equal to 25 percent of the total of such underpayment found to be due him. *McKinney's N.Y. Stat. Ann. Labor Law* § 681.

Collection of Wages.—Manual workers (defined to include "laborers," but broad enough to cover farmworkers) are entitled to weekly wages.

Farmworkers are excluded from the section providing for cash payment of the wages. *McKinney's N.Y. Stat. Ann. Labor Law* § 191 and § 192.

Hours.—Farmworkers are excluded from the maximum hours provisions providing that work days shall be 8 hours. *McKinney's N.Y. Stat. Ann. Labor Law* § 220.

Child Labor.—Maximum hours provisions specifically exclude coverage of minors working in farm labor, except § 130 discussed below. *McKinney's N.Y. Stat. Ann. Labor Law* §§ 170 and 171.

A minor over 12 yrs. of age who presents a farm work permit and has parental permission can work at hand harvest for a maximum period of 4 hrs. in any work day between the hours of 9 o'clock and 4 o'clock in the afternoon at times when school is not in session. *McKinney's N.Y. Stat. Ann. Labor Law* §130.

Minors 14 and above are not subject to maximum hours or hand harvest regulations if school is not in session but must secure permits. *McKinney's N.Y. Stat. Ann. Labor Law* § 131f.

If school is not in session, minors must be 14 to work at farm labor. *McKinney's N.Y. Stat. Ann. Labor Law* § 131 (3)(f).

Working Conditions.—No specific provision was found. *McKinney's N.Y. Stat. Ann. Labor Law* § 12–d expired in 1972. § 12–d provided for an advisory council on farm labor safety to make recommendations

for farm safety and recommend programs of education concerning safety.

Labor Contractors.—Farm labor contractors are required to be licensed by the State Commissioner of Labor. They are required to keep wage and hour records and to itemize deduction from wages and the wage rates paid for all workers. *McKinney's N.Y. Stat. Ann. Labor Law* § 212–a.

Collective Bargaining.—Strikes against producers of farm products are exempted from some of the requirements of the N.Y. Anti-Injunction Act. *McKinney's N.Y. Stat. Ann. Labor Law* § 807.

Workmen's Compensation.—An employer is required to carry compulsory workmen's compensation if the total wages paid the preceding calendar year to farm laborers aggregates $1200 or more. The statute presumes that employment by the farm labor contractor is employment by the grower or farmer. *McKinney's N.Y. Stat. Ann. Workmen's Compensation* §§ 2(4) and (3) (Group 14b).

Unemployment Compensation.—Farmworkers were normally excluded from unemployment compensation. *McKinney's N.Y. Stat. Ann. Labor Law* § 511.

Many workers are presently covered under the Federal Supplemental Assistance Program.

Employers can voluntarily elect to cover farmworkers. *McKinney's N.Y. Stat. Ann. Labor Law* § 561.2.

Transportation.—Safety standards specifically are set for buses transporting children to and from day care centers maintained for migrant children. *McKinney's N.Y. Stat. Ann. Vehicle & Traffic Law* § 375(20)(d).

Employee Housing.—The Public Health Council is authorized to prescribe standards for issuance of permits to operate farm labor camps. *McKinney's N.Y. Stat. Ann. Public Health Law* § 225(m) and § 1330.

Farm labor camp commissaries also are required to be operated by permit and comply with regulations issued by the industrial commissioner. *McKinney's N.Y. Stat. Ann. Labor Law* § 212–b.

Charles v. *Penna*, CCH *Poverty Law Reporter* Par. 14, 286 enjoined the employer from refusing visitors of the migrant laborers access to camps.

Alberghini v. *Tizes*, CCH *Poverty Law Reporter* Par. 14, 262 allowed public access to county health records in order to determine if there had been violations of sanitary codes at migrant labor camps.

II. MISCELLANEOUS LAWS SPECIFICALLY DEALING WITH MIGRANT FARMWORKERS

Education.—Aid to school districts providing summer school for migrants is authorized. School districts where migrant labor camps are located may ask for additional donations from surrounding school districts. *McKinney's N.Y. Stat. Ann. Education Law* §§ 2040–a and 3602–a(13).

Day Care.—Day-care programs for children of migrant workers are authorized. *McKinney's N.Y. Stat. Ann. Agriculture and Markets Law* § 16(31).

North Carolina

I. LABOR PROVISIONS

Minimum Wage.—Farm labor is exempt from the state minimum wage law. *N.C. Gen. Stat.* § 95–86.

Collection of Wages.—Wage payment provisions apply to railroad employees. *N.C. Gen. Stat.* § 60–55.

Hours.—Farm labor is exempt from the maximum hours law. *N.C. Gen. Stat.* § 95–17.

Child Labor.—The State Child Labor Law does not apply to the employment of minors under 18 years of age who are engaged in farm work performed under the direction or authority of the minor's parent or guardian. *N.C. Gen. Stat.* § 110–1.

Working Conditions.—Since April 1, 1974, the North Carolina Occupational Safety and Health Administration has been enforcing the OSHA standards as they apply to agricultural operations, especially migrant labor camps. The standards appear in 29 CFR 1910, paragraph 1910.267 as Federal Regulations and were adopted for State enforcement May 1, 1973. The standard reads as follows:

1910.267 Agricultural Operations

(a)(1) The standards referenced in the remaining subparagraphs of this paragraph apply to the indicated operations, whether or not they are agricultural operations.

(2) Sanitation in temporary labor camps. § 1910.142.

(3) Storage and handling of anhydrous ammonia. § 1910.111 (a) and (b).

(4) Pulpwood logging. § 1910.266.

(5) Slow-moving vehicles. § 1910.145.

(b) Except to the extent specified in paragraph (a) of this section, the standards contained in subparts B through S of this part do not apply to agricultural operations.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—There is no labor relations act in North Carolina comparable to the Federal Labor-Management Relations Act.

Workmen's Compensation.—Coverage is voluntary as to farm labor. Agricultural labor, however, is an exception to the North Carolina Workmen's Compensation statute. *N.C. Gen. Stat.* §§ 97–1 and 2, 97–13.

Unemployment Compensation.—Farm labor is exempt. *N.C. Gen. Stat.* § 96–8(g)(4).

Transportation.—Carriers of migrant workers are subject to safety requirements. *N.C. Gen. Stat.* §§ 20.215.1 to 20.215.5.

Employee Housing.—Labor Camps—Farm labor camps are subject to regulation and licensure by the Departmen of Human Resources. *N.C. Gen. Stat.* § 130–166.1 *et seq.*

II. MISCELLANEOUS LAWS SPECIFICALLY DEALING WITH MIGRANT FARMWORKERS

Welfare.—An Opinion of the Attorney General dated March 15, 1967, and reported in CCH *Poverty Law Reporter*, Par. 13, 130 con-

cluded that a non-resident migrant living in a migrant labor camp was ineligible for aid under *N.C. Gen. Stat.* § 108–25 since residency had not been established.

However, in 1970, there was an Attorney General Opinion issued to the Commissioner of the Department of Social Services (40 N.C. A.G. 712 (1970)) which stated generally that the residency requirement for the receipt of welfare was unenforceable.

North Dakota

I. LABOR PROVISIONS

Minimum Wage.—The state minimum wage law covers women and minors. Farm labor is not expressly exempt from the law but no wage orders are in effect covering farm labor. *N.D. Cent. Code* § 34–06–01.

Collection of Wages.—The statute is broad enough to cover farm labor. *N.D. Cent. Code* § 34–14–02.

Hours.—No special provisions found. § 34–06–06 which excluded females in agricultural labor from maximum hours legislation has been repealed. Now there is no statute containing hours limitations for women.

Child Labor.—Maximum hours legislation exempts minors employed in agriculture. *N.D. Cent. Code* § 34–07–15.

There is no minimum age for employment when school is not in session.

Vacation permits are required for the employment of minors when school is not in session. The permits required must certify school attendance for at least 120 days in the previous school year and the literacy of the applicant. *N.D. Cent. Code* § 34–07–10.

Fourteen is the minimum age for employment during school hours. *N.D. Cent. Code* § 34–07–01.

Working Conditions.—No statutes are specifically applicable to migrants.

Labor Contractors.—No statute found.

Organization—Collective Bargaining.—Agricultural labor is excluded from the state labor relations act. *N.D. Cent. Code* § 34–12–01(3). Other provisions of state labor laws do not mention agricultural labor.

Workmen's Compensation.—Agricultural labor is exempt from the compulsory provisions of workmen's compensation covering hazardous employment. *N.D. Cent. Code* § 65–04–29.

Unemployment Compensation. Agricultural labor is exempt. *N.D. Cent. Code* § 52–01–01(15).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Ohio

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law under the following situations:

(1) when an agricultural employee is employed by an employer who did not use, during any calendar quarter of the preceding calendar year, more than 500 man-days of agricultural labor, or

(2) if the employee is the parent, spouse, child, or other member of his employer's immediate family.

Ohio Rev. Code Ann. § 4111.01.

Collection of Wages.—The wage payment statute would be broad enough to cover agricultural employees. *Ohio Rev. Code Ann.* § 4113.15.

Hours.—Females in agricultural field occupations are exempt from the maximum hours legislation. *Ohio Rev. Code Ann.* § 4107.46(D).

Child Labor.—No special provisions are applicable to minors in agricultural labor. "Irregular Services" are exempt from a statute prohibiting employement of minors under 16 during school hours. "Irregular Service" is defined to mean service not forbidden by federal child labor laws; which does not involve confinement; does not require continuous physical strain; is interrupted by rest or recreation periods; and does not require more than four hours in any day or more than 24 hours in any week. *Ohio Rev. Code Ann.* § 4109.11.

The statutory definition of "irregular service" is broad enough to include migrant labor.

Working Conditions.—No provisions found which were specifically applicable to migrant labor.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—Ohio has no general labor relations act comparable to the Federal Labor Management Relations Act.

Workmen's Compensation.—Agricultural labor is not specifically mentioned in the workmen's compensation act. The statute would be broad enough to cover farm labor if the employer employs 1 employee or more. *Ohio Rev. Code Ann.* § 4123.01.

Unemployment Compensation.—Agricultural labor is exempt. *Ohio Rev. Code Ann.* § 4141.01.

Transportation.—No provisions were found.

Employee Housing.—No provisions were found.

Oklahoma

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. The Oklahoma statute specifically provides that the farm exemption applies to those employed on a farm in connection with raising or harvesting agricultural commodity, including raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and furbearing animals and wildlife, or employed by owner or other operator of farm. *Okla. Stat.* Title 40, §197.4(f)(1).

Collection of Wages.—The definition section of the wage payment statute is broad enough to include a farm laborer if he is paid at least monthly. *Okla. Stat.* Title 40, § 165.1(b).

Hours.—Maximum hours legislation applicable to females exempts females in agricultural labor. *Okla State.*, Title 40, §§ 81–82.

Child Labor.—Minimum age legislation applies to specified employment. Farm labor is not included. *Okla. Stat.*, Title 40, §§ 71–72.

Maximum hours legislation applicable to minors under 16 excludes agricultural employment. *Okla. Stat.*, Title 45, § 301.

Certificate requirements for employers of minors in specified occupations excludes farm labor. *Okla. Stat.*, Title 40, §§ 74, 77–79.

Working Conditions.—No statutes specifically applicable to migrants.

Labor Contractors.—No statutes found.

Organization.—Collective Bargaining—Oklahoma has no labor relations act comparable to the Federal Labor Management Relations Act. The other labor laws make no specific reference to agricultural workers.

Workmen's Compensation.—Agricultural labor is excluded from provisions making hazardous employment compulsory. *Okla. Stat.*, Title 85, § 2.

Unemployment Compensation.—Farm labor is exempt. *Okla. Stat.*, Title 40, § 229.

Transportation.—No provisions specifically applicable to migrants were found.

Employee Housing.—Labor Camps—A license from the State Commissioner of Health is required for camps housing 15 or more workers. An advisory board of 5, all of whom are owners or operators of camps, is to assist in making sanitary and health regulations. *Okla. Stat.*, Title 63, § 1001 *et. seq.*

Farm labor is exempt from coverage under the *Occupational Disease Disablement Act.* However, an election can be made to be covered. *N.M. Stat. Ann.* § 59–11–2.

Unemployment Compensation.—Farm labor is exempt. *New Mexico Stat. Ann.* § 59–9–22.

Transportation.—No provisions were found.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Labor Commission.—Agricultural labor is exempt from the definition of an employer in the chapter outlining the authority of the State Labor Commission to enforce state labor laws. *N.M. Stat. Ann.* § 59–1–15. Omission from the broad Labor Chapter could be interperted to mean that labor statutes *not* specifically mentioning agriculture exclude agriculture from coverage. However, no indication of New Mexico's actual interpretation has been found.

Oregon

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law if (a) the employer did not use more than 500 man days of agricultural labor during any quarter of the preceding year; (b) such individual is the parent, spouse, child or other member of his employer's immediate family; (c) such individual (1) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been paid on piece-rate basis in the region of employment, (2) commutes daily from his permanent residence to the farm on which he is employed, and (3) has been employed in agricultural labor less than 13 weeks during the preceding calendar year, (d) such individual, other than an individual described in (c) is (1) 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been paid on a piece-rate basis in the region of employment, (2) is employed on the same farm as his parent or person standing in the place of his parent, and (3) is paid at the same piece-

rate as employees over 16 years old on the same farm, or (e) such employee is principally engaged in the range of production of livestock. *Oregon Revised Statutes* § 653.020.

Collection of Wages.—No statute specifically applicable to migrants.

Hours.—The Wage and Hour Commission has no authority to regulate the hours of employment of agricultural employees. *Oregon Revised Statutes* § 653.261(2).

Child Labor.—No child under 14 shall be employed in any work, or labor of any farm for wages or compensation to whomsoever payable, during the term when the public schools of the town, district or city in which he resides are in session. *Oregon Revised Statutes* § 653.320(1)

The statute does not set a minimum age for employment during summer vacations. Employment can be varied by school authorities under discretion to apply the compulsory attendance laws and by the Wage and Hour Commission. *Oregon Revised Statutes* § 339.010 and § 653.320(4).

Maximum hours provisions for minors under 16 include agricultural workers, but agricultural workers are exempt from a provision prohibiting employment of minors before 7:00 a.m. and after 6:00 p.m. *Oregon Revised Statutes* § 653.315.

Working Conditions.—No statute specifically applicable to migrants.

Labor Contractors.—Farm labor contractors are required to be licensed by the Labor Commission. They are also required to carry insurance for vehicles used to transport migrants. *Oregon Revised Statutes* § 658.405.

Collective Bargaining and Organization.—The statute prohibits outsiders from picketing at planting or harvesting times. Only regular employees of a farmer are permitted to picket. *Oregon Revised Statutes* §§ 662.805–825.

The statute specifically states "It shall be unlawful for any person to picket or cause to be picketed any farm, ranch or orchard where perishable agricultural crops are produced while such crops are being harvested unless such picket has been a regular employee on such farm, ranch or orchard immediately prior to the commencement of the picketing." *Oregon Revised Statutes* § 662.815.

The statute expressly states that the Act is *not* to be interpreted as restricting the right to organize and collectively bargain. *Oregon Revised Statutes* § 662.810(2).

Workmen's Compensation.—The statute does not deal specifically with agricultural labor, however, farmworkers are not listed as specific exceptions. Also a 1971 amendment deleted a provision which allowed agricultural employers not to carry workmen's compensation if their payroll for the preceding year did not exceed $1.500. *Oregon Revised Statutes* § 656.027.

From a reading of the Act, it appears that agricultural labor would be covered by the compulsory provisions.

Unemployment Compensation.—Agricultural labor is expressly excluded from unemployment compensation. *Oregon Revised Statutes* § 657.045(1).

Transportation.—The Motor Vehicle Division is to adopt a safety code for vehicles used to transport workers. *Oregon Revised Statutes* § 405.310.

II. MISCELLANEOUS LAWS SPECIFICALLY DEALING WITH MIGRANT FARMWORKERS

Education.—Statutory provision is made for summer programs for migrants. *Oregon Revised Statutes* § 343.810–835.

Pennsylvania

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage and overtime provisions. *Pa. Stat.* Title 43, § 333. 105.

Collection of Wages.—The wage payment statute is broad enough to include migrants. *Pa. Stat.* Title 43, § 260.1.

Hours.—Females in agricultural labor are exempt from the maximum hours statute applicable to females generally. *Pa. Stat.* Title 43, § 103(b).

Child Labor.—Outside school hours, there is no minimum age for employment. *Pa. Stat.* Title 43, §§ 41, 42, 48.

Maximum hours provisions are broad enough to include agriculture. *Pa. Stat.* Title 43, § 46. Agricultural laborers are excepted from a statute prohibiting employment between 7:00 p.m. and 7 a.m. Title 43, § 46.

There is a statute which prohibits agricultural employment of nonresident minors under 16, if the law of the resident state would require school attendance. Employers are required to keep certificates on file from the resident state. *Pa. Stat.* Title 43, §§ 67–69.

Working Conditions.—The employee safety statute may be broad enough to include migrants. *Pa. Stat.* Title 43, § 112.1.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—Agricultural labor is excluded from the state labor relations act. *Pa. Stat.* Title 43, § 211.3.

Workmen's Compensation.—Agricultural labor is covered by the compulsory provisions unless it is defined as "casual." "Casual" employment involves completion of work in less than 20 days at a labor cost of less than $150. *Pa. Stat.*, Title 77, §§ 1, 21, 22.

Unemployment Compensation.—Agricultural labor is exempt. *Pa. Stat.*, Title 43, § 753.

Transportation.—§ 25–2509.2 of *Pa. Stat.* Title 44, provides for payment on account of transportation for migrant children for summer classes. No other transportation provisions were found.

Employee Housing.—Labor Camps—The functions, powers and duties of the Department of Labor and Industry, with regard to inspection and licensing of migrant labor camps, as set forth in § 25–9, and the power and duty to make, alter, amend and repeal rules and regulations relating thereto, and the application of the provision of § 25–9, to specific conditions are transferred to the Department of Environmental Resources by Reorganization Plan No. 1 of 1972. 71 *Pa. Stat.* § 754–1; *Pa. Stat.* Title 43, § 25–9; § 25–12.

Rhode Island

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *R.I. Gen. Laws Ann.* § 28–12–2.

Collection of Wages.—The wage payment statute is broad enough to include agricultural labor. *R.I. Gen. Laws Ann.* § 28–14–1.

Hours.—No specific provision found with regard to farmworkers.

Prior to 1975, the maximum hours provisions for females and minors in specific occupations had expressly excluded agricultural labor. *R.I. Gen. Laws Ann.* § 28–3–11. § 28–3–16, exempting employees from the provisions of §§ 28–3–11 to 28–3–14 was repealed by Ch. 203, L. 1975. § 28–3–16 had provided that the maximum hours provisions were inapplicable to utility employees.

Child Labor.—Agricultural labor is exempt from the minimum age law. *R.I. Gen. Laws Ann.* §§ 28–3–1 and 28–3–3.

Maximum hours legislation does not apply to agricultural labor. *R.I. Gen. Laws Ann.* § 28–3–11.

Agricultural labor is exempt from employment certificate requirements. *R.I. Gen. Laws Ann.* § 28–3–3.

Working Conditions.—The Industrial Safety Code no longer exempts agriculture. *R.I. Gen. Laws Ann.* § 28–19–1(b) was superseded by § 28–20–1(b).

Sanitary and safety requirements exempt agriculture. *R.I. Gen. Laws Ann.* § 28–21–11.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—Agricultural labor is exempt from the state labor relations act. *R.I. Gen. Laws Ann.* § 28–7–3(3). There is no right to work law. Other state labor relations provisions do not specifically mention farm labor.

Workmen's Compensation.—Agriculture is exempt from coverage of the Workmen's Compensation Act; however, the law is voluntary as to farmworkers of employers of less than 4 employees except those in hazardous occupations.

§ 28–29–7 of *R.I. Gen. Laws Ann.* specifically exempts agricultural labor from the compulsory provisions applicable to hazardous employment.

Unemployment Compensation.—Agricultural labor is exempt. *R.I. Gen. Laws Ann.* § 28–42–8.

Transportation.—No provisions found.

Employee Housing.—Labor Camps—A license is required. The Department of Public Health has authority over labor camps. *R.I. Gen. Laws Ann.* § 23–21–1(4)(d) and § 23–21–2.

South Carolina

I. LABOR PROVISIONS

Minimum Wage.—There is no minimum wage law in South Carolina.

Collection of Wages.—No statutes applicable to agricultural labor.

Hours.—Maximum hours legislation applies to employees in specific occupations. Agricultural labor is not included. *S.C. Code Ann.* §§ 40–51–40–60. Nor are farmworkers included among the specific list of exemptions. See especially *S.C. Code Ann.* § 40–53.

Child Labor.—Agricultural labor is exempt from the law making 16 the minimum age for employment during school hours. *S.C. Code Ann.* § 40–161. No other provisions were found.

Sec. 40–161 provides.—Employment of minors under age of sixteen years.—No minor under the age of sixteen years shall be employed in any factory, mine or textile establishment in this State. A minor under the age of sixteen years may be employed in any other gainful occupation when such employment is outside of school hours or during school vacation and after the hour of five a.m. and before the hour of eight p.m. A minor under the age of sixteen years employed in domestic service in private homes, in farm work, or in retail mercantile establishments that do not sell alcoholic beverages for consumption on the premises may work until eleven p.m. on any night other than a night preceding a school day. (1952 Code § 40–161; 1942 Code § 7031; 1932 Code § 1469; Cr. C. '22 § 413; Cr. C. '12 § 422; 1903 (24) 113; 1911 (27) 29; 1916 (29) 655; 1937 (40) 531; 1668 (55) 2789.)

Effect of amendment.—The 1968 amendment rewrote this section.

Working Conditions.—No provisions specifically applicable to migrants.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—South Carolina has no labor relations act similar to the National Labor-Management Relations Act. The other state labor laws do not specifically mention agricultural labor.

Workmen's Compensation.—Agricultural labor is exempt from the provisions presuming acceptance of coverage by workmen's compensation. *S.C. Code Ann.* § 72–13.

