

Children in the Fields Campaign: Packet



Campaign Overview

- ★ NEW! Children in the Fields Mural Shown in Washington
- ★ Facts About Children In The Fields
- ★ FLSA Provides Inadequate Protection
- ★ H.R. 2119: The Young American Workers' Bill Of Rights
- ★ Eliminating Child Labor
- ★ Senate Testimony By L. Diane Mull
- ★ Press Statement About GAO Report

Campaign Parameters

- Child labor only - focus on improving child labor standards in agriculture among children who function as hired workers. Also include a youth employment and training component (providing educational stipends and alternative educational support for children).
- Focus on entire agricultural industry - all fruit and vegetable harvesting.
- Not focused at all on children who work for their parents on family farms.

Campaign Focus

Government Focus:

- to improve child labor standards and conditions in this country among child migrant & seasonal farmworkers.
- to strengthen enforcement of what protections there are for children working in the fields.
- to utilize the "hot goods" provision which has been successfully employed in the sweatshop issue to agricultural produce.
- to spur research through the EPA and other agencies to assess the risks children

encounter in the fields from pesticides, machinery, etc. and to use the resulting data to better protect the health and safety of these children.

Consumer Focus:

- to raise awareness of children working in the fields and its negative impact on their education, health & safety.
- to mobilize consumers on this issue.
- to seek a mechanism to help consumers in the marketplace who wish to buy fruits and vegetables harvested under decent conditions (i.e., no child labor; decent wages for adults, etc.)

Industry Focus (employers and retailers):

- to raise awareness and support among leading companies, such as Kellogg, Dole, Green Giant, etc.
- to gain grower and retailer support for a mechanism to assure consumers that fruits and vegetables are harvested under decent conditions (i.e., no child labor; decent wages for adults, etc.)

Coordinating Organizations

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Campaign Fact Sheet

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Problem:

- Agriculture was classified as the most dangerous occupation in the country in 1989 [National Safety Council, *Accident Facts*, 1989] and continues to compete with mining and construction for the dubious honor of being one of the top three most dangerous industries.
- Children are a significant part of the agricultural workforce. Although accurate counts of the farmworker population continues to evade even the best statisticians, United Farmworkers Union estimates that as many as 800,000 children work in agriculture.
- The National Association of Community Health Centers reported in 1991 that 38% of farmworkers consist of women and children under the age of 14.
- Migration from one agricultural work area to another also compounds the problems for the migrant farmworker family. Constant moving, short periods of employment, longer periods of unemployment, income fluctuations dependent upon the crop and crop conditions, and annual disasters all play a part in the disruption of education and economic stability of the migrant and seasonal farmworker family.
- Almost half of all documented farmworkers in this country are U.S. citizens, and the overwhelming majority of foreign-born farmworkers are legal U.S. residents. [National Agricultural Workers' Survey, U.S. Department of Labor]

Impact on Education:

- Children who work in the fields often work during school hours, which deprives them of their right to an education.
- Long hours and strenuous work take their toll, causing excessive absenteeism. This often results in their being held back in school, getting discouraged with school, and usually, dropping out. 72% of farmworkers served by the JTPA §402 programs had dropped out of school.
- Farmworker children have a difficult time keeping up with their classmates, suffering from extreme fatigue and poor nutrition.
- Due to a disrupted education, farmworker children usually are forced to remain in farmwork, enduring the same substandard working conditions as their parents and grandparents.
- The rate of school enrollment for farmworker children is lower than for any other group in this country. [*Migrant Education: A Consolidated View*, Interstate Migrant Education Council, 1987]
- The dropout rate for migrants is 45%. For the rest of America, the rate is 25%. [Migrant Attrition Project, Testimony before the National Commission on Migrant Education, February 1991]
- Migrant Education programs, K-12 lose approximately half their initial enrollments by the 9th grade. One in ten completes the 12th grade. [U.S. Department of Education, Office of Vocational and Adult Education, *The Education of Adult Migrant Farmworkers*, Vol. 2, January 1991]
- 80% of the adult migrant farmworker population is considered educationally disadvantaged, i.e., functioning at a 5th grade literacy level or less. [US Department of Education, Office of Vocational and Adult Education, *The Education of Adult Migrant Farmworkers*, Vol. 2, January 1991]
- The average level of education for a farmworker is fifth grade.

Impact on Health:

- The life expectancy for the migrant worker is 49 years, compared to 73 years for the general US population. [Center for Disease Control, 1988]
- Years of working in a stooped position often causes farmworkers to have back and muscle problems as they grow older.
- The infant mortality rate for migrants is 25% higher than the national average. [Interstate Migrant Task Force: Migrant Health, 1979]
- The rate of parasitic infection among migrants is estimated to be 11 to 59 times higher than that of the general US population. [Ortez, J.S., "Composite Summary and Analysis of Hearing Held by the Department of Labor, OSHA on Field Sanitation for Migrant Farmworkers," Docket No. H308, 1984]
- From July 1992 through December 1993, overexertion accounted for approximately 4,500 work-related injuries of adolescents treated in hospital emergency rooms; about 2,500 of these injuries were attributed to lifting. [National Institute for Occupational Safety and Health, 1994]

- The primary agents of fatal and nonfatal injuries to children on farms include tractors, farm machinery, livestock, building structures, and falls.
- Children account for about 20% of all farm fatalities.
- 300 children die from farm-related accidents each year and more than 23,500 children are injured. [*The Wall Street Journal*, July 20, 1989]
- At least forty-two children under the age of 15 died as a result of farm-related accidents in California between 1980 and 1989, with approximately four deaths per year for the ten year period. An evaluation of deaths among children not noted as occurring on farms suggested that the actual number of farm-related deaths among children may be 25% greater than was observed. [*UC Agricultural Health and Safety Center News*, University of California, Health and Safety Center at Davis, California, Winter 1993]
- "The EPA regulations for protecting workers against pesticide hazards are based on adult exposure only and give no special consideration to children." [U.S. GAO Report, 1992]
- Children in agriculture are exposed to a range of pesticides each year. Children tend to be more susceptible to pesticides because they absorb more pesticides per pound of body weight and because of their developing nervous system and organs.
- EPA estimates that pesticide exposure causes farmworkers and their families to suffer between 10,000 to 20,000 immediate illnesses annually, and additional thousands of illnesses later in life.
- A recent study found that 48% of farmworker children working in the fields had been sprayed with pesticides. ["The Hidden Cost of Child Labor," *Family Circle*, March 12, 1991]
- Two studies have linked childhood brain tumors and leukemia to pesticide exposure. [*The Occupational Health of Migrant and Seasonal Farmworkers in the United States*, Farmworker Justice Fund, 1988]
- A recent study found that in California from 1982 to 1990 there were an average of 1,173 reported illnesses annually related to pesticide exposure. During the same time period, there were a total of 50 fatalities that were classified as being definitely, probably, or possibly related to pesticides. [*UC Agricultural Health and Safety Center News*, University of California, Health and Safety Center at Davis, California, Winter 1993]
- A report in 1990 of migrant children in New York found that more than 40 percent had been sprayed with pesticides. Another 40% had worked in the fields while the fields were still wet.

Impact on Families:

- The average income for a farmworker family is less than \$6,000 per year compared to more than \$28,000 for the average American family. [Center for Disease Control, National Center for Health Statistics]
- Farms with 10 or fewer workers are exempt from providing toilets and drinking water for farmworkers. As a result, one in six farmworkers-adults and children-working in U.S. agriculture lacks access to toilets. For farms with 11 or more workers, even

when toilets and drinking water are provided, the facilities only have to be located within one quarter mile of where the workers are working.

- Only 4 states provide full unemployment insurance coverage for farmworkers; in fourteen states, workers' compensation coverage does not apply to farmworkers at all; and in more than half of the states, minimum wage laws do not apply to agricultural employment.
- The federal law regarding overtime pay totally exempts any worker in farming from receiving overtime pay. States have added little protection in this area for farmworkers.

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Recommendations for Eliminating Child Labor

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Recommendations for the Elimination of Child Labor in the U.S.

Presented by:
L. Diane Mull, Executive Director
Association of Farmworker Opportunity Programs

The United States has been a global leader in efforts to improve human rights protections. With respect to child labor, however, we need to place our focus on the domestic front. The steps necessary to eliminate child labor in the United States are not easy ones—the issue is very complicated. If our purpose is to completely eliminate child labor in the United States, this will require implementing both short-term and long-term solutions if we are to remain a model for the global community.

If we want to maintain our status as a global leader in human rights, a multi-tiered approach must be undertaken to ensure that elimination of the problem results, as opposed to driving the problem further underground. Consideration must be given to making clear and appropriate distinctions between children of farm owners and all other children who work on farms. This requires development of a more current, realistic view of what constitutes a small, family operated farm—one that engages only the family members in work on the farm and not non-family members or contract labor.

FLSA Child Labor Amendments

First, we must make corrections to modernize the FLSA to eliminate the current exemptions

and equalize and increase the protections for children working as hired workers in agriculture. Once corrections to current law are in place, we must improve and expand the enforcement of the law. To simply increase enforcement of the existing weak child labor laws that apply to agriculture will have little or no effect in eliminating the problem.

We must raise the level of protection for hired farmworker children to be equal to the protection provided for other children. Agriculture should join the ranks of manufacturing, mining and construction and be declared a hazardous industry. Therefore, no child under the age of 16 should be allowed to work as a hired worker in agriculture. For children 16 to 17, no child should be allowed to work in hazardous jobs, i.e., including jobs that result in exposure to pesticides, dangerous equipment, risk of falls, and the other dangerous aspects of agricultural employment. Hours of work should be limited for children under the age of 18. These limits should include no work before school, no more than three hours of work after school, and a limit of 20 hours per week during the school term. Additionally, no child under 18 should work more than 40 hours per week when school is not in session. No child under 21 should be allowed to mix, load, apply or handle pesticides or pesticide containers.