Workmen's Compensation is voluntary as to excluded employments. However, the Act shall not apply to an employer whose annual payroll is less than $3,000, regardless of the number of employees.

Unemployment Compensation.—Agricultural labor is exempt. *S.C. Code Ann.* § 68–25.

Transportation.—No provisions specifically found that were applicable to migrants.

South Dakota

I. LABOR PROVISIONS

Minimum Wage.—Minimum wage law provisions apply to employees 18 years old or over. *S.D. Compiled Laws Ann.* § 60–11–3, as amended by S.B. 150, L. 1975, effective July 1, 1975. Among the employees exempt from coverage are babysitters or persons employed as outside salesmen. Agricultural workers are *not* specifically exempt.

Collection of Wages.—Payment of wages is to be monthly to specified categories of laborers. The statute is broad enough to include agriculture. *S.D. Compiled Laws Ann.* § 60–11–9. Also see § 60–11–8.

Hours.—Maximum hours legislation applicable to minors under 16 excludes farm laborers or persons attending livestock. *S.D. Compiled Laws Ann.* § 60–12–1, as amended by Ch. 303, L. 1973.

Child Labor.—Minimum age laws for employment do not apply to farm labor. *S.D. Compiled Laws Ann.* §§ 60–12–1 to 60–12–21.

Agriculture is excluded from maximum hours legislation. *S.D. Compiled Laws Ann.* § 60–12–1.

Working Conditions.—Agricultural labor is excluded from the Occupational Disease Act. *S.D. Compiled Laws Ann.* § 62–8–6; how

ever, § 62–8–6 does state that, "Every employer of workmen subject to the workmen's compensation law shall be subject to the provisions of this Chapter . . ."

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—The sections on labor unions/collective bargaining and picketing/boycotts both have special provisions dealing with rights of farm laborers. *S.D. Compiled Laws Ann.* §§ 60–9–6 to –9 and §§ 60–10–4 to –7.

Section 17.1108 of the Union Regulation Act provides that "no person shall boycott, assist in boycotting, or order to be boycotted, or otherwise interfere with the movement to market, or the sale of any commodity or farm product because such product may have been produced by nonunion labor or in violation of the orders of rules of any labor union." This section, along with others relating to organization or picketing in agriculture, was held unconstitutional by a South Dakota circuit court in 1944. *AFL* v. *Mickelson*, 14 LRRM 846, 15 LRRM 751.

Section 17.1107 of the Union Regulation Act provides that "no person shall picket, aid in the picketing of, or order to be picketed, the home of any employee or worker on any ranch, farm, feed yard, shearing plant, or other agricultural premise." This section also was held unconstitutional by a South Dakota circuit court in 1944 *AFL* v. *Mickelson*, 14 LRRM 846, 15 LRRM 751.

§ 60–9A–1 of *S.D. Compiled Laws Ann.* (Collective Bargaining statute) excludes farm and ranch labor from the definition of "employee".

Workmen's Compensation.—Farm labor is excepted from coverage. It is voluntary, however, for agricultural labor to be covered by the Act. *S.D. Compiled Laws Ann.* § 62–3–15; § 62–3–17.

Transportation.—No provisions found.

Tennessee

I. LABOR PROVISIONS

Minimum Wage.—There is no minimum wage law.

Collection of Wages.—The provision for semi-monthly wage payment is broad enough to include agricultural labor if the employer has 5 or more employees. *Tenn. Code Ann.* § 50–306.

Hours.—Maximum hours legislation applies to females and minors in specified occupations. Agricultural labor is expressly excepted. *Tenn. Code Ann.* § 50–719.

Child Labor.—Agricultural labor is excluded from minimum age and employment certificate requirements. *Tenn. Code Ann.* §§ 50–726, 727, 732.

Working Conditions.—The 1972 state occupational health and safety act would be broad enough to cover agricultural workers. (1972 Sess. Laws, S.B. 2150 at p. 165 of CCH *Session Law Reporter.*) (*Tenn. Code Ann.* §§ 50–50—50–579.) However, under § 50–504(g), a listed exception is, "any employee engaged in agriculture who is employed on a farm each of the employees of which is related to the employer as spouse, child, parent, grandparent or grandchild.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—Tennessee has no statute comparable to the Federal Labor-Management Relations Act

although it has several statutes comparable to portions of that act. The latter does not seem broad enough to cover agricultural labor.

Workmen's Compensation.—Agricultural labor is exempt from the presumption of coverage. *Tenn. Code Ann.* § 50–906.

Unemployment Compensation.—Agricultural labor is exempt. *Tenn. Code Ann.* § 50–1309(g)(6)(D).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Texas

I. LABOR PROVISIONS

Minimum Wage.—Texas enacted a comprehensive minimum wage law in 1970, *Texas Minimum Wage Act* of 1970, Article 5159d. This Act was last amended by S.B. 1114, L. 1975, effective June 19, 1975. "Employee" includes any individual employed by an employer, including agricultural workers.

The coverage of agricultural labor encompasses employees of employers using more than 300 man-days during calendar quarter in preceding year. Employees engaged in the production of livestock and all employers using *less than* 300 man-days of agricultural labor in any calendar quarter of the preceding calendar year are exempt from the minimum wage law.

Farmworkers who are non-residents cannot be paid less than 20 cents less than the federal minimum wage for agriculture as provided under the FLSA.

With regard to resident agricultural workers, if living quarters are furnished, a farmworker is entitled to $30 a week. Family members of such resident workers can be paid less than minimum wage if employed by same employer.

The Commissioner of Agriculture will establish piece rates for hand harvesters after public hearings. Piece rates are to be reviewed at least once a year and can be suspended for not to exceed 30 days in case of disaster or calamity.

Certain handicapped agricultural workers and persons over age 65, except piece rate workers, can be employed at lower rates, but not less than 60% of applicable minimum wage, if the employer obtains a medical certificate prior to employment. *Texas Revised Civil Statutes* Art. 5159(d).

Collection of Wages.—Payment of wages may be weekly or monthly depending on the agreed length of service. *Texas Rev. Civ. Stat.* Art. 5485.

Hours.—No provision for maximum hours exists for men. Women agricultural workers are not covered under the maximum hours provision for women. *Texas Rev. Civ. Stat.* Art. 5172(a).

Child Labor.—Minimum age law does not appear to apply to farmworkers. A child of any age may be employed in agricultural work during the summer months. Work permits during the school year will only be issued to children over the age of 14. *Texas Penal Code.* Art. 1577 (Transferred to *Vernon's Ann. Civ. Stat.* Arts. 5181a to 5181h).

Agricultural labor is exempt from the maximum hours law applicable to minors under 15 yrs. of age. *Texas Penal Code.* Art. 1578(a) (Transferred to *Vernon's Ann. Civ. Stat.* Art. 5181g).

The labor agents statute provides for penalties for violation of compulsory school attendants laws. *Texas Rev. Civ. Stat.* Art. 5221 (a)–5, 6. The law specifically states:

OUT-OF-STATE AGENCIES

SEC. 6. No foreign labor agent, labor bureau or labor agency or other person or corporation resident of or domiciled in any other State or territory of the United States shall enter this State and attempt to hire, entice, or solicit or take from this State any common or agricultural workers, singly or in groups, for any purpose without first applying to the Commissioner of the Bureau of Labor Statistics for a license as an employment or labor agent as provided by this Act.

Working Conditions.—Migrant laborers are required to be examined for tuberculosis within sixty days prior to employment and submit the certificate to the labor contractor or the employer. *Texas Rev. Civ. Stat.* Art. 4477–12(6).

The occupational safety statute is broad enough to include farm labor employers, since it applies to any "Foreman or any other person having control or custody of any employee." *Texas Rev. Civ. Stat.* Art. 5182(a). Under that statute a safety commission is to promulgate regulations.

The State Board of Health shall promulgate rules and regulations necessary for the protection of health and safety of employees in migrant labor camps, including provisions relating to camp constructions, sanitary conditions, water supply, toilets, sewage disposal, refuse and garbage storage, collection, and disposal, light, air, safety, protection from fire hazards, equipment, and maintenance and operation of the camp. Rules and regulations may also be issued for the employee's upkeep of such facilities. *Texas Rev. Civ. Stat.* Art. 5221e–1.

Labor Contractors.—Labor agents are required to be licensed by the Commissioner of the Bureau of Labor Statistics. *Texas Rev. Civ. Stat.* Art. 5221(a)–5.

Collective Bargaining.—Nothing covering agricultural labor could be found. A separate section of the Texas right-to-work law once provided coverage for migrant laborers. *Texas Rev. Civ. Stat.* Art. 7428–2. However, the 1974–1975 supplement indicates that Arts. 7426–7447 have been repealed.

Workmen's Compensation.—Farm laborers are specifically excluded from workmen's compensation. *Texas Rev. Civ. Stat.* Art 8306, § 2.

Unemployment Compensation.—Agricultural laborers are expressly excluded from unemployment compensation. *Texas Rev. Civ. Stat.* Art. 5221 b–17(g)(5)(b).

Transportation.—Minimum safety standards must be met by vehicles carrying migrant workers. *Texas Rev. Civ. Stat.* Art. 911(g). The regulations prescribed in this Act shall be applicable to motor carriers of migrant agricultural workers only in the case of transportation of any migrant worker for a total distance of more than 50 miles. Art. 911(g) § 2.

Employee Housing.—Labor Camps—The 1971 Legislature passed a migrant labor camp law and granted licensing authority to the State Commissioner of Health. In addition to fines, the Commissioner is expressly authorized to ask the court for injunctions. *Tex. Rev. Civ. Stat.* Art 522e–1.

An article by Richard R. Brann "Housing of Migrant Agricultural Workers," 46 *Texas Law Rev.* 933 (1968) summarizes federal and state programs on home base and on-the-job housing in Texas.

II. SPECIAL AGENCIES DEALING WITH MIGRANT PROBLEMS

Good Neighbor Commission of Texas.—A nine member commission is to coordinate the work of local, state and federal governmental units and offer suggestions for new programs. *Texas Rev. Civ. Stat.* Art. 4101–2; especially 4101–2(i) (1–8).

Utah

I. LABOR PROVISIONS

Minimum Wage.—Minimum wage law applies to women and minors in "occupations, trades, and industries." *Utah Code Ann.* § 34–22–5 (1). It appears that argicultural labor may be exempt.

Collection of Wages.—The pertinent sections of the Utah law relating to collection of wages are *Utah Code Ann.* § 34–28–1 and § 34–28–5. They are reproduced below.

34–28–1. *Public and certain other employments excepted.*—None of the provisions of this chapter shall apply to the state, or to any county, incorporated city or town, or other political subdivision, or to employers and employees engaged in farm, dairy, agricultural, viticultural or horticultural pursuits or to stock or poultry raising, or to household domestic service, or to any other employment where an ageeement exists between employer and employee providing for different terms of payment, except the provisions of section 34–28–5 shall apply to employers or employees engaged in farm, dairy, agricultural, viticultural, horticultural or stock or poultry raising.

34–28–5. *Separation from payroll—Resignation—Supsension because of industrial dispute.*—(1) Whenever an employer separates an employee from his payroll, the unpaid wages of such employee shall become due immediately, and the employer shall pay such wages to the employee within 24 hours of the time of separation at the specified place of payment.

In case of failure to pay wages due an employee within 24 hours of a demand therefor, the wages of such employee shall continue from the date of separation until paid, but in no event to exceed sixty days, at the same rate which the employee received at the time of separation. The employee may recover the penalty thus accruing to him in a civil action. This action must be commenced within sixty days from the date of separation. Any employee who has not made a demand for payment shall not be entitled to any such penalty under this subsection.

(2) Whenever an employee (not having a written contract for a definite period) quits or resigns his employment, the wages earned shall become due and payable not later than 72 hours thereafter, unless such employee shall have given 72 hours' previous notice of his intention to quit, in which latter case such employee shall receive his wages at the specified place of payment at the time of quitting.

(3) In the event of the suspension of work as the result of an industrial dispute, the wages earned and unpaid at the time of this suspension shall become due and payable at the next regular payday, as provided in section 34–28–3, including without abatement or reduction all amounts due all persons whose work has been suspended as a result of such industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

Hours.—It does not appear that agricultural labor would be covered by the maximum hours legislation. *Utah Code Ann.* § 34–22–14.

Child Labor.—Minors 12 or older shall be permitted to work in nonhazardous agricultural work. *Utah Code Ann.* § 34–23–6.

With consent of minor's parent, guardian, or custodian, no specific age limitations or restrictions are felt necessary, for home chores and other work done for parent or guardian, any casual work determined harmful by the Commission, and agricultural work including the operation of power-driven farm machinery in the production of agricultural products. *Utah Code Ann.* § 34–23–8.

Working Conditions.—No provisions found.

Labor Contractors.—No provisions found.

Organizational—Collective Bargaining.—Agricultural labor is exempt from the state labor relations act. *Utah Code Ann.* § 34–20–2.

Workmen's Compensation.—Agricultural labor is exempt; however, farm laborers can voluntarily come within the coverage of the act. *Utah Code Ann.* § 35–1–42(2).

Unemployment Compensation.—Agricultural labor is exempt. *Utah Code Ann.* § 35–4–22 (j)(6)(i).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Vermont

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *Vt. Stat. Ann.* Title 21, § 383.

Collection of Wages.—The statute is not specifically applicable to agricultural workers, but it is broad enough to include them. *Vt. Stat. Ann.* Title 21, § 342.

Hours.—The hours provisions cover specific categories of workers which would not be broad enough to include agriculture. The law specifically covers minors 16 to 18 in any mine or quarry, manufacturing, or mechanical establishment. *Vt. Stat. Ann.* Title 21, § 440.

Child Labor.—Minors in agriculture are exempt from maximum hours provisions. *Vt. Stat. Ann.* Title 21, § 434.

Agricultural labor is not treated any differently from other occupations in the minimum age provisions. 16 years old is the minimum age for employment in any gainful occupation during school hours without an employment certificate. *Vt. Stat. Ann.* Title 21, § 431. 14 is the minimum age in any gainful occupation during school hours. *Vt. Stat. Ann.* Title 21, § 436. There are no other minimum age provisions.

Working Conditions.—The Vermont Occupational Safety and Health Act applies to agricultural labor.

Labor Contractors.—No provisions found.

Organization—Collective Bargaining.—The state labor relations act is specifically inapplicable to agricultural workers. *Vt. Stat. Ann.* Title 21, § 1502 (6)(A).

Workmen's Compensation.—No specific exemption is made for agricultural workers.

There is a special provision covering farmers with annual payroll of $1000 or over in a calendar year. *Vt. Stat. Ann.* Title 21, § 601.

Also, a person engaged in agriculture for any employer whose aggregate payroll is less than $1000 in a calendar year may be covered if his employer notifies the commissioner he wishes to be included within the provisions of this chapter.

Unemployment Compensation.—Agricultural labor is exempt. *Vt. Stat. Ann.* Title 21, § 1301 (6)(c)(i).

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Virginia

I. LABOR PROVISIONS

Minimum Wage.—Virginia enacted a minimum wage law in 1975. Agricultural labor is exempt from the provisions of the law. *Virginia Code Annotated* § 40.1–28.9(B)(1).

Collection of Wages.—The statute may be broad enough to cover agriculture. *Virginia Code Annotated* § 40.1–29.

Hours.—No provisions found.

Child Labor.—Minors in agriculture are not covered by the minimum age provisions in Virginia's Child Labor Law. Minors in agriculture are also excluded from the maximum hours legislation. *Virginia Code Annotated* § 40.1–79—40.1–113.

The law specifically provides that, "nothing in this chapter shall relate to work outside of school hours on farms, in orchards, in gardens or in the gathering or processing of seafood performed with the consent of the child's parent or guardian." *Virginia Code Annotated* § 40.1–79.

Excepted from employment certificates is work of minors on farms, orchards, in gardens, and in gathering and processing of seafood. *Virginia Code Annotated* §§ 40.1–85 to 40.1–99 and 40.1–84.

Working Conditions.—No provisions found.

Labor Contractors.—Labor contractors are required to be licensed. *Virginia Code Annotated* § 58–384.

Organization—Collective Bargaining.—Agricultural labor is specifically excluded from coverage of the Virginia Labor Relations Act. *Virginia Code Annotated* Title 21, § 1501(6)(A)

Workmen's Compensation.—Agricultural labor is excluded from coverage; however, farmworkers can voluntarily include themselves within the provisions of the law. *Virginia Code Annotated* § 65.1–28.

Unemployment Compensation.—Agricultural labor is exempt. *Virginia Code Annotated* § 60.1–3 and § 60.1–14

Transportation.—No provisions found.

Employee Housing.—Labor Camps—The Department of Public Health is authorized to license labor camps. *Virginia Code Annotated* § 32–415 to § 32–422.

Washington

I. LABOR PROVISIONS

Minimum Wage.—Agricultural labor is exempt from the minimum wage law. *Washington Revised Code* § 49.46.010 (a)(i).

Collection of Wages.—The Director of Labor and Industries is specifically authorized to hear disputes concerning payment of wages of seasonal labor. Seasonal labor is defined to include all work performed for a period exceeding one month if wages are not paid at any fixed interval but rather at the termination of the employment. Seasonal labor also includes employment outside of the state if the contract was entered into in Washington and payment is made in Washington. Court appeal of the administrative decision is also authorized. *Wash. Rev. Code* §49.40.010.

Hours.—Women engaged in agricultural labor are expressly exempt from the maximum hours provisions for women generally. *Wash. Rev. Code* § 49.28.070.

Child Labor.—Farm labor is exempt from a provision making it a misdemeanor if the parent fails to obtain a work permit for any child under 14. *Wash. Rev. Code* § 26.28.060.

Certificates for children under 14 are issued by a judge of the Superior Court for any employment not connected with farm or house work. *Wash. Rev. Code* § 26.28.060.

Minimum age for employment during school hours is found in the compulsory school attendance laws to be fifteen unless the school authorities issue a certificate excusing students from attendance. *Wash. Rev. Code* § 28A.27.010.

No minimum age is set for employment in agriculture outside of school hours.

Working Conditions.—No statute specifically applicable to migrants.

Labor Contractors.—Migrant farm labor contractors are required to be licensed by the state. *Wash. Rev. Code* § 19.30.010, § 19.30.020.

Collective Bargaining.—Washington has no general labor relations act comparable to the Federal Labor—Management Relations Act.

The Labor Dispute Act does *not* exclude farm labor. *Wash. Rev. Code* § 49.32.010.

Workmen's Compensation.—Agricultural workers are covered by the law. Seasonal laborers are covered if their cash wages from one employer in a calendar year *exceed* $150. *Wash. Rev. Code* §§ 51.12.010 and 51.12.020.

By case law, it has been held that agriculture is included within the scope of the Industrial Insurance Act to the extent that the agricultural product is involved in a separate and distinct manufacturing process. *Heintz* v. *Labbee*, 469 P. 2d 203 (1970).

Unemployment Compensation.—Agricultural labor is exempt. *Wash. Rev. Code* § 50.04.150

Transportation.—No statute specifically applicable to migrants.

Employee Housing.—All new migrant housing is to comply with the State Board of Health standards. *Wash. Rev. Code* § 70.54.110.

West Virginia

I. LABOR PROVISIONS

Minimum Wage.—The state wage and hour statute has the same coverage as the FLSA, as amended. *W. Va. Code Ann.* § 21–5C–1.

Agricultural labor is exempt from the minimum wage law to some extent. The Commissioner defined exempt agricultural employees as follows: "Agriculture includes farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of agricultural or horticultural commodities as defined by the federal Agricultural Marketing Act; raising of livestock, bees, furbearing animals, or poultry; practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to such farming operation, including preparations for market, delivery to storage or to market, or to carriers for transportation to market." § 301–11, *Administrative Regulations* effective January 6, 1975.

Collection of Wages.—The wage payment statute is broad enough to include agriculture. *W. Va. Code Ann.* § 21–5C–5.

Hours.—The law covering hours has the same coverage as the F.L.S.A., as amended. *W. Va. Code Ann.* § 21–5C–1.

Child Labor.—Agricultural labor is exempt from maximum hours legislation. *W. Va. Code Ann.* § 21–6–7.

Agricultural labor is also exempt from minimum age requirements. *W. Va. Code Ann.* § 21–6–1.

Working Conditions.—No provisions were found.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—The state labor relations act excludes agricultural labor. *W. Va. Code Ann.* § 21–1A–2.

Workmen's Compensation.—Farm labor of 5 or less full-time employees is exempt from coverage. Otherwise agricultural labor comes within the provisions of the law. Employers who are not required to subscribe to workmen's compensation may voluntarily elect to subscribe. *W. Va. Code Ann.* § 23–2–1.

Unemployment Compensation.—Agricultural labor is exempt. *W. Va. Code Ann.* § 21A–1–3.

Transportation.—No provisions found.

Employee Housing.—No provisions found.

Wisconsin

I. LABOR PROVISIONS

Minimum Wage.—§ 104.01 of *Wis. Stat. Ann.* defines "employer" and "employee." There is no express exclusion for agricultural labor.

Minimum rates for agricultural employees shall be $1.80 per hour effective July 1, 1975. ($1.89 per hour, effective July 1, 1976; and $1.98 per hour, effective July 1, 1977) for employees 18 and over; and $1.44 per hour, effective July 1, 1975 ($1.51 per hour effective July 1, 1976;

and $1.58 per hour, effective July 1, 1977) for minors 17 and under. These rates are set forth by order.

Minimum wage for women & minors is set by order also. *Wis. Stat. Ann.* § 104.01. The orders in effect are set out in BNA's *State Labor Relations Reporter*, SLL 60:304. (Source: Ch. Ind. 72 of Department of Industry, Labor and Human Relations' regulations).

The order for agricultural workers further provides that allowances for board and/or lodging may be made in amounts not exceeding the following:

Lodging—$14.40 per week or $2.05 per day effective July 1, 1975 ($15.10 per week or $2.15 per day, effective July 1, 1976; and $15.85 per week or $2.25 per day, effective July 1, 1977) for employees 18 or over; and $11.50 per week or $1.65 per day, effective July 1, 1975 ($12.10 per week or $1.75 per day effective July 1, 1976; and $12.65 per week or $1.80 per day, effective July 1, 1977) for minors 17 and under.