The hazardous orders must be revised to reflect the dangers associated with exposure to pesticides, working around and with dangerous machinery and sharp cutting instruments.

Labor Standard Improvements for the Adult Farmworker Parents

Changes to child labor laws serve to eliminate the obvious inconsistencies under the FLSA that encourages child labor in agriculture and children's exposure to greater risks. However, it does not address the underlying root cause that stimulates child labor in agriculture—the inability of the adult parents to earn a living wage while working in agriculture. My second recommendation includes making changes in current agricultural employment laws and policies that encourages federal minimum coverage for agriculture workers. Steps should be taken to remove exclusions for agricultural industry such that farmworkers would be uniformly eligible for the minimum wage, unemployment compensation, workers compensation, and overtime pay. Additionally, agricultural policy should facilitate the employment of domestic farmworkers over the importation of foreign or guestworkers.

The economic necessity for the parents to take the children to the fields must be removed. The only effective way to do this is to enable the working parent to earn a living wage while performing their agricultural work. Exemptions under the law that are afforded to agriculture are not afforded to any other industry. In a market driven environment, a business must be competitive in its payment of wages and benefits in order to attract a workforce—the more dangerous or difficult the job, the higher the pay. Yet, exemptions under current labor standard laws allow for agriculture to continue to operate outside of this environment. For example, agriculture is subsidized by tax dollars to pay for importing foreign labor that displaces domestic workers, instead of requiring agriculture to improve wages and benefits in order to attract its workforce.

Federal tax dollars are used to bring in foreign labor which increases the over-supply of agricultural workers, thus driving down wages and working conditions. No other industry is afforded this level of special treatment. Additionally, agriculture is allowed exemptions under labor standards, and provided numerous other subsidies that do not filter down to the workforce. Agricultural industry is big business and is largely no longer the mom and pop operations of yesterday. As corporations, the industry should be required to use modern labor management practices and be treated no differently than other industries of similar size, production, revenues, and expenditures.

Farmworker children are working because their parents cannot earn a living wage working in agriculture. Exemptions under nearly all of the federal labor standards result in this occupational group being a large segment of the working poor in this nation. The seasonal nature of agricultural employment, combined with the large surplus of agricultural workers and

their declining earnings over the past twenty years, stimulate the need for farmworker parents to take their children to the fields to work in order to help supplement the family's income. If the economic pressures within the family were removed or lessened and the restrictions on working in agriculture increased, then the economic incentive to take the children to the fields would be greatly reduced. Farmworkers need to be treated equally under the law and be eligible for comprehensive coverage under the federal minimum wage, unemployment compensation, workers compensation, overtime pay, and child labor protections.

Enforcement and Penalties

Since 1990, the Department of Labor's Wage and Hour Divisions' level of enforcement activities related to child labor has fluctuated from year to year. Yet, consistently the investment has been in a downward trend. The Department of Labor should establish a strategic plan for the implementation of its enforcement responsibilities, establish a higher commitment of resources for the enforcement of child labor laws, and maintain the investment consistently over the long term. Currently, Wage and Hour relies on a compliant driven mechanism for the reporting of violations before inspections are conducted. This approach will not work effectively in the agricultural sector. Given the economic problems experienced by the parents, service providers' sympathy because of the plight of the farmworker families, Cooperative Extension and Department of Agriculture's concerns for farmers and the industry, any expectations for complaints to be generated in a small, rural agricultural community are unrealistic. Only a persistent, repeated, unannounced, full-scope investigations on all farms, regardless of the number of workers reported, is essential. The number of inspectors must be increased relative to the size and scope of the problem. Increasing inspectors on a seasonal basis during peak harvest seasons may prove to be somewhat more cost effective than hiring full-time inspectors.

We encourage raising monetary penalties for violators to a level that creates a significant disincentive, with the provision of serving time in prison for multiple violations or repeat offenders. Given the Department's modest fines and lack of success in collecting fines levied against child labor violators, we recommend that if an industry is found to be in violation of the law, the first time offender pays no less than a \$10,000 fine per violation. Failure to pay such fines on time will result in the loss of their business license until such fine is paid. For a second violation, the industry loses all rights of access under the law to any federal or state employment exemptions, federal or state benefits or tax breaks afforded industry, or subsidy existing in law or enacted for a period up to five years. This includes prohibiting the employer from using guestworkers or other federal or state subsidized employment agents or services. Should a third violation occur or a pattern of practice be evident, the employer loses all rights for a period of ten years. Likewise it should be made clear that on farms where farm labor contractors are used as the employment agent for hiring workers, responsibility for the farm labor contractor's failure to comply with the child labor law lies with the farm owner. After a second violation, the farm owner is restricted from using any guestworkers or outside employment agents for the purpose of hiring workers and all penalties, restrictions and fines are shared by the farm owner.

Department of Labor educational initiatives that are targeted to prevent child labor in the agricultural sector should be developed and customized for the population. Glitzy campaigns for urban, educated populations are ineffective with the farmworker community. Special efforts must be undertaken to ensure that materials, messages, and media approaches are appropriately field tested with the population and are conducted by groups with special expertise in this area working with the farmworker population. To do otherwise, is a waste of valuable resources and time.

Needed Services for Children and Youth

At-Risk and Out-of-School Youth Education Program

President Clinton in his State of the Union address pledged to renew the fight against child labor and is advocating increases in several key areas that will have a positive impact on both international and domestic child labor. However, one area continues to remain largely not addressed—the needs of at-risk and out-of-school youth who make up the largest segment of children working in agriculture.

Currently no nationally targeted program exists to address the needs of these children and youth. Large funding increases for fiscal year 1999 have been proposed for migrant head start, \$137 million to serve pre-school children, and migrant education, \$354 million to serve predominantly two-thirds elementary school-age children. The seriously at-risk farmworker youth on the verge of dropping out of school and the out-of-school youth have no program that is customized and designed to address their unique needs, and education and job-related training requirements.

Fifteen years ago, under the Comprehensive Employment and Training Act (CETA), the Youth Employment and Training Program (YETP) served tens of thousands of at-risk and out-of-school youth with basic and remedial education and vocationally oriented training programs. It was hugely successful, but was lost when the Job Training Partnership Act (JTPA) replaced the CETA legislation. In 1995, the JTPA §402 program, the employment, education and training program for farmworker adults, served less than 5,000 youth nationally between the ages of 16 to 21.

Performance standards and job placement outcome requirements under JTPA §402 result in youth being served as if the youth were an adult fully entering the labor market. Unfortunately, this program, as currently designed, does not allow for longer-term educational development, return to full-time school, and related school-to-work educational initiatives that are customized for the farmworker youth. The migrant and seasonal farmworker section under the Workforce Investment Partnership Act, recently passed by the Senate, does have some language that allows for youth-related services, but funds were not made available to provide such services.

Within the 1999 budget, the Administration requested a \$5 million pilot program within the U.S. Department of Labor's 1999 Pilots and Demonstration budget. This will result in one or two grants being awarded for a three-year pilot period while model approaches are studied for migrant youth. In the meantime, up to 57 percent of farmworker youth will continue to drop out of school and out-of-school youth will not be able to achieve their occupational or educational dreams. Although an admirable proposal, this request falls far short of what is needed to immediately address the needs of both seasonal and migrant farmworker youth, aged 12 to 21.

A nationally administered farmworker youth stipend-education program is needed. This could be achieved by establishing a separate authorization for youth funds for this purpose, setting aside 10 percent of the Titles II B and C youth funds under JTPA at the national level to be targeted toward serving both seasonal and migrant farmworker youth, or significantly increasing by adding an additional \$70 million to the funding of the current JTPA §402 program with the provision of providing services for at-risk and out-of-school youth age 12 to 21.

Regardless of the funding mechanism used, to cost effectively administer these funds, I suggest utilizing the JTPA §402 program as the vehicle to integrate both the youth and adult education and vocational training components. This program can serve as an alternative education program for youth that feel disenfranchised in the traditional school system. Using this service network would ensure the avoidance of duplication of services, keep administrative costs down, and allow for a logical transition for the youth, once educational objectives are attained, to enter the adult job placement program preparing them for the workforce in the 21st century.

Infants and Pre-School Children's Program

Currently the migrant head start program serves pre-school migrant children up to age five. However, the program does not include eligibility for seasonal farmworker children of the same age. The regular head start program does not serve these children—those who live in poor rural isolated communities. The current migrant head start program eligibility requirements are such that once a migrant farmworker settles into a community and no longer migrates, they lose their eligibility to receive migrant head start services for their children. To affect the problems associated with the very young infants and children under age five who are found in and around the fields, appropriate day care services must be provided for both migrant and seasonal farmworker families.

Discussions are currently underway regarding the reauthorization of the Head Start legislation. A change in the definition of the eligible population to include seasonal farmworkers' children, in addition to migrant, would help to alleviate a substantial part of the problem of children being brought to the fields. In order to achieve greater continuity between programs, the definition of migrant and seasonal farmworkers that has been approved under the Senate's Workforce Investment Partnership Act and the House's Employment, Training and Literacy Enhancement Act could be utilized.