Meals—$21.60 per week or $1.05 per meal, effective July 1, 1975 ($22.70 per week or $1.10 per meal, effective July 1, 1976; and $23.75 per week or $1.15 per meal, effective July 1, 1977) for employees 18 and over; and $17.30 per week or $.80 per meal, effective July 1, 1975 ($18.10 per week or $.85 per meal, effective July 1, 1976; and $18.95 per week or $.90 per meal, effective July 1, 1977) for minors 17 and under. (§ 72.05 (2) of the Order)

Room and Board—Room and Board deductions may not be made from the wages of a seasonal non-resident agricultural employee that would result in such employee receiving less than the prescribed minimum rate. (§ 72.04 (3)).

There is an order in effect also which is expressly applicable "seasonal workers." It covers women and minors. The order is issued each season. *Wis. Adm. Code* § *Ind.* 73.01 to 73.10. It covers canning, first processing fresh fruits and vegetables. (See BNA, State Labor Relations Reporter, SLL 60:306).

Collection of Wages.—Wage payment provisions apply if the worker earns more than $500/month. *Wis. Stat. Ann.* § 103.39.

Labor legislation regarding migrant farmworkers in Wisconsin can be found in 1951 *Wis. L. Rev.* 344, 347.

Hours.—Maximum hours legislation covers women in specified occupations—not including agricultural labor. *Wis. Stat. Ann.* § 103.01 & § 103.02.

Child Labor.—Agricultural labor is covered by the minimum age statute. Minors 12 and over may be employed in agricultural pursuits. *Wis. Stat. Ann.* § 103.67.

An exemption regarding employment certificates is given minors 12 years old and over engaged in agricultural pursuits. *Wis. Stat. Ann.* § 103.70 (1) and § 103.70 (2).

Working Conditions.—No provisions were found.

Labor Contractors.—No provisions were found.

Organization—Collective Bargaining.—The state labor relations Act is broad enough to include farmworkers, but does not expressly include them. *Wis. Stat. Ann.* § 111.01 and § 111.02.

Workmen's Compensation.—Coverage is compulsory as to farmers with 6 or more employees *Wis. Stat. Ann.* § 102.04 (1)(c).

The statute specifically provides that every person engaged in farming who on any 20 consecutive or non-consecutive days during

a calendar year employs 6 or more employees, whether in one or more locations, shall be covered.

Unemployment Compensation.—Agricultural labor is exempt. *Wis. Stat. Ann.* § 108.02.

Transportation.—No provisions found.

Employee Housing.—Labor Camps—Labor camps are required to be licensed. *Wis. Stat. Ann.* § 101.20. The minimum wage order also provides that lodging should be adequate, decent and sanitary. (*Regs. Industrial Commission*, Ch. 72).

WYOMING

I. LABOR PROVISIONS

Minimum Wage.—Any individual employed in agriculture is exempt from State minimum wage law. *W.S. 27–207 (d) (i).*

Methods of Payment.—Agricultural labor is exempt from semi-monthly payments. *W.S. 27–192 (c).*

Payment of Wages.—Employees who are terminated must be paid within 24 hours; employees who quit must be paid within 72 hours; no exemptions for agricultural labor. *W.S. 27–195.*

Hours and Overtime.—Agricultural labor is not covered by the female overtime provisions which requires overtime after 8 hours per day and 48 hours per week. *W.S. 27–218.*

Child Labor.—No child under 16 years of age shall be employed at any gainful occupation except *farm* or domestic work, for more than 8 hours in any 12 hour period, or before 5:00 a.m. or after 10:00 p.m. on school days and 12 midnight on non-school days. *W.S. 27–228.*

Children employed in farm labor are not required to obtain work permits. *W.S. 27–225.*

No minor, however, under 16 and enrolled in school shall be permitted to work during school hours. *W.S. 27–229.*

Labor Contractors.—Contracts for alien labor are void; a third party is prohibited from receiving pay for alien's labor. *W.S. 27–204–206.*

Organization.—Wyoming has no specific labor-management violation act. It is declared to be State policy that workers have right to organize for the purpose of protecting the freedom of labor and of bargaining collectively with employers for acceptable terms and conditions of employment; employees should be free from interference, restraint or coercion in the exercise of these rights. *W.S. 27–239.*

Neither membership nor abstention from labor organization can be required of employees by employers. *W.S. 27–245.2–245.3.*

Occupational Health Safety and Working Conditions.—Agricultural and farming employers are subject to these statutory provisions and rules and regulations of the OSH Commission. *W.S. 27–274.*

Workers Compensation.—Agricultural and farming employers are not required to register or participate under the Workers Compensation Statute; such employers may elect to participate. Protection and coverage of agricultural employees depends on whether the employer has elected to participate. *W.S. 27–310–388.*

Unemployment Insurance.—Agricultural employers are exempt from the requirements of Unemployment Insurance participation and contribution. *W.S. 27–23.*

Employee Housing.—The Commissioner of Labor is given the power to make an inspection of living accommodations provided for employees where such accommodations are furnished as part of wages. *W.S. 27–13.*

Discrimination.—Agricultural labor is also covered by the Fair Employment Practices Act which prohibits discrimination based on sex, race, creed, color, national origin and ancestry. *W.S. 27–261.*

Transportation.—No provisions.

A Selective Sampling of State Laws Relating to the Education of Migrants

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A Selective Sampling of State Laws Relating to the Education of Migrants

CALIFORNIA

Summary of Statutes

Each county superintendent of schools is given authority to provide emergency schools and teachers for migratory laborers engaged in seasonal industries in the county. He may also provide for transportation of the children of migrant workers to established schools. Alternatively the migrant children can be lodged near a regular school. Emergency schools must be maintained in accordance with standards provided by the State Superintendent of Public Instruction. (*Calif. Education Code*, § 896)

Another section grants state aid to districts "impacted by seasonal agricultural employment." A monetary limit is set and the aid expressly cannot be used to promote ethnic segregation. (*Calif. Education Code*, § 19,699) *California Education Code*, §§ 896 to 896.3.

Article 11

EMERGENCY SCHOOLS

Sec.
896. Provision for emergency education.
896.1 Requisition of funds of suspended school districts.
896.2 Insurance.
896.3 Transfer or sale of property.

Sec. 896. Provision for emergency education

In order to provide elementary education for children residing in the county, or in order to provide elementary education for children of

migratory laborers engaged in seasonal industries within the county, the county superintendent of schools may, with the approval of the county board of education, when funds are not available from other sources and in his judgment it is necessary, do any one or more of the following acts:

(a) Establish and maintain one or more emergency elementary schools for children.

(b) Provide one or more emergency teachers for the regular elementary schools of the districts in the county for the pupils.

(c) Provide transportation for the children to an elementary school.

In lieu of providing transportation of any pupil, the county superintendent of schools may, with the approval of the county board of education, pay to the parents or guardian of the pupil the cost of food and lodging for the pupil at a place convenient to an elementary school. The amount so paid shall not exceed the cost of providing for the transportation of the pupil to and from his home and the school.

The county superintendent of schools may, with the approval of the county board of education, pay the expenses incurred in providing all the facilities and services authorized in this section, including necessary capital outlays, from the county school service fund.

All emergency schools shall be maintained in accordance with standards prescribed by the Superintendent of Public Instruction.
(Added by Stats. 1968, c. 182, p. —, § 7.)

Sec. 896.1 Requisition on funds of suspended school districts

The county superintendent of schools shall draw requisitions upon the unobligated funds of any suspended school district under his jurisdiction to pay in whole or in part the expenses incurred for the maintenance of emergency schools in the district.
(Added by Stats. 1968, c. 182, p. —, § 7.)

Sec. 896.2 Insurance

The county superintendent of schools may, with the approval of the county board of education, insure all real and personal property constructed, purchased, or otherwise provided by him for emergency schools established by him.
(Added by Stats. 1968, c. 182, p. —, § 7.)

Sec. 896.3 Transfer or sale of property

The county superintendent of schools may, with the approval of the county board of education, transfer or sell the real and personal property of any emergency school maintained by him to any elementary school district under his jurisdiction, or to any other political subdivision of the state within which the school is located, upon such terms and conditions as are agreed upon by the county superintendent of schools, with the approval of the county board of education, and the governing board or authority of the district or other political subdivision. Districts and other political subdivisions may enter into such agreements and acquire such property. Any funds received by the county superintendent of schools under this section shall be paid by him into the county school service fund.
(Added by Stats. 1968, c. 182, p. —, § 7.)

Article 5

SCHOOL HOUSING AID FOR DISTRICTS IMPACTED BY SEASONAL AGRICULTURAL EMPLOYMENT

Sec.

19699. Maximum funds available; acquisition of portable buildings.
19699.1 Availability of portable buildings to school districts.
19699.2 Application for use of portable buildings.
19699.3 Cessation of need for portable buildings.
19699.4 Administration.
19699.5 Disposition of money received.

Sec. 19699. Maximum funds available; acquisition of portable buildings

Not to exceed one million five hundred thousand dollars ($1,500,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 [1] which are reserved pursuant to Section 19945 may be expended pursuant to this article.

Nothing in this article shall be construed to sanction, perpetuate or promote the racial or ethnic segregation, or the segregation by economic class, of pupils in the public schools.

The funds shall be expended by the State Allocation Board, for the acquisition of portable school and classroom buildings, and for the expenses incurred in the administration of this article.

The portable school and classroom buildings may be made available by the board, upon the recommendation of the Director of Compensatory Education, to any school district which, because of the influx for temporary periods in the school year of large numbers of persons employed in seasonal agricultural work, experiences emergency increases in school enrollments of such magnitude as to make it impossible or impactical to accommodate the additional pupils in existing school buildings and facilities available to the district.

(Added by Stats.1966, 1st Ex.Sess., c. 106, p. 578, § 3, urgency, eff. May 25, 1966. Amended by Stats.1967, c. 1701, p. 4260, § 1, urgency, eff. Sept. 2, 1967.)

Sec. 19699.1 Availability of portable buildings to school districts

The portable school and classroom buildings acquired pursuant to this article shall be made available to a school district irrespective of whether the district is otherwise in receipt of or eligible for assistance under any other provisions of this chapter.

The use of the portable school and classroom buildings may be made available to a school district by letting the same to the district free of charge, or by lease, or by conveying the same to the district under lease-purchase agreement, sale, or outright grant, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education. In addition the use of the portable school and classroom buildings may be made available to a school district by any of the means specified by Section 19579.1, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education.

(Added by Stats. 1966, 1st Ex. Sess., c. 106, p. 578, § 3, urgency, eff. May 25, 1966.)

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[1] Section 19931 et seq.

Sec. 19699.2 Application for use of portable buildings

The use of the portable school and classroom buildings under this article shall be based upon application therefor submitted by the governing board of the school district to the Director of Compensatory Education, who shall review the same, make any modifications he deems appropriate, and transmit the approved application to the State Allocation Board with his recommendations as to the action to be taken thereon.

(Added by Stats. 1966, 1st Ex.Sess., c. 106, p. 578, § 3, urgency, eff. May 25, 1966.)

Sec. 19699.3 Cessation of need for portable buildings

If at any time the State Allocation Board shall determine that the need of the district for particular portable buildings which are made available to the district pursuant to this article has ceased, the board may take possession of such buildings on behalf of the state, and may dispose of the buildings to public or private parties in such manner and under such terms as it deems to be in the best interests of the state.

(Added by Stats. 1966, 1st Ex.Sess., c. 106, p. 578, § 3, urgency, eff. May 25, 1966.)

Sec. 19699.4 Administration

Sections 19551 to 19555, inclusive, Sections 19559, 19562, and 19565, and Sections 19620 to 19629, inclusive, of Article 1 of this chapter shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

(Added by Stats. 1966, 1st Ex. Sess., c. 106, p. 578, § 3, urgency, eff. May 25, 1966.)

Sec. 19699.5 Disposition of money received

All moneys received from the rental, lease, or sale of portable school and classroom buildings pursuant to this article shall be deposited in the State Treasury and, on order of the State Controller, shall be credited to and in augmentation of the appropriation made by Section 19699.

All such moneys shall be available without regard to fiscal years for repairing, renovating, installing, moving, or maintaining such buildings or for acquiring additional portable school and classroom buildings for the purposes of this article.

(Added by Stats. 1967, c. 1701, p. 4260, § 2, urgency, eff. Sept. 2, 1967.)

Colorado

Summary of Statutes

The State Board of Education is granted authority to administer a program in migrant education. Expenses for the program are to be borne by both the school district and the state. The statute authorizes additional teachers, supplies, and bus transportation. Special facilities may be built or rented if it is not feasible to use schools already constructed. (*Colo. Revised Statutes*, 22–23–105). Another section provides for the operation of summer schools entirely funded by the state under the authority of the State Board of Education. School districts are given authority to determine if attendance is compulsory.

22–23–101. Short title. This article shall be known and may be cited as the "Migrant Children Educational Act".

Source: R & RE, L. 65, p. 1019, § 1; C.R.S. 1963, § 123–29–1.

22–23–102. Legislative declaration. In order to facilitate the education of migrant children who are unable to receive continuous education during the regular school term and to develop fully the capacities and potentialities of migrant children for the benefit of themselves and society, a program for the education of migrant children is hereby established.

Source: R & RE, L. 65, p. 1019, § 1; C.R.S. 1963, § 123–29–2.

22–23–103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Migrant agricultural worker" means any person engaged in agricultural labor in this state who is residing in a school district which is not his regular domicile during the performance of such agricultural labor.

(2) "Migrant children" or "migrant child" means any child of school age who is in the custody of migrant agricultural workers, regardless of whether they are his parents.

(3) "State board" means the state board of education.

Source: R & RE, L. 65, p. 1019, § 1; C.R.S. 1963, § 123–29–3.

22–23–104. Administration. (1) The state board may employ necessary personnel, pay necessary travel expenses of such personnel, and purchase supplies and equipment as may be needed to carry out the administration of the program for the education of migrant children as provided in this article, and may make such rules and regulations as it may deem necessary for the proper and efficient administration of said program.

(2) Any school district which maintains a school in its district, and wherein there are migrant children, may make application to the state board to participate in the program established by this article. Any school district participating in said program shall administer the program in its district in accordance with rules and regulations of the state board.

Source: R & RE, L. 65, p. 1020, § 1; C.R.S. 1963, § 123–29–4.

22–23–105. Regular school session requirements. (1) The following standards shall apply during the regular terms of school and shall be applicable equally in every school district:

(a) The residence of a migrant child, for purposes of education, shall be the school district where the migrant child is receiving shelter and the necessities of life, and the provisions of section 22–32–116 shall not apply to this section.

(b) A migrant child shall attend school while residing in any school district in the state when the regular terms of school are in session,

unless excused in compliance with the provisions of the "School Attendance Law of 1963"; and the board of education of a school district shall enforce the attendance in a school of the district of any such migrant child residing in said district.

(c) The payment of additional necessary costs in administering and maintaining the program authorized by this section shall be paid jointly by the state and the participating school district. The per capita additional cost of educating a migrant child in a school district participating in said program may include the following expenses, under rules and regulations prescribed by the state board:

(I) Salaries of personnel, assistants to teachers, and clerical, health, and custodial employees and specialized instructional services as needed;

(II) Necessary additional textbooks, educational supplies, and equipment;

(III) School lunch operation;

(IV) School bus transportation;

(V) Provision of and physical plant operation, including rent, heat, light, water, repairs, adjustments, and maintenance, if regular school facilities are not used; except that provision of and operation of the school plant shall be a contribution of the school district if regular school facilities are used.

(2) Upon submission and approval by the state board of itemized statements from the boards of education of the participating school districts for additional moneys to cover expenses incurred by them in conducting said programs, such school districts shall be reimbursed for such additional expenses as specified in subsection (1)(c) of this section. Applications by participating school districts for reimbursement shall be made on forms prescribed by the state board at such time or times during the year as determined by the state board.

Source: R & RE, L. 65, p. 1020, § 1; C.R.S. 1963, § 123–29–5.

Cross references.—As to exclusion of nonresidents, see § 22–32–116. As to "School Attendance Law of 1963", see § 22–33–101 et seq.

22–23–106. Summer schools. (1) The program established by this section shall be under the general supervision of the state board. An educational program for migrant children may be operated within the period from the termination of the regular school term in the spring until the regular school term convenes in the fall.

(2) Any school district wherein there are migrant children in the summer period may make application to the state board to participate in the summer school program authorized by this section. From such applications the state board shall select school districts to operate summer schools for migrant children in accordance with the amount of funds available, the number of migrant children in the school districts, and other criteria specified by the state board.

(3) Residence requirements for migrant children under the summer school program shall be the same as set forth in section 22–23–105.

(4) For the purpose of the summer school program, in addition to "migrant child" defined in 22–23–103, a child of school age shall be considered a migrant child if he was not able to attend the full number of days prescribed by law during the previous school year as a direct result of being in the custody of a migrant agricultural worker.

(5) The board of education of a school district has the authority to determine whether attendance at summer school shall be voluntary

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or compulsory. If attendance is compulsory, migrant children shall attend unless excused in compliance with the "School Attendance Act of 1963".

(6) Each school district participating in the summer school program shall be reimbursed from state funds for actual costs incurred in the operation of such program, including allotments for classroom units and supervisory units based upon the formulas set forth in section 22–23–107. Such school district shall also receive reimbursement, under rules and regulations of the state board, for the net cost of its school lunch operation and for school bus operations at rates fixed by the state board. School districts shall report all such costs on forms prescribed by the state board.

Source: R & RE, L. 65. p. 1021, § 1; C.R.S. 1963, § 123–29–6.

Cross references.—As to definition of "migrant child", see § 22–23–103. As to regular school session requirements, see § 22–23–115. As to unit formulas for computing reimbursements, see § 22–23–107. As to "School Attendance Law of 1963", see § 22–3.–101 et seq.

22–23–107. Computation for reimbursement. (1) Classroom unit (CU) formula. A classroom unit (CU) shall consist of fifteen children in average daily attendance. The number of classroom units and fractions thereof shall be multiplied by the number of school days in the term plus one day in order to determine the number of daily classroom units allowable. The number of daily classroom units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of classroom unit state aid. The value of the daily classroom unit state aid shall be determined annually by the state board.

(2) Supervisory unit (SU) formula. The number of supervisory units in a school of one to ten or more teachers shall be 1.00 plus .05 for each classroom unit allowable through ten, to a maximum of 1.50 for ten teachers, plus .02 for each teacher beyond ten teachers. The number of supervisory units shall be multiplied by the number of days in the term plus two days in order to determine the number of daily supervisory units allowable. The number of daily supervisory units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of supervisory unit state aid.

Source: R & RE, L. 65, p. 1022, § 1; C.R.S. 1963, § 123–29–7.

Florida

Summary of Statutes

In a section dealing with the financing of public schools, it is specifically noted that no tuition should be charged for education of children whose parents are migratory agricultural workers.

Florida Statutes Annotated, §228.16(3):

Sec. 228.16

(3) Elementary and secondary schools

(a) Public education in grades one to twelve inclusive, comprising elementary and secondary schools and vocational departments or schools, shall be made available at public expense for a minimum term of at least nine months each year (one hundred and eighty actual teaching days) to all persons who have attained the age as provided

by § 232.01. The funds for the support and maintenance of these schools shall be derived from state, county, district, federal or other lawful sources, combinations of sources, or as specifically set forth in this subsection.

(b) Pupils whose parent, parents, or guardian are nonresidents of Florida shall be charged a tuition fee of fifty dollars payable at the time the pupil is enrolled. For the purposes of this subsection a nonresident is defined as a person who has lived in Florida less than one year, or who has not purchased a home which is occupied by him as his residence prior to the enrollment of his child or children in school, or who has not filed a manifestation of domicile in the county where the child is enrolled. No tuition shall be charged pupils whose parent, parents, or guardian are in the federal military service or are a civilian employee, the cost of whose education is provided in part or in whole by federal subsidy to state-supported schools, or whose parent, parents, or guardian are migratory agricultural workers.

(c) Funds as set forth in paragraph (b) of this subsection shall be collected by the school in which the child is enrolled and remitted to the county board of public instruction for the county in which the funds are collected. The board of public instruction shall use the funds for the operation and maintenance of its schools.

Idaho

Summary of Statutes

A special tax levy is authorized for schools in districts where migrant children are found.

Idaho Code Sec. 33–803:

Levy for education of children of migratory farm workers—In any school district in which there is located any farm labor camp and the children of migratory farm workers housed therein attend the schools of the district, the board of trustees may make a levy not exceeding five (5) mills in addition to any other levies authorized by law, for the cost of educating such children.

Whenever the aggregate of the levy herein authorized and other levies made for maintenance and operation of the district shall exceed thirty (30) mills, the levy authorized by this section must be approved by the school district electors at a tax levy election held for that purpose. Notice of such election shall be given, the election shall be conducted, and the returns thereof made, as provided in sections 32–101—33–406; and the question shall be approved only if a majority of the qualified electors voting at such election vote in favor thereof. If the election be held in conjunction with any other school election, the question herein shall be submitted by separate ballot. [1963, ch. 13, § 92, p. 27.]

Illinois

Summary of Statute

The Illinois statute established a "compensatory education program" for "educationally disadvantaged children." An "educationally disadvantaged" child is subject to ". . . language, cultural, economic, and like disadvantages" which make it improbable that he will graduate from high school (§ 14B–2).

Ill. Ann. Stat. Ch. 122 §§ 14B–1 to 14B–8:

ARTICLE 14B. EDUCATIONALLY DISADVANTAGED CHILDREN [NEW]

Sec.

14*B*–1. Purpose.
14*B*–2. Definitions.
14*B*–3. Supervision of program.
14*B*–4. Advisory council.
14*B*–5. Approval of programs.
14*B*–6. Standards.
14*B*–7. Rules and regulations.
14*B*–8. Funding.

Article 14B was added by Act approved Aug. 20, 1965. L.1965, p. 3232.