Additional funding to serve the seasonal farmworker population would be required, as the current appropriation does not adequately address the needs of the migrant population. Consideration should be given to identifying a specific percentage of funds that are set-aside for the migrant/seasonal head start program. For example, ten percent of the funds could be set-aside and earmarked for the migrant and seasonal head start program. Although the overall head start appropriations have increased substantially, the migrant head start program has not increased proportionately. In order to reduce administrative burden and maximize limited funds, we would encourage that funds be awarded to current migrant head start service providers and identifying other farmworker service providers to assist in communities currently not served. Funds to service this population should be centrally administered from the national level through a single organizational unit within the Department of Health and Human Services.

To ensure that the youngest of infants are not taken to the fields, amendments should include language that allows current and new Migrant/Seasonal Head Start programs to have the opportunity to access funding for the provision of early infant care services for the farmworker population. In order to ensure that such targeting of farmworkers occur under Head Start, a specific percentage should be identified as a set aside for the migrant and seasonal farmworker population. Lastly, the requirement for programs to generate a twenty (20) percent match for migrant/seasonal head start program funds should be fully removed given the poor rural, isolated communities where such centers migrant head start centers are located.

Labeling and Independent Monitoring

Pressure from consumers and large grocery and commodity distributors will help to move agricultural industry away from reliance on children working in the fields. What is needed is a labeling program that identifies for the consumer those commodities and food products that are certified to be child labor free and produced under farmworker friendly conditions. Such labeling requirements would encourage manufacturers and grocery store distributors to require that their purchase and production contracts specifically prohibit the use of child labor in any aspect of the production of fruits and vegetables for sale to consumers. However, it would be extremely important to ensure that independent monitoring is conducted to ensure that such certifications or claims are true.

Pesticides in the Agricultural Workplace

The short-term and long-term effects of exposure to multiple pesticides that children and

adults face who work in agriculture is not known, but especially for children. Therefore, Congress should consider recommending that EPA reevaluate all pesticides in use to ensure that reentry intervals and labeling requirements maintain a 10X-safety margin for occupational exposure by farmworker children, youth, and pregnant and lactating women. As part of the cost associated with the certification and training of agricultural workers, a fee could be assessed to the chemical companies based on the danger level of the pesticide and the volume of use. The revenues from the fees could be used to offset the cost for conducting prevention education initiatives and training for farmworkers who are at risk of exposure to the pesticides.

Closing

Whether a farmworker is an adult or a child, a migrant or a seasonal worker, no other people in our society work harder, with as little protection from exploitation, and in return for so few opportunities or benefits. The farmworker adult and child make tremendous sacrifices in health, education, housing, and financial security in order to help provide the abundant supply of low-cost food that we as a nation take for granted.

I urge that, in the future, whenever legislation is being considered that works to improve the circumstances of children and youth, that farmworker children and youth be remembered and not be left out. That they, like other children, are afforded access to the same level of protection, benefits under the law and opportunities that all other children share. As we prepare for the future, all children and youth, including farmworkers, need a chance to have the best education available in order to be prepared for employment in the 21st century.

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FLSA Provides Inadequate Protection

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Problem:

- Child labor provisions are divided into two categories: agricultural and non-agricultural labor.
- Minors working in agriculture are less protected from exploitation and more exposed to hazardous employment which threatens their health, safety, education, and well-being.

Status:

- Seventy-six percent of the states set a minimum age for non-agricultural employment at 14 years. In agricultural employment, 27 percent of the states set a minimum age below 14 years and 49 percent have no minimum age for employment.
- For child agricultural workers, the maximum hours of work while school is in session is either greatly extended or no maximum is set at all: 57 percent of the states do not set maximum hours for 14- and 15-year-olds and 78 percent do not set maximum hours for 16- and 17-year-olds. For states that do set maximum hours of work, they are as high as 60 hours a week, even when school is in session.

Model State Child Labor Law:

In response to outdated and insufficient state child labor laws, the Child Labor Coalition drafted a model state law. Important provisions in the model law provide equal protection for migrant and seasonal farmworker children, as provided for minors employed in

non-agricultural industries.

- The model law sets a minimum age of 14 for all employment (whether non-agricultural or agricultural employment);
- The model law sets the same maximum hours of work while school is in and out of session (for non-agricultural and agricultural employment):

When School is in Session:

14- and 15-year-olds – 15 hours maximum
16- and 17-year-olds – 20 hours maximum

When School is Not in Session:

14- and 15-year-olds – 30 hours maximum
16- and 17-year-olds – 40 hours maximum

- The model law prohibits minors (under age 18) from dangerous agricultural occupations and substances and operating hazardous tools and machinery.
- The model law requires certificate of employment for working minors, regardless of occupation.

Problem:

- Child labor provisions are divided into two categories: agricultural and non-agricultural labor.
- Minors working in agriculture are less protected from exploitation and more exposed to hazardous employment which threatens their health, safety, education, and well-being.

Status:

- A migrant farmworker child can be employed in agriculture even if younger than 12 years of age.
- Even without parental consent, 10- and 11-year-old migrant farmworker children can be used as hand-harvesters if the farm gets a waiver from the U.S. Department of Labor.
- A migrant farmworker child can work in agriculture more than 40 hours a week, even during the school term.
- A migrant farmworker child can work an unlimited number of hours performing agricultural services before school.
- A migrant farmworker child 14 years old or younger can use knives, machetes, operate machinery, and be exposed to dangerous pesticides.
- A migrant farmworker child may engage in hazardous employment at the age of sixteen years. Hazardous employment in other industries and occupations is prohibited for minors under the age of eighteen.
- Migrant farmworker children, like their parents, are often exempt from unemployment compensation, worker's compensation, overtime, and federal minimum wage.

"Young American Workers Bill of Rights":

(Rep. Tom Lantos - sponsor).

The bill amends the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

Among other things, the bill provides equal protection for minors working as migrant and seasonal farmworkers, as for those minors who are engaged in non-agricultural employment. Equal standards are set for minimum age for employment (14 years), day and weekly hours restrictions, requirements for work permits, etc. Additionally, the bill identifies several occupations that are particularly hazardous for the employment of children between the ages of 16 and 18. Pesticide handling will be added to the list of Hazardous Occupations Orders. These provisions do not apply to children working on family farms.

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H.R. 2119: The Young American Workers' Bill Of Rights

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The Young American Workers' Bill of Rights Act (H.R. 2119), which will set minimum standards for protecting children in the workforce, will do the following:

- establish criminal sanctions for willful violations of child labor laws that result in the death of a child (maximum 10 years in prison) and for willful violations that result in serious bodily injury to a child (maximum 5 years in prison);
- provides that willful and repeated violators of child labor laws are ineligible for federal grants, loans, or contracts for 5 years, and also are ineligible to pay the subminimum youth training wage or to employ a minor for 5 years;
- establishes for the first time limits of 4 hours/day and 20 hours/week that 16 and 17 year olds can work while school is in session;
- requires certificate of employment for minors under the age of 18 which includes approval by parents and schools in order to avoid interference with school requirements;
- provides protection for minors under the age of 14 who are migrant workers or seasonal agriculture workers; the bill does not affect in any way the current provision exempting children who work on family farms;
- broadens the scope of hazardous work orders for teenagers to include paper baling, power-driven meat slicers, door-to-door sales, poultry processing, fish and seafood processing, and pesticide handling;
- requires employers to post at worksites key provisions of applicable child labor laws;
- requires the Department of Labor (DOL) to publish and circulate regularly the

- names and addresses of employers who willfully violate child labor laws;
- requires the DOL to compile and make available to school districts the names and addresses of child labor law violators and the exact nature of the violation;
 - authorizes under certain circumstances a private right of action, in case of serious bodily injury or death, for aggrieved minors or their families against child labor violators;
 - mandates clear coordination and information referral among key federal enforcement agencies (DOL, OSHA, INS, et al.);
 - establishes a permanent Child Labor Advisory Committee to provide expert policy advice to DOL Secretary;
 - extends coverage of child labor laws to all employers regardless of annual dollar volume of sales although certain small businesses are exempted from other provisions of the Fair Labor Standards Act;
 - authorizes increased funding for additional costs resulting from changes in law, particularly with respect to reporting requirements and penalties;
 - requires DOL to compile yearly data on occupations in which minors under 18 are employed and on the number of child labor violations;
 - requires DOL and HHS to issue an annual report on child labor in America and the attendant safety and health hazards.

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Senate Testimony By L. Diane Mull

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Testimony of
L. Diane Mull
Executive Director
Association of Farmworker Opportunity Programs (AFOP)

Before the
Senate Subcommittee on Employment and Training
Dirksen Senate Office Building
Room 430
Washington, D.C.
June 11, 1998

Senators DeWine and Wellstone, I want to thank you for this opportunity to speak today about child labor in agriculture in the United States and to speak on behalf of the hundreds of thousands of children affected because so few federal protections are provided for workers in agriculture. Thank you for taking the steps to organize this hearing on this most serious issue. Also, I would like to acknowledge Senator Tom Harkin for his efforts on behalf of children both nationally and internationally and Senator Ted Kennedy for his leadership on behalf of improving protections for farmworkers over the years.

The exploitation of children in the United States is not a thing of the past. Conditions exist today that are grossly reminiscent of child labor during the 1800s with the birth of the Industrial Revolution. In 1906, Lewis Hine took the now famous photographs of children working day and night in hazardous occupations for sixty-to-seventy hours per week. In December of 1997, The Associated Press (AP) published a five-part series, entitled Children for Hire, with photographs and stories similar to those produced at the turn of the century. The International Labor Organization (ILO) estimates that globally as many as 250 million children work with 80 percent working in agriculture. Child labor continues to exist in the United States today and as with the rest of the world, largely in the agricultural sector.