Sec. 14B–1. Purpose

The purpose of this enactment is to assist and encourage local school districts in the development and improvement of an educational program that will increase the educational services of the public schools of Illinois for educationally disadvantaged children as defined herein. 1961, March 18, Laws 1961, p. 31, § 14B–1, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–2. Definitions

For purposes of this Article.

"Educationally disadvantaged children" means children between the ages of 3 and 18 years who do not qualify for the special educational facilities provided for in Article 14 of this Act [1] but who, because of their home and community environment are subject to such language, cultural, economic and like disadvantages that it is unlikely they will graduate from high school unless special educational programs and services supplementing the regular public school program are made available to them.

"Compensatory education program" means a program of instruction and services, supplementary to the regular public school program, for educationally disadvantaged children including those enrolled in school, those who have dropped out of school before graduation, and those who have not yet entered first grade. "Compensatory education program" includes only such programs as provide for instruction and services to all educationally disadvantaged children of the school district, including those who attend non-public schools organized not for profit, without regard to whether enrolled in any other program or course offered by the school district.

Such a program may be offered during or outside of the regular school day and includes (1) individualized psychological services, (2) individualized instruction, (3) remedial instruction, (4) activities planned to broaden the cultural experience of such children, (5) working relationships with parents and guardians of such children, (6) special guidance and counseling of such children and persons in the homes of such children, (7) cooperation with local, state and federal agencies providing facilities, services or activities for such children, (8) employment of additional teachers where it is necessary to reduce the size of regular classes for such children, and (9) such other programs, meeting the standards of this Act, and the standards and requirements set forth in Title I of the Federal Elementary and Second-

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[1] Chapter 122, section 14—1.

ary Education Act of 1965,[2] as are directed to the stimulating of the educational and cultural capabilities of such children or to assisting and encouraging high school drop outs to complete their requirements for graduation. 1961, March 18, Laws 1961, p. 31, § 14B–2, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–3. Supervision of program

The administration of compensatory education programs shall be supervised by the Superintendent of Public Instruction with the advice of the Advisory Council on Compensatory Education. 1961, March 18, Laws 1961, p. 31, § 14B–3, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–4. Advisory council

There is created an Advisory Council on Compensatory Education to consist of 7 members appointed by the Superintendent of Public Instruction, who shall hold office for 7 years, except that the initial appointments shall be made for periods of from 1 to 7 years, inclusive. At the expiration of these initial appointments subsequent appointments shall be for the full 7 year term. Vacancies shall be filled in like manner for the unexpired balance of the term only.

The members appointed shall be citizens of the United States and of this State and shall be selected, as far as may be practicable, on the basis of their knowledge of, or experience in, problems of the education of educationally disadvantaged children.

The Superintendent of Public Instruction shall seek the advice of the Advisory Council regarding all rules or regulations to be promulgated by him.

The Council shall organize with the chairman selected by the Council members and shall meet at the call of the chairman upon 10 days' written notice but not less than 4 times in each calendar year. The Council shall consider any rule or regulation proposed by the Superintendent of Public Instruction within 60 days after its receipt by the chairman. Members of the Council shall serve without compensation but shall be entitled to reasonable amounts for expenses necessarily incurred in the performance of their duties.

The Superintendent of Public Instruction shall designate an employee of his office to act as executive secretary of the Council and shall furnish all clerical assistance necessary for the performance of its powers and duties. 1961, March 18, Laws 1961, p. 31, § 14B–4, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–5. Approval of programs

Pursuant to regulations of the Superintendent of Public Instruction, a proposed compensatory education program may be submitted to the Advisory Council by a school district, 2 or more cooperating school districts, a county, or 2 or more cooperating counties. Upon receipt of such proposal, the Advisory Council shall evaluate it, using the standards set forth in this Act and the standards and requirements set forth the Title I of the Federal Elementary and Secondary Education Act of 1965.[2] The Council shall give its reasons for finding such a proposal to be unacceptable. If found to be acceptable, the Council shall recommend the acceptance of such proposal to the Superintendent of

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[2] See 20 U.S.C.A. § 236 et seq.

Public Instruction, who may approve the same. If the Superintendent of Public Instruction approves the program, the applicant is entitled to reimbursement for each pupil in such program for the costs of instruction and other services, including materials and equipment and other expenses incident thereto, up to a maximum amount computed by multiplying (1) the sum of the number of school-age children in the school district, two or more cooperating school districts, a county or two or more cooperating counties from families with annual incomes of less than $2,000 and from families receiving more than $2,000 annually from the program of Aid to Families with Dependent Children, by (2) one-half the average annual current expenditure per school child in the State, all as further defined and specified in Title I of the Federal Elementary and Secondary Education Act of 1965. 1961, March 8, Laws 1961, p. 31, § 14B–5, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–6. Standards

In evaluating a compensatory education program, the Advisory Council shall determine (1) the existence within the applicant of residential areas likely to produce a substantial number of culturally disadvantaged children; that such areas may be properly classified as slum or economically depressed areas, whether urban or rural, or areas containing a high concentration of impoverished families, non-English speaking families, recent immigrants, migratory farm families, children with a high drop out potential, or low-income racial or nationality minorities; and the methods or factors used in reaching such determinations; (2) the adequacy of the proposed program as relates to the quality of the personnel available to provide services and activities of high standards; (3) the adequacy of the applicant's facilities and resources for the successful carrying out of the proposed program; (4) the efficiency of the program including a justification of expenditures and measured by anticipated results; (5) the existence of a plan for the collection of information providing the basis for a continuing evaluation of the program and (6) other standards as are set forth in Title I of the Federal Elementary and Secondary Education Act of 1965.[1] 1961, March 18, Laws 1961, p. 31, § 14B–6, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Sec. 14B–7. Rules and regulations

The Superintendent of Public Instruction shall adopt such rules and regulations as are necessary to enable him to carry out his duties and responsibilities under this Article, including rules and regulations which (a) prescribe the procedure by which proposals shall be submitted for approval, (b) require the submission of such reports as will permit the evaluation of compensatory education programs and the accumulation of information which will be useful in developing suggestions, policies and requirements for improvement of such programs generally.

By July 10, annually, the superintendent of the school district or other chief administrative officer of the applicant shall certify to the County Superintendent of Schools, in whose county the largest number of children in the program reside, upon forms prescribed by the Super-

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[1] See 20 U.S.C.A. § 236 et seq.

intendent of Public Instruction, the applicant's claim for reimbursement for the school year ending on June 30th next preceding. The County Superintendent of Schools shall check all such claims to ascertain compliance with the prescribed standards and upon his approval shall by July 25th certify to the Superintendent of Public Instruction the county report of claims for reimbursements. The Superintendent of Public Instruction shall check and upon approval he shall transmit by September 15th the State report of claims to the State Comptroller and prepare the vouchers showing the amounts due respective applicants for their reimbursement claims. In any year the total reimbursements paid to an applicant having a population of 500,000 or more inhabitants shall not exceed 5/18 of the appropriation made by the General Assembly for reimbursements to school districts and other applicants under Section 14B–5 of this Act, and the total amount of reimbursements to all other applicants shall not exceed 2/9 of such appropriation. If the amount appropriated for such reimbursements for any year is insufficient to pay the claims in full, the total amount shall be apportioned on the basis of the claims approved.

That on or before January 20 of the odd numbered year the Superintendent of Public Instruction shall prepare for the General Assembly a report on the programs and the claims, including detailed accounts for the last two years which the district superintendents have submitted to the Superintendent of Public Instruction. This will enable the General Assembly to review in detail the scope of the total program and the desirability of whether or not to continue such a program. 1961, March 18, Laws 1961, p. 31, § 14B–7, added by 1965, Aug. 20, Laws 1965, p. 3232, § 1. Amended by P.A. 78–592, § 43, eff. Oct. 1, 1973.

Sec. 14B–8. Funding

The Superintendent of Public Instruction is authorized to take any further steps that may be reasonably required to make this Article conform to the standards and requirements of any Title of the Federal Elementary and Secondary Education Act of 1965 [1] and to qualify this State to receive federal funds and assistance to carry out the purposes of said Federal Act and of this Article. 1961, March 18, Laws 1961, p. 31, § 14B–8, added 1965, Aug. 20, Laws 1965, p. 3232, § 1.

Massachusetts

Summary of Statute

The Department of Public Health is to determine the availability of educational opportunities for migrants and encourage the development of educational opportunities in cooperation with state and local agencies.

Massachusetts General Laws Annotated, Ch. 111, § 128H:

Sec. 128H. Migrant workers; educational and recreational opportunities; locomotion; visitation rights; regulations; injunctive relief

The department of public health shall, as a part of its inspection of a site for a farm labor camp, determine what educational and recreational opportunities may be available for migrant workers, and shall,

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[1] See 20 U.S.C.A. § 236 et seq.

as far as is practical, encourage the development of such opportunities in cooperation with local and state agencies. The department shall protect the right of the migrant worker to enter and leave the premises of the employer during the period of his employment, and shall include in its certificate of occupancy a notification to the worker that such right exists, notwithstanding any contract provision to the contrary. A worker living in quarters apart from the living quarters of his employer shall have reasonable rights of visitation in his living quarters outside of regular working hours and the certificate of occupancy issued by the department shall include notification, in English and in Spanish, of said rights. The department shall establish, by promulgation of regulations, such minimum standards relating to the rights of visitation under this section as will ensure the adequate protection of said rights. The superior court shall have jurisdiction in equity upon petition brought by the department in the name of the commonwealth to restrain and enjoin violations of this, or of section one hundred and twenty-eight G, or regulations promulgated thereunder.

Amended by St. 1971, c. 373.

1971 Amendment. St. 1971, c. 373, substituted the third and fourth sentences in lieu of the former third sentence, and added the fifth sentence.

St. 1971, c. 373, was approved June 3 1971, and emergency declaration by the Governor was filed on same date.

New York

Summary of Statutes

The Commissioner of Education can grant additional aid to school districts providing summer schools for migrant workers. School districts where migrant labor camps are located may ask for additional donations from districts surrounding them to help defray costs of educating migrant children.

N.Y. Educ. Law § 2040–a:

Sec. 2040–a. Contributions to school districts containing migrant labor camps

Notwithstanding any other provision of law, and for the purposse of sharing the extra expense incurred by a school district in providing temporary educational facilities for children living in a migrant labor camp located therein which supplies labor to employers residing in other school districts, the board of education, trustee, or trustees of any adjoining school district, or other school district in the same town, where employers residing therein are supplied with labor from such migrant labor camp, may contribute not more than three hundred dollars annually to the school district in which such migrant labor camp is located. The moneys so contributed shall be used only for the purposes hereinbefore stated.

Added L.1955, c. 642, eff. April 22, 1955.

Sec. 3602–a. Apportionment of moneys to school districts

1–12. Repealed.

13. In addition to any state aid apportionment to which a school district shall be entitled under the foregoing subdivisions of this section, any school district which maintains an approved summer school for the education of children of school age temporarily located

in the state, whose parents are seasonally employed, by canners, growers or processors of foods and foodstuffs, shall receive a special apportionment in the amount of all approved operating expenditures incurred for such summer school, provided that a plan of operation and expenditures therefor shall have been approved in advance by the commissioner, and provided, further, that such special apportionment shall not exceed the amount of three thousand dollars for the first class of ten or more pupils and the amount of two thousand dollars for each additional class of ten or more pupils in such summer school, except that where there is a total of less than ten pupils in such a summer school, the amount of three thousand dollars shall be prorated in accordance with the number of such pupils. An estimated one-half of such special apportionment shall be payable at or before the beginning of the sessions of such summer school, and the remainder thereof shall be payable upon the approval of the final reports of the operation and expenditures following the close of such sessions.

Oregon

Summary of Statute

Statutory provision is made for summer programs for migrant children. The state will bear the expense of approved programs.

Oregon Revised Statutes, § 343.810–835:

Migrant Children

343.810 *Definitions for ORS 343.810 to 343.835.*—As used in ORS 343.810 to 343.835, unless the context requires otherwise:

(1) "Migrant child" means a child of compulsory school age who is in the custody of migrant workers whether or not they are his parents.

(2) "Migrant worker" means an individual engaged in agricultural labor who does not regularly reside in the county in which he is performing the agricultural labor.

(3) "School district" includes intermediate education districts and state institutions.

[1961 c.502 § 1; 1963 c.570 § 30; 1965 c.100 § 430]

343.815 [1961 c.502 §§ 2, 3; repealed by 1963 c.570 § 33]

343.820 [1961 c.502 § 4; repealed by 1963 c.570 § 33]

343.825 [1961 c.502 § 5; repealed by 1963 c.570 § 33]

343.830 *Summer programs for migrant children.*—School districts may establish summer programs for migrant children to supplement the regular school program and provide instruction in those educational areas in which the migrant child needs special help. The summer programs may be attended by migrant children who will attend regular school sessions in the ensuing school year.

[1961 c.502 §§ 7, 8; 1963 c.570 § 31; 1965 c.100 § 431]

343.835 *Reimbursement; not subject to Local Budget Law.*—School districts shall submit a proposed budget for summer programs to the State Board of Education for approval. Upon completion of the summer program the claim shall be presented to the Superintendent of Public Instruction for reimbursement which shall be made only for

the actual and approved expenses incurred in the program. Expenditures made by a school district in carrying out a summer program shall not be subject to the Local Budget Law (ORS 294.305 to 294.520).

[1961 c.502 § 9; 1963 c.570 § 31a; 1965 c.100 § 432]

Texas

Summary of Statute

Texas provides for additional aid for a child who is "educationally handicapped." He is defined as educationally handicapped ". . . if he cannot speak, read, and comprehend the English language or if he is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level." (§ 16.04 (B))

Texas Educ. Code, §§ 16.01 to 16.22:

Sec. 16.01. Purpose

The purpose of the Foundation School Program is to guarantee to each child of school age in Texas the availability of a Minimum Foundation School Program for nine full months of the year and to establish the eligibility requirements for the public school districts of Texas as in connection therewith.

Sec. 16.02. Disposition of Money Appropriated

Appropriations enacted by the legislature for the promotion of the educational opportunities afforded by this state under this Foundation School Program shall be paid in accordance with the requirements and in the manner provided in this chapter.

Sec. 16.03. Status of Private and Parochial Schools

No provision of this chapter shall be interpreted inimically to the status previously enjoyed by the private or parochial schools operating in this state.

CHAPTER 16. FOUNDATION SCHOOL PROGRAM

Sec. 16.04. Program Eligibility

(a) Beginning with the scholastic year 1973–1974, any child in this state over 5 and under 21 years of age at the beginning of the scholastic year, who has not yet graduated from high school shall be entitled to the benefits of the Basic Foundation School Program for the ensuing school year. Such eligible child shall be admitted tuition-free to the public school of the district in which he, his parents or legal guardian resides.

(b) Notwithstanding the provisions of Subsection (a) of this section, the program of preschool education shall be extended first to "educationally handicapped" children as preparation for the regular school program in which such children will participate in subsequent years. For purposes of this section, a child is "educationally handicapped" if he cannot speak, read, and comprehend the English language or if he is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level. The program shall include an appreciation for the cultural and

familiar traditions of the child's parents and also an awareness and appreciation of the broader world in which the child must live; assist the child in developing appropriate language skills; prepare the child to participate in the world of his peers and the broader cultural stream into which he will progressively move as he matures; begin the development of the mental and physical skills and cooperative attitudes needed for adequate performance in a school setting; and begin the development of his unique character and personality traits.

(c) The benefits of this program for preschool education may be extended on a first priority basis to "educationally handicapped" children on a full day program school year basis.

(d) Provided, however, for the school years beginning 1973–74, and through 1976–77 inclusive, a public school kindergarten program shall be offered on a one-half day basis for all other eligible children who become five (5) years of age on or before September 1 of the scholastic year. Such kindergarten program(s) shall be operated on a one-half day basis for Foundation School Program unit eligibility allotment purposes beginning the school year 1973–74. Provided further that any school district may choose to operate a full day program for the first half of the school year for one-half, approximately, of its kindergarten children and operate a full day program the latter half of such year for the remainder of its kindergarten children.

(e) Beginning with the school year 1977–1978 and thereafter, school districts may choose to operate kindergartens on a full day basis for Foundation School Program unit allotment eligibility purposes. Provided further that any school district may choose to operate a full day program for all its kindergarten children for one semester only.

(f) A scholastic is a student in average daily attendance within the age limits prescribed in this section.

Amended by Acts 1973, 63rd Leg., p. 1633, ch. 592, § 1, eff. June 15, 1973.

Sec. 16.07. Classification

To effectuate the Foundation School Program here guaranteed, school districts are authorized to utilize the following professional positions, or units, and services:

(1) professional positions;

(A) classroom teachers;

(B) vocational teachers;

(C) special service teachers, among which shall be included librarians, school nurses, school physicians, visiting teachers, and itinerant teachers;

(D) teachers of exceptional children;

(E) supervisors and/or counselors;

(F) principals, part-time;

(G) principals, full-time;

(H) superintendents; and

(2) services;

(A) current operating cost other than professional salaries and transportation; and

(B) transportation.

Sec. 16.08. Duties of Public School Principals

Public school principals, who shall hold valid administrative certificates, shall be responsible for:

(a) assuming administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline, and the planning, operation, supervision, and evaluation of the educational program of the attendance area in which he is assigned;

(b) submitting recommendations to the superintendent concerning assignment, evaluation, promotion, and dismissal of all personnel assigned to the attendance center; and

(c) performing any other duties assigned by the superintendent pursuant to school board policy.

(d) Nothing herein shall be construed as a limitation on the powers, responsibilities and obligations of the school board as now prescribed by law.

Added by Acts 1971, 62nd Leg., p. 81, ch. 44, § 1, eff. April 1, 1971.

Sec. 16.11. Professional Units—Allotment—General Rules

(a) The total number of professional units allotted to each district shall be the sum of the professional units, hereinafter prescribed, for classroom teachers, vocational teachers, special service teachers, teachers of exceptional children, supervisors and/or counselors, full-time and/or part-time principals, and superintendents.

(b) Such professional unit allotments shall be contingent upon the employment of qualified personnel and upon the payment of not less than the minimum salary as prescribed in this chapter.

(c) No district will be required to employ professional personnel for the full number of professional units for which it is eligible, but where a fewer number are employed, grants shall be based upon the number actually employed during the current school year; and

(d) All personnel allotted under the Foundation School Program shall be allocated to school districts on the basis of current average daily attendance without regard to race, creed, or color of students.

(e) In addition to the method of allocating professional units under the Minimum Foundation Program on the basis of current average daily attendance, any school district may choose to utilize the preceding year's average daily attendance to establish the basis for allocation of professional units in compliance with the formulas in this chapter.

(f) Where a school district is consolidated or contracted with another district, or annexed in whole or part to another district or districts, or where the number of grades taught has been reduced, or where the scholastics are transferred to another district, or where there is an annual fluctuation in the attendance in the district, or where for any reason there is a marked increase or decrease in the attendance of any school district, adjustments in professional allotments shall be made by the state commissioner of education subject to the applicable rules and regulations of the State Board of Education.

(g) Attendance in grades not classified to be taught by the county school board shall not be included in determining professional unit eligibility.

(h) Attendance of non-resident scholastics whose grades are taught in their home districts shall not count for teacher eligibility, unless the transfer of such scholastics has been approved by the county school board and the state commissioner of education.

(i) Any school district which is not dormant as defined in Section 16.80 of this code may, with approval of the boards of trustees of the districts concerned, the county school superintendent, and the state commissioner of education, contract for a period of one year to transfer its entire scholastic enrollment, both white and colored, to a contiguous district. The scholastic census rolls of both districts shall be combined, the per capita apportionment paid directly to the receiving district, and the combined average daily attendance used in determining the number of professional units for which the receiving district shall be eligible.

(j) Any school district containing 100 square miles or more and having fewer than one pupil per square mile, and which operates and maintains a four-year accredited high school, may be allotted by the state commissioner of education the number of professional units determinable as earned by the application of a sparse-area formula approved by the State Board of Education. The state commissioner of education shall consider in making such allotments the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school.

(k) In determining the number of professional units allotted to each school district in the foundation school program, the attendance of orphan, dependents, or neglected children who are wards of the state shall be considered eligible average daily attendance in the receiving school district or districts to which these children are transferred after approval by the county school board and the state commissioner of education.

Subsecs. (d), (e) amended by Acts 1971, 62nd Leg., p. 1510, ch. 405, § 34, eff. May 26, 1971.

Sec. 16.12. Professional Units—Allotment Formulas

Subject to the general rules set out in Section 16.11 of this code, the number of professional units for each district shall be determined as prescribed in the succeeding sections of this subchapter.

Sec. 16.13. Classroom Teacher Units

Classroom teacher professional units for each school district shall be determined, and teachers allotted in the following manner:

(1) to school districts having fewer than 15 pupils in average daily attendance, no classroom teacher unit, except that in cases of extreme hardship, such districts may be allotted on a year-to-year basis one classroom teacher unit if so recommended by the county school board and approved by the state commissioner of education;

(2) to school districts having from 15 to 25 pupils, inclusive, in average daily attendance, one classroom teacher unit;

(3) to school districts having from 26 to 109 pupils, inclusive, in average daily attendance, two classroom teacher units for the first 26 pupils and one classroom teacher unit for each additional 21 pupils (no credit to be given for fractions);

(4) to school districts having from 110 to 156 pupils, inclusive, in average daily attendance, six classroom teacher units;

(5) to school districts having from 157 to 444 pupils, inclusive, in average daily attendance, one classroom teacher unit for each 24 pupils, or fractional part thereof in excess of one-half;

(6) to school districts having from 445 pupils to 487 pupils, inclusive, in average daily attendance, 19 classroom teacher units; and

(7) to school districts having from 488 or more pupils in average daily attendance, one classroom teacher unit for each 25 pupils, or fractional part thereof in excess of one-half.

Amended by Acts 1971, 62nd Leg., p. 1506, ch. 405, § 27, eff. May 26, 1971.

Sec. 16.14. Vocational Teacher Units

(a) Vocational teacher professional units, vocational supervisor professional units, and vocational counselor professional units for each school district shall be determined and allotted as prescribed by this section.

(b) Each school district having a four-year accredited high school shall be eligible, under rules and regulations of the State Board of Education, for two vocational teacher units to teach one or more vocational programs provided there is a need thereof, and provided the programs shall have been approved by the commissioner of education.

(c) Additional vocational teacher units for four-year accredited high schools may be allotted according to needs determined by a survey of the community and approved by the commissioner of education.

(d) A district having an accredited high school which qualifies, according to the rules and regulations of the State Board of Education, for less than one vocational teacher unit, may be allotted by the commissioner of education a fractional part of a vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or assign a classroom teacher to serve as part-time vocational teacher.

(e) Each school district having a four-year accredited high school shall be eligible, under rules and regulations as approved by the State Board of Education, for such specialized vocational supervisor units and vocational counselor units as there is a need thereof, and in the number determined by application of formulas adopted by the State Board of Education and subject to approval by the commissioner of education.

(f) Vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments. Vocational teacher units shall be included in determining the total current operating cost for each district. In addition to this allowance, there shall be an additional allocation of $400 for each vocational teacher unit.

(g) School districts which, because of limited enrollments, tax resources, or facilities are unable to offer appropriate vocational education in all occupational areas needed may enter into contracts with post-secondary public institutions, as defined by the State Board of Education, to provide for such appropriate vocational education instruction provided the instructors and instructional materials and equipment utilized meet secondary school program requirements.

(h) Such contracts shall be executed pursuant to rules and regulations of the State Board for Vocational Education (State Board of Education) and the cost to the State shall not exceed the cost that

would result if said programs were operated by the respective school districts entering into such contracts.

Amended by Acts 1971, 62nd Leg., p. 1511, ch. 405, § 35, eff. May 26, 1971.

Sec. 16.15. Special Service Teacher Units

NOTE: Sections 16.15 and 16.17 were removed in 1975. Chapter 16, formerly consisting of Sections 16.01 to 16.98, was amended by Acts 1975, 64th Leg., Page 877, Ch. 334, Section 1, to consist of Sections 16.001 to 16.304. In the amending process, 16.15 and 16.17 were removed.

(a) Special service teacher professional units for each school district, which may be separate for whites and Negroes, shall be based upon the number of approved classroom teacher units, and shall be determined and teachers allotted, in addition to other professional unit allotments, in the manner prescribed by this section.

(b) Districts which have 20 or more approved classroom teacher units shall be eligible for one special service teacher unit for each 20 classroom teacher units, no credit to be given for fractions.

(c) Districts not eligible for a full special service teacher unit may enter by vote of their respective boards of trustees, into one cooperative agreement to provide special service teachers, as prescribed in subsection (b) of this section, to be recommended and supervised by the county school superintendent, and employed by the county school board. The state commissioner of education shall, upon the county superintendent's certification of such agreement, allot to each district party thereto a fractional part of a special service teacher unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by 20.

(d) School districts may choose from the five types of special service teacher units listed in Section 16.07(1)(C) of this code the number of each classification that it desires, to the extent of total eligibility for such units, but the allocation of special service teacher units shall not preclude the assignment of classroom teachers to special service duties. The state commissioner of education shall establish qualifications for special service teachers which shall be subject to regulations made by the State Board of Education.

Sec. 16.16. Comprehensive Special Education Program for Exceptional Children

(a) It is the intention of this section to provide for a comprehensive special education program for exceptional children in Texas.

(b) As used in this section:

(1) "Exceptional children" means children between the ages of 3 and 21, inclusive, with educational handicaps (physical, retarded, emotionally disturbed, and/or children with language and/or learning disabilities) as hereinafter more specifically defined; autistic children; and children leaving and not attending public school for a time because of pregnancy—which disabilities render regular services and classes of the public schools inconsistent with their educational needs.

(2) "Physically handicapped children" means children of educable mind whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the

regular classes of the public schools without the provision of special services.

(3) "Mentally retarded children" means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Emotionally disturbed children" means children whose emotional condition is medically and/or psychologically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

(5) "Language and/or learning disabled children" means children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term "language and/or learning disabled children" shall also apply to children diagnosed as having specific development dyslexia.

(6) "Special services" required for the instruction of or program for exceptional children means special teaching in the public school curriculum within and/or without the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities.

(c) Under rules, regulations and/or formulae adopted by the State Board of Education subject to the provisions of this section, exceptional children teacher units, in addition to other professional and paraprofessional unit allotments herein authorized, shall be allotted to any eligible school district in the number determinable thereunder. Exceptional children teacher units for pupils who are both severely physically handicapped and mentally retarded shall be allocated on a separate formula from other type units.

(d) Professional personnel for the operation and maintenance of a program of special education shall be:

(1) exceptional children teachers;

(2) special education supervisors;

(3) special education counselors;

(4) special service teachers, such as itinerant teachers of the homebound and visiting teachers, whose duties may or may not be performed in whole or in part on the campus of any school; and

(5) psychologists and other pupil evaluation specialists. The minimum salary for such specialist to be used in computing salary allotment for purposes of this section shall be established by the commissioner of education.

(e) Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate. The qualifications and minimum salary levels of paraprofessional personnel

for salary allotment purposes of this section shall be established by the commissioner of education.

(f) Quantitative bases for the allotment of all special education unit personnel under Subsection (c) of this section shall be established by the commissioner of education under rules adopted by the State Board of Education. Any school district, at its expense, may employ any special education personnel in excess of its state allotment, may supplement the minimum salary allotted by the state for any special education personnel, and any district is authorized at local expense to pay for all or part of further or continuing training or education of its special education personnel.

(g) Special education unit personnel may be employed and/or utilized on a full-time, part-time, or upon a consultative basis, or may be allotted by the commissioner of education, pursuant to cooperative dlstricts' agreement, jointly to serve two or more school districts. Two or more school districts may operate jointly their special education program and any school district may contract where feasible with any other school district for all or any part of the program of special education for the children of either district, under rules and regulations established by the commissioner of education.

(h) To each school district operating an approved special education program there shall also be allotted a special service allowance in an amount to be determined by the commissioner of education for pupil evaluation, special seats, books, instructional media and other supplies required for quality instruction.

(i) To each school district operating an approved special education program, there shall be allotted also a transportation allowance for transporting of children in special education programs who are unable to attend the special education program for exceptional children in public school unless such special transportation is provided. The annual transportation allotment shall be $150 per exceptional child pupil receiving such transportation. Such allocated transportation funds shall be used only for transportation purposes for children who are enrolled in a program of special education or who are eligible for such enrollment.

(j) The minimum monthly base pay and increments for teaching experience for an exceptional children teacher or a special service teacher conducting a 9, 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a classroom teacher as provided in the Foundation Program Act; provided that special education teachers shall have qualifications approved by the commissioner of education. The annual salary of special education teachers shall be the monthly base salary, plus increments, multiplied by 9, 10, 11, or 12, as applicable.

(k) The minimum monthly base pay and increments for teaching experience for special education counselors and supervisors engaged in a 9, 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a counselor and/or supervisor as provided in the Foundation Program Act; provided that such counselors and supervisors shall have qualifications approved by the commissioner of education. The annual salary of special education counselors and supervisors shall be the monthly

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base salary, plus increments, multiplied by 9, 10, 11, or 12, as applicable.

(l) The salary costs of special education teacher units, other professional and paraprofessional units authorized in Subsections (c), (d), and (e) of this section, operating costs as provided in Subsection (h), and transportation costs as provided in Subsection (i), computed as other costs of the Foundation School Program Act for local fund assignment purposes thereof, shall be paid from the Foundation Program School Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or sources available to it from local source, public and/or private.

(m) Under rules and regulations of the State Board of Education, eligible school districts may contract with nonprofit community mental health and/or mental retardation centers, public or private, or any other nonprofit organization, institution, or agency approved by the State Board of Education, for the provision of services to exceptional children as defined by this section, who reside with their parents or guardians.

(n) Special education program units shall be included in determining the total current operating cost for each district.

(o) The Foundation School Fund Budget Committee shall compute all amounts required for comprehensive special education program purposes to be included in the amounts to be placed in the Foundation School Fund for the ensuing biennium at the same time that certifications are made for other Foundation School Fund purposes.

Amended by Acts 1973, 63rd Leg., p. 681, ch. 287, § 1, eff. June 11, 1973.

Sec. 16.17. Supervisor and/or Counselor Units

NOTE: Sections 16.15 and 16.17 were removed in 1975. Chapter 16, formerly consisting of Sections 16.01 to 16.98, was amended by Acts 1975, 64th Leg., Page 877, Ch. 334, Section 1, to consist of Sections 16.001 to 16.304. In the amending process, 16.15 and 16.17 were removed.

(a) The state commissioner of eduction shall establish, subject to regulations by the State Board of Education, qualifications for supervisors and counselors. Supervisor and/or counselor professional units for each school district, which may be separate for whites and Negroes, shall be determined and supervisor and/or counselor units allotted, in addition to other professional unit allotments, as prescribed by this section.

(b) The basic allotment shall be one supervisor or counselor unit for the first 40 classroom teacher units and one supervisor or counselor unit for each additional 50 classroom teacher units, or major fractional part thereof. If a district is eligible for one such unit, the district may employ for such unit either a supervisor or a counselor, but not both. If a district is eligible for two or more such units, the district may employ supervisors only, counselors only, or a combination of the two to the extent of total eligibility.

(c) Districts having fewer than 40 classroom teacher units may enter, by vote of their respective governing boards, into one cooperative agreement to provide supervisors and/or counselors to be recommended and supervised by the county superintendent and employed by the county school board. Under such agreements the combined

classroom teacher units of the cooperating districts shall be used in calculating eligibility for supervisor and/or counselor units, but if the county employs a supervisor from the county administrative funds, 40 classroom teacher units shall be deducted from the combined total. The state commissioner of education shall, upon the county superintendent's certification of such agreement, allot to each district party to such agreement a fractional part of a supervisor or counselor unit, said fraction to be not greater than the number of approved classroom teacher units for that district divided by 40.

Sec. 16.18. Principal Units

(a) Principal units shall be of two types: full-time principal units and part-time principal units. A part-time principal unit shall entitle a district to assign a classroom teacher to serve as a part-time principal and to receive an additional salary allowance as hereinafter provided in this chapter.

(b) The principal unit allotment as hereinafter provided shall be based upon the number of approved classroom teacher units and shall be made in addition to other professional unit allotments. Principal units for each school district, which may be separate for whites and Negroes, shall be determined and allotted as prescribed in this section.

(c) No district having fewer than three approved classroom teacher units shall be eligible for a principal allotment.

(d) To districts having from three to 19 classroom teacher units and not having an accredited four-year high school, one part-time principal unit shall be allotted.

(e) To districts having from nine to 19 classroom teacher units and having a four-year accredited high school, two part-time principal units shall be allotted. Additional part-time principal units shall be allotted, if necessary, to the extent that at least one part-time principal will be available for each campus on which a school with more than two classroom teachers is operated in the district.

(f) To districts having 20 or more approved classroom teacher units there shall be allotted one full-time principal unit for the first 20 classroom teacher units and one full-time principal unit for each additional 30 classroom teacher units, but fractions shall not be considered in computing principal allotments.

(g) Part-time principal units, in addition to full-time principal unit allowances provided above, shall be allowed as follows: one from the first 20 classroom teachers, and one from each additional 30 classroom teachers. Service as part-time principal shall be in addition to part-time classroom duties. Those so designated shall receive an additional allowance as hereinafter provided in this chapter. Additional part-time principal units shall be allotted, if necessary, to the extent that at least one full-time or part-time principal will be available for each campus on which a school with more than two classroom teachers is operated in the district.

Sec. 16.19. Superintendent Unit

Superintendents shall serve the entire school district. Allotments for superintendent units as provided for herein shall be made in addition to other professional unit allotments. Superintendent units for each district shall be determined and allotted in the following manner: A district having one or more four-year accredited high

schools shall be eligible for one superintendent allotment. A district which does not have a four-year accredited high school shall not be eligible for a superintendent allotment.

Sec. 16.20. Repealed by Acts 1971, 62nd Leg., p. 1533, ch. 405, Sec. 54 (1), eff. May 26, 1971

Sec. 16.21. Allocation of Units in Certain Districts

Notwithstanding the provisions of Sections 16.11 and 16.13 of this code, the number of professional units allocated to school districts which operate and have operated for at least three consecutive years a four-year accredited high school and have an average daily attendance range between 84 and 156 pupils for the immediate preceding year shall be based on the following formula: a school district having 84 to 106 pupils, inclusive, in average daily attendance shall be allotted six classroom teacher units and a superintendent unit. A school district having 107 to 156 pupils, inclusive, shall be allotted seven classroom teacher units and a superintendent unit.

Amended by Acts 1971, 62nd Leg., p. 1512, ch. 405, § 36, eff. May 26, 1971.

Sec. 16.22. Administration—Office Assignments

For utilization of classroom teacher unit allotment purposes, the Central Education Agency shall regard and recognize as classroom teacher(s) within the definition of "teacher" as described in the Texas State Public Education Compensation Plan, teacher certificated personnel employed or assigned by any school district to teach, as classroom teachers, and/or to perform administration-office assignments or tasks.

Added by Acts 1971, 62nd Leg., p. 3362, ch. 1024, art. 2, § 44, eff. Sept. 1, 1971.

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THE MIGRANT FARMWORKER SITUATION IN THE U.S.

THE PROBLEMS AND THE PROGRAMS

INTRODUCTION

> Migrant and seasonal farm workers have long been among the most exploited groups in the American labor force. Despite their hard toil and valuable contribution to our nation's economy, their lot has historically been characterized by low wages, protracted hours, and horrid working conditions. The families, and particularly the children of these workers have also suffered from the typical symptoms of chronic poverty -- being undereducated, ill-fed, poorly housed, and lacking even the most rudimentary health and sanitary facilities. The tragedy is further compounded when it is realized that the victims of this poverty are in fact the working poor, those who offer an honest day's labor, but are denied the full benefits such work should provide, which are so desperately needed to provide the most basic necessities of life. 1/

This statement pretty much sums up the situation of the migrant and seasonal farmworker as it exists today. About 25 years earlier, the President's Commission on Migratory Labor gave this account of the migrant situation:

> Migratory farm laborers move restlessly over the face of the land, but they neither belong to the land nor does the land belong to them. They pass through community after community, but they neither claim the community as home nor does the community claim them. Under the law, the domestic migrants are citizens of the United States but they are scarcely more a part of the land of their birth than the alien migrants working beside them.
>
> The migratory workers engage in a common occupation, but their cohesion is scarcely greater than that of pebbles on the seashore. Each harvest collects and regroups them.... The public acknowledges the existence of migrants, yet declines to accept them as full members of the community. As crops ripen, farmers anxiously await their coming; as the harvest closes, the community, with equal anxiety, awaits their going. 2/

1/ Senate Report No. 93-1295 on the Farm Labor Contractor Registration Act Amendments of 1974, Committee on Labor and Public Welfare, p. 1.
2/ Migratory Labor in American Agriculture. Report of the President's Commission on Migratory Labor, 1951, p. 3.

Background

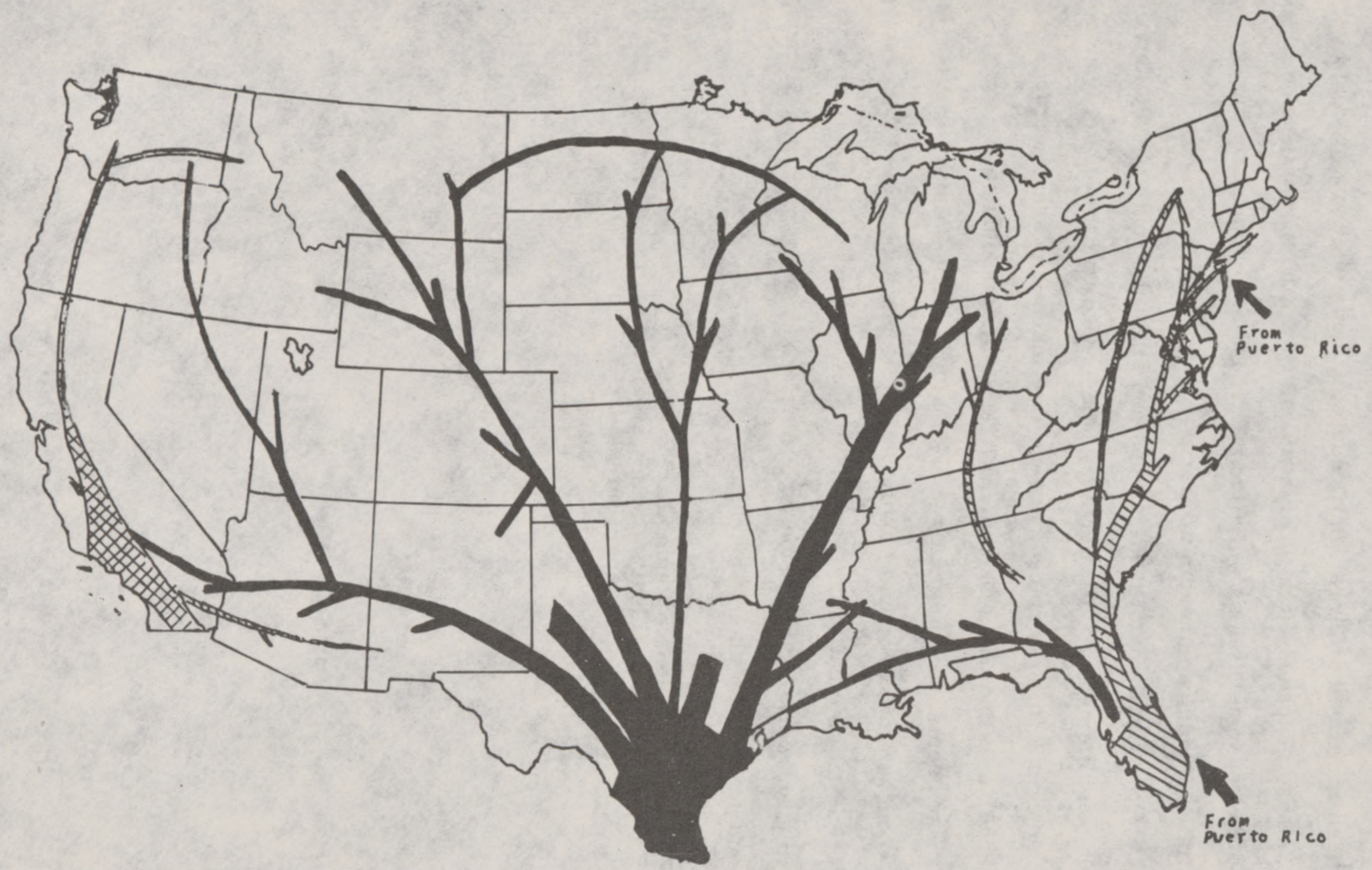
No large group of migrants has remained permanently migratory. This probably is the best evidence that people are not migrants by choice.

Migrant agricultural labor has been used extensively in this country since the latter part of the nineteenth century. Typically the migrant labor force has been composed of large ethnic blocks. During the early part of this century, Chinese, Japanese, and Filipinos constituted the majority of those who worked the West Coast fields, while their East Coast counterparts included many Irish, Italian, and Scandinavian workers.[3/]

However, none of these groups remained migrants. In the thirties the largest element in our migratory labor group was the "Okie," the collective name applied to displaced people of the farms and service trades of the "dust bowl" area including Oklahoma, Arkansas, Missouri, and Texas. Many of these people were migratory workers through the thirties, but they resettled whenever the opportunity appeared. No longer does this group remain the principal element in the Nation's migratory work force.[4/] Today, the bulk of the migrant workforce is made up of MexicanAmericans, Puerto Ricans, West Indians, and native born black Americans.[5/]

3/ Op. cit., Senate Report No. 93-1295.
4/ Op. cit., President's Commission, p. 2.
5/ Op. cit., Senate Report No. 93-1295.

TRAVEL PATTERNS OF SEASONAL MIGRATORY AGRICULTURAL WORKERS



The Migrant Farmworker

From the standpoint of both working and living conditions, the most disadvantaged farmworkers are those who migrate from area to area, following the crops. The 1971 Manpower Report of the President gave the following account of migrant farmworkers:

> The migratory workers and their families may be away from their home base for several months out of the year. Their itinerary may span thousands of miles, many different employers, and and a variety of crops. Jobs are intermittent, and slack periods with little or no earnings are common...
>
> Migratory farmworkers travel out of economic necessity, not because of preference for nomadic life. Seasonal farm activities in the southern parts of Florida, Texas, and California, which are the home-base areas for the largest groups of migrants, do not provide sufficient employment and earnings. Workers depending on seasonal farm jobs must move with the crops in the hope of lengthening their periods of work and increasing their annual incomes. Migrants begin their annual trek northward in the early Spring, following a cycle of activities in a number of crop areas. In California, they typically cultivate cotton and vegetables and then move into the harvest of a variety of Spring vegetable and fruit crops. In other Western and North Central States, they find Spring jobs in sugar beet cultivation and in the strawberry harvest. During the Spring, migratory workers also are found in fruit and vegetable harvest activities in the Atlantic Coast States. Summer and Fall are the most active seasons; migratory workers are relied on to supplement local labor in harvesting tomatoes, grapes, peaches, pears, melons, cherries, blueberries, cucumbers, apples, tobacco, and other crops.
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> The peak employment of migratory workers in areas reporting to the Department of Labor usually occurs in August... Nearly three-fourths of these were interstate migrants. Virtually every State uses migratory workers at some time during the year, with the largest numbers in California, Michigan, Texas, and Florida. Other States with significant numbers of these workers were Ohio, Oregon, New York, Washington, and New Jersey.
>
> "Migratory workers" basic problem is, of course, irregularity of work, despite efforts by the public employment service to coordinate and regularize their employment. Harvest timetables may be upset

by the vagaries of weather and crop failures. The number of workers needed may be overestimated, or the unexpected arrival of crews may upset prior plans and create labor surpluses in some areas while others are short of workers. And workers receive no pay for time spent in travel or waiting for work. In effect, some of the risks associated with the weather and other circumstances are shifted from employers to hired workers-to a much greater extent than in other industries where the labor supply is less flexible and workers are protected by collective bargaining agreements. Furthermore, housing and sanitary conditions are often unsatisfactory in the migrant workers' camps, and adequate health services and child care are generally lacking.