The Fair Labor Standards Act (FLSA), first passed in 1938, outlawed child labor in most industries. The law was intended to protect the educational opportunities, health, and well being of children by setting employment restrictions, such as age limits, limited hours, and declarations of hazardous occupations. However, age limits were not imposed on work in agriculture until 1974(36 years after the law was passed. Work in manufacturing, mining, construction, and other occupations declared hazardous was outlawed. However, agriculture was the exception and continues to be the exception today.

For industries other than agriculture, no child under 16 can be employed for unlimited time periods, and 14- and 15-year-olds can work only outside of school hours. Youth must be at least 18 years old before they can work in hazardous occupations (FLSA, 29 U.S.C. §203[1]).

However, in agriculture, children under the age of twelve can work during non-school hours on farms that are exempt from the minimum wage, if their parent or guardian is present or provides consent. Also, children of all ages can work on their parents' farm without any legal restrictions, even performing hazardous work (U.S. General Accounting Office, *Hired Farmworkers: Health and Well-Being at Risk*, 1992). Fourteen-year-olds can work for an unlimited number of hours and 16-year-olds can even perform hazardous work, including the handling of pesticides, operating heavy machinery and using sharp cutting instruments (FLSA, 29 U.S.C. §213[a][6]).

As stated within the General Accounting Office (GAO) preliminary report, *Child Labor in Agriculture*, the FLSA provides less protection for children who work in agriculture than for those who work in any other industry. Despite the fact that farming has one of the highest fatality rates of all occupations and competes each year with mining and construction for the dubious honor of being one of the top three most dangerous industries. Current law establishes that it is illegal for a 13-year-old to work in an air-conditioned office collating paper. While at the same time allowing under certain circumstances for a child under 12 to work as a hired worker on a farm and to work under the hot blazing sun in fields that have been sprayed with pesticides, while using sharp cutting knives to work.

Who are the Farmworker Children and Youth?

As an occupational group, farmworkers and their families come from diverse cultural and ethnic backgrounds from all over the United States and the world. Despite stereotypes to the contrary, the Department of Labor reports that almost half of all farmworkers in this country are U.S. citizens, and that the overwhelming majority (over 60 percent) of foreign-born farmworkers are legal U.S. residents. While a large percentage of farmworkers are of Hispanic decent, they can also be African-American, European-American, or immigrants from the Caribbean, Southeast Asia, and Eastern Europe. Farmworkers in the United States today are largely Hispanic, although geographical pockets of non-Hispanic workers exist. A very large majority of the children and youth who work in agriculture are U.S. citizens, born and raised in the United States, and permanent residents.

Although their ethnicity varies greatly, farmworkers fall into two broad categories: seasonal and migrant. While migrant farmworkers travel during the growing seasons to find work and live at temporary worksites, seasonal farmworkers are permanent residents of their communities who obtain seasonal employment as agricultural workers in their local areas.

Children and youth who work in agriculture are not only migrant, but seasonal farmworkers as well. Whether migrant or seasonal, as an occupational group, farmworkers all share in the difficulty of earning a living wage while performing farm work and the lack of protections provided for workers in agriculture.

Regardless of age, farmworker children, like their parents, are denied certain protections that are afforded other workers in far less hazardous occupations. Such exclusions include worker's compensation, unemployment compensation, overtime, federal minimum wage, and child labor protections - benefits that most American workers take for granted. Despite agriculture's more relaxed labor standards, it was on farms that The Associated Press (AP), as part of a five-month investigative study on child labor, most often found "illegal child labor, including the most extreme cases: the youngest workers toiling the longest hours for the least pay. The poorest and most vulnerable were among migrant farmworker children who start working before other children start kindergarten."

Although accurate counts of the farmworker population continue to evade even the best statisticians, the estimates of the number of children working in agriculture range from GAO's 300,000 to United Farmworkers' Union estimate of 800,000. Having served on the Department of Labor's Interagency Taskforce since 1985, which has studied various instruments that attempt to count farmworkers, no source of data currently exists that can comprehensively and reliably report information about the migrant and seasonal agricultural workforce that includes crop workers, livestock and others. Each data source has its own unique set of problems and limitations. Significant modifications, restructuring sampling designs, and, in some cases, considerable expansion, would be required in order to create a source of data that can be relied upon.

At a minimum, the Bureau of Census, who has the primary responsibility to count the U.S. population, should be required to take the steps necessary to make their count reliable. The 1990 Census data was estimated to have counted and identified only about 25-35 percent of the persons who are farmworkers at some time during the year (Gabbard, et al, U.S. Farmworkers in the Post-IRCA Period, 1993). GAO's estimate of 300,000 is based on the Bureau of Census' Current Population Survey data. If the researcher's estimates are accurate, GAO's number reflects only one-fourth to one-third of the level and extent of the problem. Thus, we believe that the level and extent of the problem is likely to be closer to the United Farmworkers' Union estimate of 800,000 or one million.