The majority of migratory farmworkers come from seriously disadvantaged groups. Many are Mexican Americans and Negroes, whose employment problems are compounded by discrimination.

The average level of education is low. Since families are constantly on the move, the schooling of children is often interrupted. Large numbers of migrant children who are in school are below the grade level normal for their age. Many drop out of school at an early age to help supplement family earnings and thus further handicap themselves in future efforts to enter more stable, better paid fields of work.

The migratory farmworker performs an indispensable role in meeting the seasonal work demands of planting, cultivating, harvesting and processing our Nation's agricultural products. Working in a succession of short-term jobs, the migrant and his family must move from one area to another, making themselves available to meet peak worker shortages for laborintensive fruit and vegetable crops throughout the country. Highly perishable crops, such as blueberries, asparagus, or strawberries, must be harvested,

and harvested within a relatively limited amount of time. Delay spells serious economic consequences not only for the farmer and his employees, but for the entire agricultural and rural economy and the Nation's food supply.[6/] A senior staff economist at the Department of Labor estimated that without migratory labor the United States could lose over $500 million in agricultural production during the Summer of 1974.[7/]

The Number of Migrants

Determining the precise number of migrant workers and the total size of their families, or even a reasonably close estimate, has been baffling, confusing, and controversial. The U.S. Department of Agriculture, Department of Labor, Office of Economic Opportunity, as well as the Department of Health, Education and Welfare all have arrived at different estimates -- primarily the result of inadequate statistical data gathering compounded by different definitions of the term "migrant."

The nature of this dilemma can be summed up in the following quote from a staff memorandum that was issued to the Chairman of the House Subcommittee on Agricultural Labor and printed in the hearings on H.R. 5010 and related bills, 92nd Congress, 1st Session (Seminar on Farm Labor Problems).

6/ U.S. Senate. The Migratory Farm Labor Problem in the United States. 1969 Report of the Committee on Labor and Public Welfare made by its Subcommittee on Migratory Labor, p. 102.

7/ MLAP Monthly Report, Vol. 3, No. 6, June 1974, p. 5, published by the Migrant Legal Action Program, Inc.

At the same time, it is not possible to arrive at a simple multiplier factor, or to simply accept instead the figures of other agencies. The different figures tend to represent a use of the word "migrant," less to reflect the worker's travel status than to indicate his socio-economic situation.

In the case of some of the agencies involved, a more precise linkage of the word "migrant" to actual movement would tend to render their programs nugatory. How, we may ask, would a migrant education program be of assistance to children who were only eligible for it while they were actually on the road with their parents? The same problem would arise if Manpower Administration "settling out" programs were to lose their authority the moment a season opened and the previously migratory worker didn't hit the road.

Among the public, too, the word "migrant" has become associated with a whole complex of economic and social deprivations, and tends to mean a group of people whose condition is exemplified by the migrant -- whether they have settled out into stationary misery, or continue to take it along the Interstate with them.

A further legitimate question to which none of the agency figures reported here address themselves is just how deep are the roots put down by the settled-out farm worker. Will he stay out of the stream? Will he stay out of agriculture? Or will the continuing unemployment crisis or changes in the availability of social and economic benefits mean that sooner or later he will start moving again? Is the fact of migration inherently and unalterably an economic drawback to the migrant?

To the question of how many migrants there are, as to these other questions, your staff respectfully submits its inability to respond.

According to the Department of Agriculture's statistical report on the hired farm working force of 1973 (Agricultural Economic Report No. 265), about 203,000 individuals were domestic migratory workers. This was an increase of 10 percent from 184,000 in 1972 and continued the increase which began in 1971 after a continuous decline in numbers which had occurred since 1965. Thus, it would not appear that the migrant problem "is going away."

The estimates in the Agriculture Department's statistical report were based on data obtained in December 1973 through supplementary questions asked in the Current Population Survey of the Bureau of Census. It should be noted that the estimates concern persons 14 years of age or older who did farm wagework in 1973 -- thus omitting the children in migrant households who often work along side their parents. Migrant workers are defined in the statistical report as "...those who (a) left their homes temporarily overnight to do farm wagework in a different county within the same State or in a different State with expectation of eventually returning home, or (b) had no usual place of residence, and did farm wagework in two or more counties during the year."

Back in 1972, the Agriculture Department's Economic Research Service estimated that there were about 141,000 migratory farmworker households with an average of 4.82 persons per household, or a total migratory population of 680,000. However, this was at a time when they estimated there were a total of 172,000 persons doing some migratory farm wage work in 1971. With the present estimate of 203,000 persons doing some migratory farm wage work in 1973, the total migratory population might be expected to be proportionately larger. For instance, the Senate Labor and Public Welfare Committee Report on the Health Services Act of 1974 cites a migrant health services program target population of 3 million domestic farm workers and their families.

This same 1972 Economic Research Service estimate revealed that contrary to the stereotype view held by many, only 9 percent of the 172,000 persons doing some migratory farm wage work in 1971 were classified as "Negro or other races" (other races included Indians, Japanese, Chinese, and Filipinos). On a three-way ethnic breakdown, it was estimated that 9 percent were Negro and other races, 34 percent were Spanish-Americans, and 57 percent were other whites.

However, according to the September 1973 report of the Department of Labor's Farmworker Task Force one of the areas in which farmworker statistics tend to be the most distorted is that of the ethnic/racial breakdown. Although it is stated in the report that the task force believed that the available data are practically useless, it was felt important to discuss this sensitive area which is frequently of concern to special interest groups. Hence, the following statement:

> In addition, our most knowledgeable people in the field are probably confused in that they tend to view the ethnic breakdown for the entire U.S. on the basis of their empirical observations in specific geographical areas. The result is that those working in Texas are convinced that Mexican-Americans make up the majority of the farm labor force, while those working in the East believe that Blacks constitute a significant proportion of the farmworker force. What is the evidence to support any of these contentions? The answer is none!

Some of the highlights concerning migrants from the 1973 statistical report are as follows:

--Noncasual domestic migratory workers (i.e., those working 25 or more days) averaged 138 days of work a year at $16.50 a day, thus earning $2,276 a year.

--About 170,000 migratory workers (84 percent) were male, and 34,000 (16 percent) were female.

The following table is based on information extracted from the 1973 statistical report:

Distribution of migratory workers by age and sex

Age	Number of Workers (in thousands)		
	Total	Male	Female
14-17	52	43	9
18-24	56	45	11
25-34	37	33	5
35-44	28	20	7
45-54	19	16	3
55-64	8	8	0
65 and over	4	4	0
Total	203	170	34

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The computerized Uniform Migrant Student Record Transfer System (discussed later) also provides statistical data upon which to estimate the total number of individuals constituting the migrant and seasonal farmworker population.

To understand the problems confronting the migratory farm worker, one must consider what is happening in rural America generally, especially the impact of agricultural technology upon rural people. There is, of course, a special set of problems associated with the migrancy of farmworkers. However, many of the problems confronting migrants are representative of what is happening to agricultural manpower in general, and what is happening to rural people.[8/]

8/ Daniel W. Sturt, Director, Rural Manpower Service, Manpower Administration, Department of Labor. Hearings before the Senate Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare, April 15, 1970.

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PROBLEMS

Mechanization

Two of the everyday uncertainties that the seasonal farmworker experiences in seeking employment are adverse weather that causes crop damage or retards crop growth, and production cutbacks because of low prices. Of more serious consequence is another adversity that he has to face -- mechanization. Technology applied to cultivation and harvesting practices is tending to convert agriculture from an enterprise noted for intensive labor activities to an industry that can plant, cultivate, and harvest almost entirely by machine. From 1960 to 1970, seasonal farm labor requirements diminished approximately 30 percent, and further erosion of jobs due to mechnization will continue in the future. The outlook for employment in this type of labor is for a continuation of the trend of recent years. The labor demands will again diminish for various reasons, aggravating the surplus labor supply problem inherited from the preceding year.[9/]

Critics of mechanization believe that the cost of inexpensive food must be measured in terms of what happens to the people involved in the production of this food, and what happens to the rural communities where these people live. The critics take note that the human fallout from unbridled technological innovation includes, among others, many migratory workers.[10/]

The small family farm, though still many in number, has been effectively replaced because of productivity by large commercial operations. Indeed, it is "agribusiness" which is now the mainstay of modern American farming. Although

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9/ Rural Manpower Developments, Outlook for Seasonal Farm Labor in 1971. U.S. Department of Labor, May 1971, p. 32.
10/ Op. cit., Daniel W. Sturt.

the impact of mechanization and crop specialization has diminished the overall demand for farm workers generally, the periodic need for such seasonal labor remains acute.[11/]

Housing

Many people believe that there is probably no working group in the United States today that lives in worse housing than migrants in stream states. Traditionally, the growers who hire the migrants furnish the housing. Farmers and growers see improved housing as economically unfeasible in view of the costs involved and the limited time that the housing is occupied over the season. This has been a point of irritation for both growers and migrants over the years. Growers complain that they are the only employers in the country who are required to furnish housing for their labor force. This contention is often used to explain why stricter farm labor housing codes should not be enacted or actively enforced. Migrants complain that housing provided by growers is used as an unreasonable tool by their employer to gain an unfair bargaining position and control over their private lives. Furthermore, there is documentation that a number of labor camps run by growers, groups of growers, or labor contractors often become virtual prisons for the employees and families who occupy them.[12/] In Dade County, Florida, a farm labor contractor was convicted by the U.S. District Court on two of 16 counts of peonage and involuntary servitude. The farm labor contractor was charged in March 1973 after a raid on an isolated farm labor camp on the fringes of the Everglades. Many of the 27 workers in the camp claimed that the contractor forced them to work in his crews by claiming that the migrants owed him money. Some workers said they were paid just a few dollars a week and

11/ Op. cit., Senate Report No. 93-1295, p. 2.
12/ Lee P. Reno. Pieces and Scraps -- Farm Labor Housing in the United States, Rural Housing Alliance, Washington, D.C., September 1970, p. 25.

were beaten if they tried to leave. In addition, at present there are two peonage cases pending in the State of Pennsylvania.

In testimony before the Senate Subcomittee on Migratory Labor, Dr. Raymond Wheeler stated:

> We saw housing and living conditions horrible and dehumanizing to the point of our disbelief...without heat, adequate light or ventilation, and containing no plumbing or refrigeration, each room (no larger than 8 x 14 feet) is the living space of an entire family appropriately suggesting slave quarters of earlier days...
>
> ...For example, in Dade County [Florida] we looked at quarters operated by the Homestead Housing Authority with public funds... there was not one gesture toward providing either comfort or basic human needs -- no source of water, no toilet, no refrigeration, no heat...13/

The Department of Labor has established an annual worker program to assist agricultural employers in recruiting workers from places outside the State of intended employment. The experiences of the Department indicated that employees so referred had, on many occasions, been provided with inadequate, unsafe, and unsanitary housing facilities. To discourage this practice, the Department has established a policy of denying its interstate agricultural recruitment services to employers until it has ascertained that the housing and facilities are: (1) available, (2) hygienic and adequate to the climatic conditions of the area of employment; (3) large enough to accomodate the agricultural workers sought, and (4) will not endanger the lives, health or safety of workers and their families.14/

13/ Testimony of Dr. Raymond M. Wheeler, in hearings before the Senate Subcommittee on Migratory Labor, Committee on Labor and Public Welfare, 91st Congress, 1st and 2nd Sessions, "Who is Responsible?", July 20, 1970, Part 8-A, p. 5063.

14/ Federal Register, vol. 33, no. 213, November 31, 1968.

Wages

Wages received by migrant farmworkers are among the lowest of the "working poor." For instance, the 1970 report of the Migrant Research Project sponsored and funded by OEO showed the following wage and socio-economic data for 3,975 migrant workers interviewed.

	Mexican American	Black	Other
Average Annual Income 1970	$2,130	$1,448	$1,888
Average Size of Family	6.4	5.5	4.2
Average Number of Workers Per Family	2.3	2.0	2.0

The following table on the average number of days worked and wages earned at farm and nonfarm wagework in 1973 was extracted from the aforementioned Agriculture Department statistical report.

Average number of days worked and wages earned at farm and nonfarm wagework, 1973

	Number of Workers	Farm and nonfarm			Farm			Nonfarm		
		Days Worked	Wages earned per year	Wages earned per day	Days Worked	Wages earned per year	Wages earned per day	Days Worked	Wages earned per year	Wages earned per day
All Migratory workers	203,000	150	$2,517	$16.85	98	$1,597	$16.35	52	$920	$17.70
South	60,000	166	2,454	14.75	114	1,479	12.95	52	975	18.65
West	89,000	166	3,134	18.85	132	2,437	18.50	35	697	20.15

Of the 203,000 migratory workers, 108,000 or about 53 percent did farm wagework only. These individuals averaged 138 days of work during the year for an average of $17.70 per day, or $2,457 per year. The following table shows the distribution of migratory workers by days worked.

Distribution of migratory workers by days worked

Days Worked	Number Working (in thousands)	Percentage Working
Less than 25	57	29
25-74	57	28
75-149	37	18
150-249	23	11
250 and over	29	14
Total	203	100

Contributing toward this low annual income are the facts that many workers are not covered under the minimum wage law (which at $1.60 is lower than the 1974 industrial minimum wage rate of $2.00) and the seasonality and unpredictability of the work. For instance, equipment delays and breakdowns mean further loss of working time ("down time") and the subsequent loss of wages. Weather, crop and soil conditions, and other contingencies may mean that they may not work on a particular day, week, or even month. All these factors make the minimum wage for agricultural workers look even smaller.

Farmworkers were not included under the minimum wage protections of the Fair Labor Standards Act until 1966.

The Fair Labor Standards Act amendments of 1974 (P.L. 93-259) increased the minimum wage for agricultural workers from $1.30 to $1.60 per hour effective May 1, 1974. The amendments call for further increases to $1.80 on January 1, 1975, to $2.00 on January 1, 1976, to $2.20 on January 1, 1977, and to $2.30 on January 1, 1978 and thereafter.

Only farmworker employers who utilized 500 man-days of agricultural labor in any quarter of the preceding calendar year and who were engaged in interstate commerce, are required to pay minimum wages to their employees. The 500 man-day requirement serves to exclude most farmworkers from the minimum wage provisions of the act. Beyond this, covered adult workers are excluded from the overtime provisions of the act, thus encouraging employers to extend the work week rather than hire more farmworkers.[15/]

15/ House of Representatives. Seminar on Farm Labor Problems, Hearings before the Subcommittee on Agricultural Labor of the Committee on Education and Labor, p. 5.

Few States have laws providing farmworkers wage-payment and wage-collection protection to insure payment if the farmworker must leave before the payment is forthcoming. Further, wage and work agreements between farmworker and employer which are regulated by minimum wage or piece rate standards can be manipulated so that the worker receives considerably less than the amount he though he bargained for, while the employer pays less than he agreed, or was required to pay. In addition, these practices are common, and together with poor enforcement of wage laws, can be surmised to have substantial impact on farmworker wages. For instance, a study conducted in 1969 in Michigan, which had a minimum wage for agricultural labor of $1.25 an hour, revealed that migrant workers consistently failed to earn an amount equal to the minimum hourly wage because of work on piece rate scales. Moreover, migrants worked a 40-hour week only at harvest peaks. It was also discovered that migrants worked less than a full 8 hours on at least 25 percent of the days worked and that on some days piece rate wages hit a low of 30 cents an hour.[16/]

Child Labor

The problem of child labor was reported 25 years ago in the 1951 report of the President's Commission on Migratory Labor. The report stated that "Child labor has all but disappeared from American industry. Only in agriculture does it remain a serious problem. Children work in agriculture today primarily for the same reason they formerly worked in industry -- because of poverty in the family. The child's earnings are needed. This is the same reason given years ago why child labor could not be eliminated in industry."

The problem of child labor still exists. However, the 1974 amendments to the Fair Labor Standards Act (discussed later) prohibit the employment of children

16/ Ibid., pp. 7-8.

under 12 on farms covered by the act.

The 1969 Report of the Senate Subcommittee on Migratory Labor reported that about 140,000 children under the age of 14, traveled with the head of their house hold on farmwork trips. Approximately 50,000 of the children traveled with their parents during the school year -- between October and May -- when most other children were at a permanent residence.

The American Friends Service Committee issued a special report entitled "Child Labor in Agriculture -- Summer 1970" based upon the results of their field work in five states. They reported that "Whatever people say, children from the age of six work in the fields, harvesting the food we all eat. And children from infancy are too often just there, in the field, or sleeping in cars not too far away. The use of children as industrial laborers was outlawed under the Fair Labor Standards Act of 1938. Yet, in 1970, one-fourth of the farm wage workers in the United States are under 16 years of age.[17/] The report went on to state that "Except for a change in locale (the work is done outdoors) the child labor scene in 1970 is reminiscent of the sweatshop scene in 1938, if you look at that scene with an adult mind, through a child's eyes."

Statistics published by the National Safety Council show that agriculture has the third highest fatality rate per 100,000 workers. The American Friends Service Committee points out in its report that although Congress has prohibited hazardous jobs in agriculture to those under the age of 16, it does not remove babies and young children from the proximity to hazardous machinery in operation, nor from contact with potentially toxic insecticides used on crops. Child labor in agriculture shows up in its most oppressive form in those areas using migratory labor. Estimates of the number of working children of migratory

17/ American Friends Service Committee, Child Labor in Agriculture -- Summer 1970, Philadelphia, January 1971, pp. 2-3.

laborers run as high as 300,000. Half of this number may work as regular contributors to the below-poverty-level incomes of their families. The American Friends Service Committee maintains that the end result of child labor in agriculture on the industrialized farms is the same as that in the factory. Exhausted by too much work at too young an age, with too little food and too little rest, the child is deprived of a normal period of growth and education.[18/]

In his testimony on July 18, 1969 before the Senate Subcommittee on Migratory Labor, Dr. Robert Coles, research psychiatrist at Harvard University, summarized his findings, in part, by stating that migrant children by the thousands not only live in poverty, go hungry, suffer from malnutrition, but, in addition, live incredibly uprooted lives -- such as no other American children, and few children in other countries, ever experience. He stated that "It is one thing to get poor food, never see a doctor, and live in a broken-down shack -- indeed, at times in enlarged chicken coops without running water, screens, plumbing or even electricity. It is quite another order of human experience when children are moved from one place to another, within States and across State lines. These children eventually become dazed, listless, numb to anything but immediate survival -- which is also in jeopardy, because the infant mortality rate among such children can be three or four times higher than it is among poor non-migrant people. I am saying that constant mobility, constant moving and more moving, damages the physical and mental health of children in special ways -- so that migrants present us with a special and awful problem even when compared to other underprivileged groups."

18/ Ibid., p. 88.

Residency Requirements

In general, the local communities where migrants work are not geared to accommodate them. Residency requirements and other means have often been used to exclude migratory farmworkers and their families from the often limited health, education and welfare services available for permanent residents. The low economic, social, and political status of migratory farmworkers, in their home-base areas as well as in their areas of employment, contributes to their inability to improve their conditions of life and work.19/

Senate Report No. 93-1137 of the Committee on Labor and Public Welfare on the Health Services Act of 1974 states:

> Migrants are frequently excluded from coverage under Medicaid as the result of their failure to meet State residency requirements and their inability to meet definitions of "categorically needy" or "medically needy." In most States, State Medicaid policy requires a Medicaid applicant to demonstrate an intent to reside in the State before he can be certified as eligible. Since migrants are generally unable to demonstrate an intent to reside because they are required to move from State to State with changes in the harvest season, they are repeatedly ruled ineligible. In adition, some States, which serve as major home-base areas for migrants -- Florida, for example -- fail to recognize the legitimacy of the claim of large numbers of migrants that their home-base State is considered their residence. In such States, it is common practice to consider all migrants as non-residents and to automatically disqualify those potentially Medicaid-eligible migrants from entitlement.
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> Other problems in eligibility for assistance under Medicaid relate to migrants' failure to meet non-economic definitions of need, Medicaid eligibles must be blind, aged, disabled, or dependent children. . . Because few migrants are aged, blind, or disabled, most of those who could qualify would be eligible only under the Aid to Families with Dependent Children. Because most migrant families are male-headed, however, they are ineligible for Medicaid unless they reside in a State with an Unemployed Fathers program. Of the 23 States with migrant populations over 10,000, only nine provide Medicaid coverage to families headed by unemployed fathers. In none of these States, however, does it appear that more than half of the migrants are home-based. Approximately 470,000 migrants reside in or travel

19/ 1971 Manpower Report of the President. Rural Manpower Dilemmas, U.S. Department of Labor, p. 134.

through the nine States with Unemployed Fathers programs. It is estimated that approximately 70,000 migrants would be eligible for Medicaid because they would be unemployed during the off-season and at the same time home-based.

Social Security

Old age, survivors, and disability insurance is one of the few major areas of conventional Federal employee benefit programs from which agricultural migrants may receive benefits. But even in this area, inadequate coverage prevails, thereby increasing the likelihood that the migrant, upon becoming too old to continue performing farmwork, will become a public charge. Since 1956, farm employment has been covered for social security purposes if the worker received cash wages amounting to at least $150 from one employer during the year. Alternately, a farmworker gains coverage if he works for one employer 20 days or more during the year for cash renumeration computed on a time basis (by the hour, day, or week) rather than on a piece rate basis.[20/]

The migratory farmworker, due to his low rate of compensation and short periods of employment, often does not meet even these meager qualifying requirements. And since a great number of migrant workers are paid on a piece-rate basis, the 20 day provision has had limited practical effect, and the $150-cash minimum is most often controlling. Lack of coverage would mean the exclusion from retirement, survivors, disability, and medicare protection.[21/]

20/ Social Security Act, Sec. 209(h).
21/ Op. cit., 1969 Report of the Senate Subcommittee on Migratory Labor, p. 93.

The Social Security Administration estimates in 1972 about 300,000 migrant workers should have been covered by Social Security deductions. How many in fact were covered was not known. However, the Social Security Administration did receive reports from about 2,000 crew leaders filing reports covering about 100,000 workers, which left about 200,000 workers about whom they knew nothing.[22/] Some of these workers may have had deductions withheld by the farm operator or a crew leader, but subsequently the employers may not have remitted the deductions, or refunded the amounts due to the workers, in those instances where the worker did not meet the $150/20 day requirements.

In the meantime, the Social Security Administration has made increased efforts to reach migrants with educational and informational materials that encourage farmworkers to claim their maximum coverage and benefits, and that encourages employers to report covered wages. Similarly, Office of Economic Opportunity programs encourage migrants to obtain social security cards, and literature is made available for both employees and employers that contains easy-to-follow directions and information printed in both English and Spanish.

Collective Bargaining

The first widespread effort to organize farmworkers for the purpose of collective bargaining with producers over wages and working conditions was undertaken by the Industrial Workers of the World (IWW) in California in the early 1900's. Since then, unionization of agricultural workers has spread to much of the rest of the country, and farm labor strikes have occurred in almost every State. Except in Hawaii and California, and more recently in Florida, little progress has been made in organizing farmworkers into permanent, active

22/ Telephone interview with Idelle Hardy, Social Security Administration.

labor unions which have been successful in negotiating collective bargaining contracts with employers.[23] The most active unions organizing farm workers today are the United Farm Workers, the Teamsters union, and, in Hawaii, the West Coast Longshoremen's union.

The scattering of many workers over a large number of farms, the relatively small size of farm establishments, the short duration of much of the work, the frequent movement of workers from one job to another, and the temporary attachment of many workers to farming have generally made it difficult to organize stable unions and to persuade employers to bargain with them collectively. In many cases, there has been an ample supply of labor available to take the place of strikers, thus reducing the bargaining position of the workers. Moreover, the lack of a tradition of collective bargaining in agriculture has slowed the acceptance of unions. Many farmworkers, as well as their employers, have had little contact with unions and thus they have tended to resist unionizing efforts.[24]

Dorothy Nelkin has pointed out that there are also intangible factors that compound the more obvious economic obstacles. Growers, particularly on the relatively small Eastern farms, are motivated by the belief that farm work has intrinsic value. They often find it hard to accept the fact that their employees are like industrial workers for whom employment is a balance between its cost in effort and its reward. The strength of these convictions, Ms. Nelkin writes, suggest that bargaining power is likely to be the only effective way to change the migrant labor situation.[25]

23/ Susan A. Libbin. Development in Farm Labor Unionization, Rural Manpower Developments, U.S. Department of Labor, September-October, 1971, p. 22.

24/ Ibid.

25/ Dorothy Nelkin. On the Season: Aspects of the Migrant Labor System, New York State School of Industrial and Labor Relations, Cornell University, Ithaca, New York, 1970, p. 77.

Added to what might be described as natural factors hindering farmworker unionization has been legal exclusion of agricultural labor from coverage under the protections and procedures of the National Labor Relations Act (NLRA) and almost all State labor relations acts. The NLRA guarantees to employees the right to organize, to form or join unions, to bargain collectively through representatives of their own choosing, to strike and picket, or to engage in certain other activities for the purpose of securing better working conditions. Because farmworkers are excluded from coverage under the NLRA, farm employers are not required to recognize their unions or to bargain with them; nor are employers prevented from firing workers for union activity or from obstructing workers in forming unions. Likewise, agricultural unions are not forbidden to engage in secondary boycotts or other activities that would be illegal under the NLRA.[26/]

The rationale for excluding the agricultural laborer is not clear, but probably can be explained in terms of political expediency. In the University of California, Davis' Law Review (Legal Problems of Agricultural Labor, Volume Two, 1970, pp. 3-4) it is stated that:

> As originally introduced in the 73rd Congress, the Wagner Act would have applied to agriculture as well as any other industry in interstate commerce.[27/] When the bill was later reported from the Committee on Education and Labor, however, the definition of "employee" had been re-drafted to exclude "agricultural laborers."[28/] An examination of the legislative history does not clearly explain the exclusion.[29/] A Senate report mentions one possible explanation: "For administrative reasons, the committee deemed it wise not to include under the bill agricultural laborers..."[30/] Other available information, however, indicates that political rather than administrative reasons were the cause of the exclusion.[31/] Farm-

26/ Op. cit., Susan A. Libbin.
27/ S. 2926, 73d Cong., 2d Sess., § 3(3) (1934); NLRB, LEGISLATIVE HISTORY OF THE NATIONAL LABOR RELATIONS Act 1-14, 2 (1949).
28/ For an excellent study of the exclusion of agricultural labor from the NLRA, see A. Morris, Agricultural Labor and National Labor Legislation, 54 CAL. L. REV. 1939 (1966). The author states: "The Legislative history of the National Labor Relations Act demonstrates that neither Congress nor virtually anyone else was concerned with the problems of agricultural labor." Id. at 1951.
29/ S. REP. NO. 573, 74th Cong., 1st Sess. 7 (1935). NLRB, supra note 19, at 2306.

workers were also excluded from the Social Security Act of 1935, leading one writer to conclude that political realities dictated Congress' course of action.32/ Senator Wagner recognized that the inclusion of agriculture might create widespread opposition from the strong farm lobby and thereby jeopardize passage of the NLRA.33/ Representative Connery, who directed the bill in the House, stated: "If we can get this bill through and get it working properly, there will be opportunity later...to take care of the agricultural workers."34/

Unemployment Insurance

It has been argued that an unemployed farmworker needs insurance protection against the risk of involuntary unemployment at least as much as his counterpart in other industries. Yet, since the creation of the unemployment insurance program, most farmworkers have lacked this form of insurance. When Congress was considering legislation to create a Federal-State unemployment insurance system in 1935, many arguments were advanced to exclude the services of farmworkers from coverage under the system. Many of the same arguments also served as the basis for excluding farmworkers from other programs, such as old age and survivors insurance and most other pieces of social legislation affecting the welfare of workers.35/

31/ Morris, supra note 21, at 1954-56. Alexander Morin, in writing on the exclusion of farmworkers, concluded: "The deliberate exclusion of the farmworkers from legislative shelter is due to their weakness in the political arena, to the vary great strength of farm organizations, and to the inertia of the urban population in these matters." A MORIN, THE ORGANIZABILITY OF FARM LABOR IN THE UNITED STATES 69 (1952).

32/ Morris, supra note 21, at 1955.

33/ Senator Wagner, the father of the National Labor Relations Act, favored coverage of farmworkers, but candidly acknowledged in private that the opposition of the farm block made this impossible. See Hearings Before the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare on S. 1864, S. 1865, S. 1866, S. 1867, 89th Cong., 1st and 2nd Sess. 463 (1966) (testimony of Benjamin Aaron, Professor of Law and Director of the Institute of Industrial Relations, University of California at Los Angeles).

34/ NLRB, supra note 19, at 3202.

35/ Roger A. Rossi. The Farmworker and Unemployment Insurance, Rural Manpower Developments, U.S. Department of Labor, September-October 1971, p. 16.

In the 1930's, it was argued that most agricultural establishments were small enterprises with few workers and that farm employers had little or no experience in scientific management, supervisory practices, and keeping records of wages paid to workers such as had employers in the industrial sector of the economy. Thus, it was concluded that the imposition of the unemployment tax, along with the attendant reporting requirements, on farm employers would be adminstratively unfeasible. At that time, there was practically no information, either from experience or based on research, which could shed light on the validity of the arguments advanced to exclude farmworkers from unemployment insurance coverage. As a result, when Congress enacted the Federal Unemployment Tax it excluded the services of farmworkers.[36/]

According to the Secretary of Labor, a recently completed study sponsored by the Department of Labor's Manpower Administration indicated that the proposed extension of unemployment insurance coverage to agricultural workers is now feasible. The study indicated that providing unemployment insurance benefits to eligible farm workers who become involuntarily unemployed would have little or no impact on overall unemployment insurance cost rates in the 18 states surveyed. In two states -- California and Florida -- the inclusion of farm workers in the unemployment insurance program would increase the overall benefit cost rates of the program to a small degree.

The administration's legislative proposal[37/] would extend coverage to a substantial group of workers -- those employed in agricultural businesses.

36/ Ibid.

37/ Job Security Assistance Act of 1974 transmitted by the Secretary of Labor to the Speaker of the House of Representatives on February 13, 1974.

As previously mentioned, farm workers were excluded from the definition of employment in the original Federal law in 1935 on the ground that it was not administratively feasible to apply the Federal tax to many thousands of family-oriented, subsistence farms which kept no payroll records. The extension to agricultural enterprises of income and Social Security taxes, and the extension of farm workers of OASDHI* and income tax withholding, on an even broader basis than would be the case under the Administration's proposal, have removed lack of administrative feasibility as a valid objection to discontinuing the original exclusion.

Accordingly, the Administration's proposal would apply the Federal unemployment tax to farm employers who, during the current or preceding calendar year (a) employed four or more workers in each of 20 weeks, or (b) paid $5,000 in wages in calendar quarter. This would affect only 7 percent of all farm employers if the bill became effective, but would cover about two-thirds of all farm workers. That is, it would cover about 66,000 farms and about 635,000 farm workers.

Special unemployment assistance is provided under title II of the Comprehensive Employment and Training Act to any person who is not eligible for benefits under any State or Federal unemployment benefits law and who, in the 52 weeks before filing his claim, had sufficient employment experience to qualify him for benefits under the State law -- had that law provided coverage for his occupation or job. In determining whether the person had sufficient employment, all employment is counted even though it was not covered employment under the State law. Thus, it is expected that this provision will be of assistance to many farmworkers.

* Old Age, Survivors, Disability, and Health Insurance

Workmen's Compensation

The first type of conventional employee's benefits to be afforded extensively to the Nation's workforce was workmen's compensation. It was devised to assure that benefits would be paid to workers injured on the job promptly, with a minimum of legal formality, and without the necessity of placing the blame of injury. In turn, workmen's compensation protects the employer from common law claims which might result in heavy damages. The underlying principle on which workmen's compensation laws are based is that the cost of such protection is part of the cost of production. Under the present system, States control workmen's compensation and the Federal Government is limited to promoting voluntary acceptance of approved standards.[38/]

In contrast to almost complete compulsory coverage of industrial workers under State workmen's compensation laws, farm occupations constitute the largest population group that has been largely excluded from its coverage. Critics believe that this exclusion denies the farmworker the assurance of basic protection that he deserves such as an income to maintain himself and his dependents during a period of disability, paid medical services, rehabilitation training and services, extra benefits for minors injured while illegally employed in some cases and, in the case of death, benefits to the worker's family, including burial expenses.

The initial basis for exclusion from coverage -- that farm occupations were largely nonmechanized and less harzadous than factory work -- is no longer applicable. As stated earlier, agriculture is the third most hazardous industry in the United States; its fatality rate is exceeded only by mining and construction.

38/ Op. cit., 1969 Report of the Senate Subcommittee on Migratory Labor, p. 88.

Today, with the increased mechanization of agriculture and the increased use of chemical herbicides and pesticides, the probability of an occupational accident which results in death or serious disability is considerably greater on the farm than in most industries.[39/]

For the farmworker, the absence of workmen's compensation coverage is therefore particularly serious. In addition to the dangerous exposure to herbicides and pesticides, farmworkers are exposed to the dangers of farm machinery, difficult work for long hours in the hot sun under trying conditions and exposure to contagious animal diseases. The farmworker, however, rarely has security from any of these hazards. His income is often too low to permit him to buy medical, disability, or life insurance; and his exclusion from workmen's compensation means that his work-related accidents and illnesses will not be compensated. Since many farmworkers, as a practical matter, also do not receive the medical and disability benefits available under the Social Security Act, they and their families are virtually helpless in the face of job-related disabling accidents or illnesses or death.[40/]

39/ Ibid.
40/ Op. cit., House Seminar on Farm Labor Problems, p. 12.

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Jurisdictions in Which Workmen's Compensation Laws Specifically Apply to Farmworkers[41] (January, 1972)

Jurisdiction	*Farmworkers Covered and Type of Coverage*		*Workers exempted if employers have fewer employees than number indicated. (However, such workers may be brought under the act voluntarily)*
Alaska	Agricultural employees, except those employed on a part-time basis.	Compulsory	No numerical exemption.
Arizona	Workers employed in the use of machinery	Compulsory	3 employees.
California	No expres provision exempting farmworkers; therefore, all farmworkers are covered in the same manner as other workers. (Hereafter referred to as "No express exemption")	Compulsory	No numerical exemption.
Colorado	Farm and ranch workers employed more than 6 months during any 12-month period.	Elective	4 employees.
Connecticut ..	No express exemption.	Compulsory	No numerical exemption.
Florida	All agricultural workers except those performing agricultural labor on a farm in the employ of a bona fide farmer or association of farmers, employing 9 or fewer regular employees and fewer than 20 other employees at one time for seasonal employment as defined.	Compulsory	See column 2.

41/ Carl J. Schramn. "Workmen's Compensation and Farm Workers in the United States," from Supplemental Studies for the National Commission on State Workmen's Compensation Laws, Peter S. Barth, Monroe Berkowitz, Marcus Rosenblum, and Nancy L. Watkins, p. 139.

Hawaii	No express exemption.	Compulsory	No numerical exemption.
Illinois	All agricultural workers except those working for an employer who employs fewer than 500 man-days of agricultural labor during any calendar quarter during the preceding calendar year. The law does not apply to exchange and family help and laborers employed on a piece rate basis in agriculture less than 13 weeks during the preceeding calendar year.	Compulsory	See column 2.
Maine	Agricultural workers, except seasonal or casual.	Elective	4 employees.
Maryland	Agricultural employees covered if the farm employer has 3 or more full-time employees or a yearly payroll for his full-time employees of $15,000 Non-machine-operating migratory laborers and office workers exempt from coverage.	Compulsory	See column 2.
Massachusetts ..	No express exemption.	Compulsory	No numerical exemption.
Michigan	Farmworkers working for an employer who employs 3 or more regular employees 35 or more hours a week for a period of 13 or more weeks during the preceding 52 weeks. Coverage applies only to such regularly employed employees.	Compulsory	See column 2.
Minnesota	Workers engaged as commercial threshermen and commerical balers.	Compulsory	No numerical exemption.
New Hampshire .	Farmworkers working for an employer who employs more than 2 employees.	Compulsory	See column 2.
New Jersey	No express exemption.	Elective	No numerical exemption.
New York	Requires workmen's compensation coverage of farm laborers for 12 months from April 1, if the farmer's total cash wage payments during the preceding calendar year amounts to $1,200 or more; farmworkers supplied to farmer by a farm labor contractor would be deemed to be employees of the farmer.	Compulsory	No numerical exemption.
Ohio	No express exemption.	Compulsory	3 employees.
Oregon	No express exemption.	Compulsory	No numerical exemption.
Puerto Rico	Farmworkers are covered specifically in the same manner as other workers.	Compulsory	No numerical exemption.
South Dakota ..	Workers engaged commercially in the operation of threshing machines, grain combines, grain combines, corn shellers, corn-huskers, shredders, silage cutters, and seed hullers for profit.	Compulsory	No numerical exemption.

Vermont	No express exemption.	Elective	3 employees.
Washington	All agricultural employees except those who earn less than $150 per calendar year from one employer.	Compulsory	No numerical exemption.
Wisconsin	Farmworkers working for an employer, who became subject to the act 10 days after he has employed 6 or more employees, whether in one or more locations on 20 or more days during the calendar year.	Compulsory	See column 2.
Wyoming	Workers engaged in power farming when one or more are employed for an average of 6 months each year. "Power farming" means work on a farm, livestock ranch, or poultry farm, which uses in connection with its operation any power-driven equipment, such as a pickup truck, feed grinder, stacking machinery, tractor, mower, baler, or road grader.	Elective	No numerical exemption.

Health

The problem of poor health conditions and the need to do something about it was undeniable according to a 1967 report of the Senate Subcommittee on Migratory Labor. It was remarked in the report that:

> Even a casual observer in migrant camps would see workers too sick or disabled to do a full day's work, and children who risked lifelong handicaps because preventive and remedial care was not readily available. Health services were needed -- not studies.
>
> The problems in meeting the need were immense. The personal fears of the migrant made him reluctant to impose himself and his need on a hostile community. Even if his fears were overcome, he lacked knowledge of acceptable health concepts and practices; he was isolated from communities; and he was only a transient in each of his temporary "homes." Finally, he was poor. All of these factors combined to make him an "excluded American" for health as well as other community services. Moreover, his typical "home" community was rural, lacking in health resources, and inclined to look upon "outsiders" with a jaundiced eye. These community factors added to the barriers between the migrant and the health he needed.42/

Despite recent progress and accomplishment, the unmet health care needs of migrants remain profound and critical. The migrant health program reaches barely 10 percent of the population eligible for services. The infant mortality rate for migrants is 25 percent higher than the national average. Mortality rates for tuberculosis and other infectious diseases among migrants are 2 1/2 times the national rate, and for influenza and pneumonia, the rate is 20 percent higher for migrants than it is for the general population. The rate of hospitalization for accidents is 50 percent higher for migrants than it is for the nation as a whole, while migrant births occur outside of hospitals at a rate nine times higher than the national rate.43/

42/ U.S. Senate. Migrant Health Program -- Current Operations and Additional Needs. Committee Print prepared for the Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare, December 1967, p. v.

43/ Senate Report No. 93-1137 of the Committee on Labor and Public Welfare on the Health Services Act of 1974, p. 22.

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Unsanitary living and working conditions harbor disease and infection. In April 1973, the House Subcommittee on Agricultural Labor held field hearings in Florida as a result of a typhoid outbreak in the South Dade Labor Camp. The purpose of the hearings was to also determine whether Federal laws had been violated and how Federal programs affecting migrant and farm workers were being administered. According to a statement by the Subcommittee Chairman, the hearings were prompted by nearly 200 confirmed cases of typhoid -- the largest such outbreak in our Nation's recent history -- and reports of widespread exploitation of farm and migrant workers. The outbreak of typhoid was caused by a contaminated water supply.

In addition to what many consider to be inadequate levels of funding, the migrant health program has encountered a number of obstacles which complicate efforts to improve and maintain the health of migrants. These include problems in hospitalization for migrants, migrant camp sanitation, and Medicaid coverage. The problem of hospitalization has persisted in part because Federal support available for migrant health projects has been limited primarily to the development of ambulatory programs. Normally less than $500,000 is allocated each year for hospitalization of migrants; and at this level of support, hospitalization must necessarily be limited to emergency cases.[44/] Inadequacies in migrant camp sanitation -- including housing, water supplies, sewage treatment, waste disposal -- are well-known and documented. They compound the basic health care needs of the migrant and, in many cases, transcend them. In many communities the migrant health center is the only institution actively providing environmental health services to migrants. With other pressing health problems competing for its resources, these services provided by the center are frequently limited in scope and inadequate in response.[45/]

44/ Ibid.
45/ Ibid.

Participation in the Food Stamp Program

Although Food Stamp regulations are set at the Federal level by the U.S. Department of Agriculture, the program is administered by State and local welfare offices. Despite Federal regulations aimed at facilitating the participation of migrant and seasonal farm workers in the Food Stamp Program, differences in the interpretation of the rules concerning program eligibility exist from State to State and county to county. Such differences often work to the disadvantage of migrant and seasonal farmworkers. For instance, how local offices anticipate what the income of farmworkers arriving in their locality will be depends on their interpretations of the approved State plans, which vary from State to State. It has been charged that migrants are sometimes faced with confusing and differing certification processes which often result in frustration, delay, and loss of benefits.[46/]

In order to determine whether individuals are eligible to participate in the program, USDA regulations require verification of income. Verification of a farmworker's income by his employer is not a requirement. To the contrary, the Food Stamp Handbook states that "the primary source of verification for earnings and other income...is the applicant himself." Sources of income verification include documentary evidence, collateral contracts, or home visits. But verification of income is often difficult because migrant and seasonal farmworkers frequently do not have or keep records. Often employers pay them in cash so as to avoid keeping proper social security and income tax records (sometimes to evade compliance with minimum wage, child labor, and other laws.)[47/]

46/ MLAP Monthly Report, published by the Migrant Legal Action Program, Inc., Vol. 3, No. 9 (September 1974), p. 3.

47/ Ibid. Also see Vol. 3, No. 2 (February 1974), Vol. 3, No. 8 (August 1974). In addition, see Report on the Department of Labor Farmworker Task Force, prepared by the Division of Migrant Programs, Office of National Projects, Manpower Administration, September 1973, p. 14.

However, in one State, local offices rely on information from the growers to ascertain anticipated income. The local farm bureau sets the number of days of work estimated to be available in the future, and the State cancels the farmworker's Food Stamps if he fails to work the projected number of days. 48/

In another state, a woman and her family were denied food stamps because authorities predicted that the family would earn over $800 during the month. However, it rained heavily that month and the family earned only $7. As a result, farmworker plaintiffs have filed suits in Federal court claiming that they and thousands of farmworkers like them are denied food stamps because of restrictive food stamp regulations. 49/

48/ D. Marshall Barry and Sr. Ann Julia Kinnirey. "The Acid in the Citrus Keeping Them Hungry in Florida," Southern Exposure, V. 2, Spring/Summer 1974, p. 82.
49/ Op. cit., MLAP, (September 1974).

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THE PROGRAMS

Health

The Migrant Health Act of 1962 (42 U.S.C. 242h) authorizes grants to public and other nonprofit agencies, institutions, and organizations for paying part of the cost of establishing and operating family health service clinics for domestic agricultural migratory workers and their families. It also authorizes special projects to improve and provide a continuity in health services for, and to improve the health conditions of, domestic agricultural migratory workers and their families, including necessary hospital care. According to the Migrant Health Branch of the Public Health Service, migrant health grants totaling $23,750,000 were made during fiscal year 1974.

During fiscal 1974, the 103 migrant health projects receiving assistance under section 310 provided health services to an estimated 355,000 patients; patient visits amounted to approximately 630,000. Projects include both full-time centers offering a wide variety of comprehensive health services and specially scheduled clinics offering categorical services which are supplemented by referrals. Services provided at migrant health projects include diagnostic and therapeutic care, follow-up, certain dental services, health counseling, preventive care and outreach services. In addition, the program has begun experiments to provide more hospital coverage to migrants. One such demonstration project has been designed to provide hospital care to a selected migrant population in order to study patterns of hospital utilization and cost of hospital services for migrants and to compare the migrant hospitalization experience with that of other low-income groups. Six migrant health projects have initiated programs with hospitals in their areas to provide access for approximately 50,000 migrants to inpatient services at a fixed daily rate. Still other

demonstration projects explore the feasibility of the delivery of care through prepaid capitation. An indication of the development of the program in the last few years -- as measured by several key indicators -- is shown below:

KEY INDICATORS OF MIGRANT HEALTH SERVICES PROGRAM[50/]

Program Indicator	1972	1973	1974
Program scope:			
Number of projects	101	102	103
Target population	3,000,000	3,000,000	3,000,000
Patient visits	460,000	600,000	630,000
Costs:			
Appropriaton	$17,950,000	$23,750,000	$23,750,000
Average project costs	177,722	280,330	228,365
Cost per person per year (based on visits)	69	70	67

It is stated in the Senate Labor and Public Welfare Committee report on the Health Services Act of 1974 that with only limited resources at its disposal, the migrant health program has demonstrated that progress can be made in meeting the critical, unmet health care needs of the migrant through the center concept. It states further that despite those barriers and obstacles to care discussed above -- not to mention additional factors such as rural isolation -- which might have severely limited the scope of services provided and activities undertaken, migrant health projects have been established which offer a comprehensive range of services. For instance, they have developed on-site laboratory capabilities, basic diagnostic services, family-oriented primary care centers rather than fragmented categorical clinics, bilingual personnel,

50/ Op. cit., Senate Report No. 93-1137, p. 22.

on-site medical services, and referral services to specialty practices.[51/]

While the Public Health Service recognizes hospitalization as an essential part of the broad range of health services that are required, it feels that the funds available for the migrant health program are inadequate to provide for needed hospitalization of the migrants. The Public Health Service policy therefore, is to phase out its allocation of funds to pay directly for hospital care, and to look toward other sources -- such as the Medicaid Program -- to meet these needs.[52/] However, the barriers which exclude migrant participation in Medicaid were discussed in the previous chapter of this report.

Migrant health expenditures are expected to decrease by 20 percent to $19.2 million in fiscal year 1976 from the $24 million budgeted for fiscal year 1975. According to HEW, the Administration's policy of providing for the direct delivery of health care through grant programs -- including migrant health -- will emphasize increased cost-sharing by States, local governments, and other grantees and increased third-party reimbursements. The fiscal year 1976 budget assumes an estimated increase in non-Federal funding and third-party reimbursements to offset the 20 percent Federal reduction.

Welfare

The Social Security Act specifically provides that "emergency assistance to needy families with children" may be provided to migrant workers with families in the state (42 U.S.C. 606(e)). As of December 31, 1973, 20 States have designated migrant workers with families as eligible for this assistance. They are Arkansas, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

51/ Ibid., p. 24.
52/ Undated Public Health Service "Briefing Document for the Work Group to draft Migrant Health Program Policy for Hospitalization," p. 1.

Education

Title I of the Elementary and Secondary Education Act was amended in November 1966, to include the children of migratory agricultural workers (which beginning in FY 1975 includes children of migratory fishermen). Funds are now provided to improve educational programs and offer supplemental services to these children (20 U.S.C. 241e(c)). Regulations relating to this provision may be found at 20 C.F.R. Part 116.

Title I migrant programs concentrate on identifying and meeting the specific needs of migrant children through remedial instruction, health, nutrition, and psychological services, cultural development, and prevocational training and counseling. Special attention in instructional programs is given to development of language arts, including reading, speaking, and writing in both Spanish and English.

In fiscal year 1974, some $78,331,437 in Title I funds enabled 48 states to operate migrant education programs. About 380,000 children participated. The estimated expenditures for fiscal years 1975 and 1976 are $92 million and $100 million, respectively.

Each State Department of Education submits to the Office of Education an application which includes its plan and cost estimate for migrant education projects. Upon approval of its application the state is then awarded a grant, separate from its other Title I allocation, to finance the migrant program. Each year's allotment is based on a formula which estimates the number of migrant children in a state and per pupil expenditures.

A child is considered a migrant and eligible to participate if he has moved with his family from one school district to another during the past year so that a parent or other member of his immediate family may work in agriculture or related food processing activities. He can be considered a migrant child for 5 years after his parents have settled in one place.

Because migrant children move frequently from state to state, and even within a state, it has been difficult to keep track not only of their where-abouts but also of their educational level and health needs. A computerized Uniform Migrant Student Record Transfer System was therefore developed with Title I money. This makes it possible for any school system to receive background information about an enrolling migrant child within 24 hours. In addition, beginning in FY 1975, the Commissioner of Education is authorized to use this system as the basis for determining fund entitlements and allocations under the Title I migrant program. (Counts provided by the Department of Labor have been utilized for this purpose in the past.)

Migrant Head Start Programs

Within HEW's Office of Child Development is the Division of Indian and Migrant programs. Since its inception in 1969, the Indian and Migrant program Division has sought to maintain an extensive effort to mobilize the resources needed to provide full service programs to the preschool children of migrant families. During fiscal year 1974, $3,420,000 was expended for this program. It is estimated that $4.2 million will be expended in both fiscal years 1975 and 1976.

The Indian and Migrant Program Division has tried several approaches or models to deal with the migrant's special situation. All of the models use a basic program design which incorporates Head Start standards and quality child care services. However, basic modifications to the traditional Head Start program have been necessary. These have included (1) extending the hours of operation to coincide with the parents' work hours; (2) allowing all preschool children, including infants, to participate; and (3) utilizing bilingual and bicultural staff where needed. These modifications have provided the type of full

Head Start service program which is tailored to the life-style and special needs of the migrant families.

Basically, there are two categories of programs -- local and national. Within the local category there is the traditional approach which is designed for all children in the community with no special adaptation for migrant children, and the catered model.

The catered model is one designed exclusively or primarily for migrant children. According to the Indian and Migrant Program Division, this model is more desirable than the traditional model but it too has limitations. The major limitation is the inability to provide a continuity of programs services after the family leaves a particular community. The length of attendance is determined by the duration of the parent's employment. Although local programs have at least been able to provide some services to migrant families, the Division believes that generally the effectiveness of these efforts is questionable. On the other hand, the Indian and Migrant Programs Division states that National Programs have been designed not only to meet the unique needs of the target population, but also to guarantee that the length of time a child participates is increased and program continuity is maintained.

There are two National Program models: (1) the Prime Grantee Model and (2) the Network Model. The Prime Grantee Model approaches the need to extend the period of services by funding programs in areas which have longer field work seasons and therefore can operate in one location for four or five months. Families remaining in the area for the entire work season have access to a full service program and the children receive individual educational benefits from having been enrolled for a sufficiently long period. However, this program model has encountered some problems. According to the Division, most Head Start programs operating in user areas have difficulty in recruiting qualified

personnel because the programs' operating time usually overlaps with the school term. Most teachers accept only summer or full year contracts.

The Prime Grantee Model has also attempted to deal with the problems of program continuity. A referral system was devised to refer participants to Head Start programs operating in their home base areas as well as transferring the child's medical and educational records. The home base programs, however, are under no obligation to accept referrals and frequently the programs are filled by the time the child returned to the area.

The Network Model differs from the other in that it operates in both the homebased as well as upstream states. The program operations follow the migrant streams during the seasons when field work is available and establish centers where large concentrations of migrants are found. As the families move from one area to the next, the children can be enrolled at the next site. As the target population increases or decreases in a given area, staff members can be regrouped to accomodate the change. This model facilitates recruiting of both staff and participants, provides year-round programs and ensures parent participation especially in the off season or at the home base site.

The Indian and Migrant Programs Division states that the Network Model has generally proven to be the most effective delivery system. However, they feel that it should be stated that in reality a combination of both National Program Models will most effectively meet the needs of migrant farmworker families.

Transfer of OEO Programs

The Office of Economic Opportunity (OEO) under the authority of title III-B of the Economic Opportunity Act provided assistance to migrant, and other seasonally employed, farmworkers and their families. In 1973, some migrant programs which were administered by OEO were transferred to the Department of Health,

Education, and Welfare. Other programs were transferred elsewhere, such as housing research, which was transferred to the Department of Housing and Urban Development. The title III-B programs, however, (including the Migrant Division of OEO) were transferred to the Department of Labor pursuant to a delegation of authority agreement between OEO and the Department.

The Headstart, Economic Opportunity and Community Partnership Act of 1974 (P.L. 93-644) extended certain programs under the Economic Opportunity Act through Fiscal Year 1977, and established the Community Services Administration as the successor agency to the Office of Economic Opportunity. Although the new act continues the legislative authority for migrant and seasonal farm worker programs, at the present time the title III-B programs are still being administered by the Department of Labor.

The transfer of migrant programs from OEO to DOL resulted in policy changes reflecting a change of orientation. At OEO, the Migrant Division emphasis was on providing a full range of migrant services (social services as well as manpower services), oriented toward serving the entire migrant community. In addition, the Migrant Division assumed an important role as advocate for migrant needs. At DOL, the orientation is focused primarily on manpower services. Although non-manpower social services are provided, the regulations implemented at DOL affecting migrant and other seasonally employed farmworkers reflect an emphasis on the manpower model. (See 29 C.F.R., Subtitle A, Part 97.)

The major thrust of the OEO programs had been to prepare displaced wage earners for upgraded jobs and to prepare entire farm worker families for adjustment to the new way of life that these jobs would bring. Toward that end, projects for adult heads of households emphasized basic literacy skills and prevocational training preparatory to actual job-training and placement.

Augmenting the efforts in economic upgrading were family rehabilitation, day-

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care, and housing programs. The housing programs were initiated to assist farm workers in finding permanent, decent housing. This was often accomplished through the self-help approach. Workers using long-term lowinterest loans from the Department of Agriculture's Farmers' Home Administration built their own homes -- making down payment with "sweat equity." In other areas, housing was secured through programs of the Department of Housing and Urban Development.

OEO also offered a residential High School Equivalency Program (H-E-P) to farmworker youths between the ages of 17 and 22 who found it necessary to drop out of high school before graduation. Furthermore, an Emergency Food and Medical Services program was designed by OEO to improve farmworkers' access to available Federal food programs and to fill the gaps that existed between farmworkers' food needs and currently available resources.

Lastly, OEO had also funded existing rural legal services agencies to expand non-profit corporations to provide legal research, training back-up, and appellate assistance for legal services programs entering into the field of farmworker legislation and litigation.

Crew Leader Registration

Congress passed the "Farm Labor Contractor Registration Act of 1963" on September 7, 1964 (P.L. 88-582). The act requires interstate farm labor contractors to obtain registration certificates from the Secretary of Labor and sets qualifications for registration. The congressional findings and declaration of policy section of the act stated in part that the channels and instrumentalities of interstate commerce were being used by certain irresponsible contractors for the services of the migrant agricultural laborers.

Farm labor contractors (or crew leaders as they are frequently called) are the middlemen in making work arrangements between farmworkers and growers,

and in this capacity often recruit, transport, supervise, handle pay arrangements, and otherwise act as intermediaries between the migrant worker and the farmer. Although many crew leaders perform their functions in a satisfactory and responsible manner, it had been reported that others had exploited both the farmers and the workers. It had also been reported that migrant workers, because of their dependency on the crew leader, were particularly vulnerable to exploitation and abuse by irresponsible crew leaders.

It became apparent after the Department of Labor began administering the crew leader registration act that it lacked effective enforcement procedures. Testimony before the Congress subsequently showed that the act had failed to achieve its original objectives.

Officials of the United States Department of Labor report that of an estimated 6,000 crew leaders operating across state lines, fewer than 2,000 are registered as required by the present law. Department of Labor investigation of over 1,100 farm labor contractors last year revealed violation of the Act by more than 70% of those checked. While those found in violation were brought into compliance with the Act, including getting those unregistered to register, the Department was unable to locate thousands of unregistered crew leaders. Since the Act's inception, only four persons have been referred to the Department of Justice for criminal prosecution; and only one person has ever been convicted and sentenced. 53/

Migrant farm workers now have greater job protection under amendments to the Farm Labor Contractor Registration act signed into law on December 7, 1974 (P.L. 93-518). Major points in the new legislation include the following:

-- The term farm labor contractor" is broadened to include any person who, for a fee for himself or another, recruits, solicits, furnishes, or transports any

53/ Op. cit., Senate Report No. 93-1295, p. 3.

migrant worker for agricultural employment, either within a state or across state lines." (Before amended, the law applied only to crew leaders who recruited 10 or more workers for interstate farm labor).

-- Contractors must, among other things:

1) carry increased accident insurance to protect workers and their and their possessions;

2) file a statement which identifies contractor-owned or controlled vehicles and housing to be used for workers (with proof that federal and state health and safety standards are met);

3) refrain from requiring workers to purchase goods exclusively from the contractor or another person;

4) report changes of address within 10 days of moving;

5) pay employees promptly and explain any pay deductions;

6) inform workers in writing and in a language clearly understandable to them, of living and working conditions, the existence of any labor dispute at the work site, the period of employment, and the existence of any kickback arrangement between the contractor and local retail merchants catering to the workers.

-- More detailed payroll records must be kept by both the contractor and the person for whom labor is provided.

-- Peonage was added to the list of offenses for which the contractor could be refused a certificate of registration, or for which the certificate could be revoked.

-- No person is permitted to engage a contractor's services to furnish farm labor unless it is first determined that the contractor has a current registration certificate.

The amendments add a criminal penalty of imprisonment not to exceed one year, or both, for a first offense. Maximum penalties for conviction of a subsequent violation of the act are a fine not to exceed $10,000, imprisonment not to exceed three years, or both. The Secretary is required to report on enforcement in his annual report to the Congress. Toward this end, the Department of Labor anticipates doubling the fiscal year 1976 expenditures of its Employment Standards Administration to a little over $1 million.

The amendments to the Farm Labor Contractor Registration Act also empower the Secretary of Labor to impose up to a $1,000 civil money penalty for a violation of the act or any regulation promulgated under the act. The civil penalty procedure is subject to the rights of agency review and judicial review by the person against whom a penalty is assessed. The report of the House Education and Labor Committee states that it is the intention of the Committee that the availability of both civil and criminal sanctions will not result in undue harassment or abuse of process.

The amendments provide further that any farm labor contractor who has not registered under the Act, or whose registration has been revoked or suspended, will be subject to a criminal penalty of up to a $10,000 fine or a prison sentence of up to 3 years (or both), if such contractor has knowingly engaged the services of an illegal alien. It is the intention of the Education and Labor Committee that the Secretary of Labor promulgate all regulations necessary for the enforcement of the act's prohibition against utilization of illegal aliens in employment. It is further intended that all such regulations, to the extent permitted by the Farm Labor Contractors Registration Act, are consistent with those of the Attorney General promulgated under the Immigration and Nationality Act.

The amendments also increase the Department's investigatory powers, allow migrants to bring civil suit against contractors in the appropriate district court of the United States without regard to the amount in controversy or the citizenship of the parties, and prohibit retaliatory action by contractors against workers who file complaints or suits.

Annual Worker Plan

The Annual Worker Plan of the Department of Labor's Rural Manpower Service has, since 1954, provided a means of planning a whole season's itinerary for a migratory crew or family. The purposes of the annual worker plan are to decrease the time lost between jobs by migrant workers and to help provide a dependable labor supply to employers.

The State agencies of the major labor supply States, notably Texas and Florida, conduct interviews with crew leaders and family heads each Spring to plan itineraries. Some groups seek itineraries covering the entire season from Spring to late Fall; others prefer to work only part of the season. Using information from job orders forwarded by the labor demand States, the supply State representative provides the crew leader with information about employment opportunities, housing, wage rates, and other job conditions in the demand states.

Those employers who use the Federal-State employment service to recruit interstate workers are required to meet standards set in each locality. Under Department of Labor regulations, State agencies must check on wages, housing conditions, and offers to pay for transportation before accepting a job order. In this way the Federal-State employment service can have more influence in maintaining prevailing standards.

Insofar as the housing regulations are concerned, the Manpower Administration of the Department of Labor denies its interstate agricultural recruitment services to employers until the State agency affiliated with the U.S. Employment Service which receives the order for interstate recruitment has ascertained that housing and facilities (1) are available; (2) are hygenic and adequate to the climatic conditions of the area of employment; (3) are large enough to accomodate the agricultural workers sought; and (4) will not endanger the lives, health, or safety of workers and their families. (The regulations are contained in 20 C.F.R. 620.)

Approximately 8,700 migrant farmworker groups had contact with State employment service agencies in 1970. Of the groups contacted, 54 percent were families and 21 percent were crews. The remainder were either individuals traveling alone, or small groups of unrelated individuals without a formal crew type organization. Of the 117,200 individuals in these groups contacted in 1970, about three-fourths were workers. This proportion has been the same since 1967. 54/

Occupational Safety and Health Act

The enactment of the Occupational Safety and Health Act of 1970 may have a significant effect on the migrants' working conditions. That Act empowers the Secretary of Labor to prescribe mandatory safety and health standards which are applicable in agriculture as well as in industry generally. Hazards from equipment and machinery as well as from toxic substances are within the Secretary's regulatory authority.

54/ The Annual Worker Plan in 1970. Rural Manpower Developments, U.S. Department of Labor, September-October 1971, p. 26.

Several regulations relating to agricultural labor have been issued under this authority. As of March 20, 1975, standards applicable to agricultural operations cover:

1) Sanitation in temporary labor camps;

2) Storage and handling of anhydrous ammonia;

3) Pulpwood logging; and

4) Slow-moving vehicles [55/]

Transportation

The Interstate Commerce Act authorizes the Department of Transportation (DOT) to set standards for the interstate transportation of migrant workers if they travel more than 75 miles (49 U.S.C. 304(a)(3a)). The Federal Highway Administration has issued regulations under this authority. Violations of the regulations may result in a fine of between $100 and $500 for a first offense, and between $200 and $500 for a subsequent offense (49 U.S.C. 322(a)). DOT is also authorized to seek injunctions against violators (49 U.S.C. 322(b)).

Child Labor Laws

Prior to the 1974 amendments to the Fair Labor Standards Act, there was no minimum age limitation for nonhazardous agricultural work outside school hours. The 1974 amendments prohibited the employment of children under 12 on farms covered by the Act's 500 man-day test (the 500 man-day test means that in order for the employer to be covered by the FLSA he must have used

55/ 29 C.F.R. 1910.267

more than 500 man-days of agricultural labor during the peak quarter of the previous calendar year), and on noncovered farms (those which do not meet the 500 man-day test) the law now requires parental consent. However, children under 12 are permitted to work on farms owned or operated by their parents or guardians. Also, children 12 or 13 years of age may work in agriculture only if they have written consent of their parents or guardians or if the parent or guardian is employed on the same farm.

Manpower Programs

Under title III of the Comprehensive Employment and Training Act of 1973 (P.L. 93-230), the Secretary of Labor is given responsibility to operate manpower programs for special groups of individuals, including migrant and seasonal farmworkers. A fund set-aside equal to 4 percent of the funds available for title I is provided for migrant and seasonal farmworker programs. Title I provides for a program of financial assistance to States and certain local governments to plan and operate comprehensive manpower programs. In fiscal year 1974, $40 million was expended for migrant manpower programs. It is estimated that expenditures will be about $63.2 million for both fiscal years 1975 and 1976.

Manpower services and activities authorized by title I include, but are not limited to outreach, assessment of individual capacities and interests; referrals to jobs, training, or other opportunities; orientation; counseling; education and skill training; on-the-job training; training subsidies for employers; supportive services; subsistence and expense allowances for enrollees; programs conducted by community-based organizations; and transistional public service employment.

Food Stamps

The Food Stamp Program -- started on a pilot basis in 1961 and enacted into law in 1964 -- enables low-income households to buy more food of greater variety to improve diets. Participants pay a specified amount of money, based on family size and income, and receive an allotment of coupons worth more than they paid, when spent for food at participating stores. The program is not structured to benefit just migrant and seasonal farm workers but is available to all low-income individuals. In fiscal year 1974, participation rose 11.6 percent to 13.5 million people, compared to 12.1 million the previous year. How many migrant and seasonal farm workers participated in the program is unknown. Overall, recipients paid $2 billion and received food stamps worth a total $4.7 billion, giving them a buying bonus of $2.7 billion. Food stamp benefits per person averaged $17.54 a month.[56/]

Beginning in the Summer of 1974, Food Stamps were available in all areas of the country, replacing the Food (Commodity) Distribution Program in many counties. As late as June 1974, approximately 400 counties (mostly rural) were operating the Food (Commodity) Distribution Program rather than the Food Stamp Program.

Although Food Stamp regulations are set federally (by the USDA), the program itself is administered by State and local welfare offices which certify households as eligible and arrange for the issuance of Food Stamps.

The State Food Stamp agencies must provide an application on request to "any person" and must accept a Food Stamp application when submitted. Moreover, according to the Agriculture Department's Food Stamp Handbook, the head of household may designate another person as his authorized representative

56/ Annual Statistical Review, Preliminary Report, Food and Nutrition Programs, Fiscal Year 1974, Food and Nutrition Service, U.S. Department of Agriculture, p. 8.

where he cannot make application or be interviewed by the eligibility worker because of employment, health, or transportation problems. Alternatively, the farmworker head of household may be interviewed by telephone or by home visit. The State must provide adequate staffing "to avoid long waits for interviews or rigid appointment systems." Where in the past a farmworker may have had to make several successive trips into town to obtain an application, submit the application, and have an interview, optimally all of this can be done by an authorized representative, thus facilitating the households receipt of food stamps by several weeks.

The Agriculture Department's Food Stamp Handbook is explicit that all residents -- of any duration -- (other than persons in the area solely for vacation purposes) must be considered as residents. Moreover, a household need not have a formal or conventional kitchen to meet the cooking facilities requirements.