Researchers collaborating with reporters from The AP, although acknowledging that the figures are likely an undercount, calculate that (The AP, Children for Hire series, December, 1997):

- In all, 123,000 children age 14 to 17 work in the fields.
- Of this figure, 61,000 children, age 14 to 17, who live apart from their parents, work in the fields.
- A recent Rutgers University labor economist study estimates that 292,200 children were employed unlawfully last year in the United States, with 147,700 children working illegally in an average week.
- Nearly 60,000 of those workers are thought to be under the age of 14.
- Nearly 4% of 12- to 17-year-olds working at any time are working unlawfully.
- Employers save \$155 million each year by hiring children too young to work legally.

Given that the above figures are based on census data, which severely undercounts Hispanic and low-income populations, we expect that the above figures may actually be three times higher than the figures quoted.

Impact of Child Labor on Education

Farmworker families cannot afford adequate day care and the economic incentive for children to work is so great that 45 percent of migrant children drop out of school (Migrant Attrition

Project, testimony before the National Commission on Migrant Education, 1991). The work schedules, including before and after school work periods, and migration patterns of workers in agriculture interfere with the child's education. Migrant families leaving Texas and Florida heading north in search of farm work often depart before the school term ends and do not return to their homebase until October or November after the next school term begins. Some school districts within the U.S. adjust their schedules around peak harvest periods, such as in Maine with the potato harvest.

Children miss school to work, fall behind in their grades, fail to advance to the next grade level with their peers, get discouraged, work more, and ultimately drop out. Completing high school is the exception not the rule among farmworker children and youth. Even more rare are farmworker children entering college (only one in ten completes the 12th grade. Migrant Education programs, K-12, lose over half their initial enrollments by the ninth grade. Eighty percent of adult migrant farmworkers is considered educationally disadvantaged, i.e., functioning at a 5th grade literacy level or less (U.S. Department of Education, *The Education of Adult Migrant Farmworkers*, Vol. 2, 1991).

Due to a disrupted education, farmworker youth are forced to remain in farm work, enduring the same substandard working conditions and low wages as their parents and grandparents. Seventy-two percent of the farmworkers served by the U. S. Department of Labor's Migrant and Seasonal Farmworker Program in 1995 had dropped out of school (Job Training Partnership Act, Title IV §402, Program Year 1995 SPIR data). Youth, under the age of 21, averaged between three to four grade levels behind their age group at the time they dropped out of school (National Farmworker Database, Summary Data on Youth, AFOP, 1997).

Impact of Child Labor on Health

Hired farmworkers suffered about 28 percent of the fatal accidents and 68 percent of the nonfatal accidents in 1992 (U.S. Department of Agriculture, ERS, *Injuries and Fatalities on U.S. Farms*, Runyan, 1998). The GAO reported that 140 children died between 1992 and 1996 in farm related accidents. The Wall Street Journal reported in 1989 that more than 27,000, age 19 and under, are injured. EPA estimates that pesticide exposure causes farmworkers and their families to suffer between 10,000 to 20,000 immediate illnesses annually, and additional thousands of illnesses later in life.

Currently, the 10,000 pesticides registered with the EPA and in use have not been tested to determine their impact on children who work in the fields and are exposed to pesticide residues. EPA sets reentry intervals based on a 10X-safety margin, i.e., ten times safe for an average adult, 160 pound male. However, consideration has not been given to the fact that children are not simply small adults. Children are more likely to be harmed by pesticide exposures than are adults because children have a lower body weight, higher metabolism, and immature immune and neurological systems (National Research Council, 1993).

I believe that it would be advisable for Congress to require EPA to review the certification of all 10,000 pesticides currently registered and approved for use with respect to revising reentry intervals and labeling requirements. Before receiving EPA approval, the research should demonstrate that any pesticide approved must be at a 10X-safety margin for occupational exposure for farmworker children and pregnant and lactating women.

Under the Food Quality Protection Act (FQPA), EPA will be undertaking a review of all 10,000 pesticides to determine, for food safety purposes, residue levels that result in a 10X-safety margin for children who eat food sprayed with pesticides and are exposed to pesticides in the air and at home. Unfortunately, the FQPA specifically excluded farmworkers and their occupational exposure risk from consideration under the FQPA testing, including farmworker children. Consideration should be given to eliminating this occupational exposure exemption under FQPA for farmworker children.

Farmworker children who are tired and hungry will often eat the fruits and vegetables they pick

right out of the fields, without washing them (even after pesticides have been sprayed). When the farmworker children eat, drink, smoke, or chew gum without washing their hands first, they ingest pesticides. Children are likely unaware of the dangers they face when working in fields sprayed by pesticides. Because of very limited funding, many farmworkers, both children and adults, may not have been educated about pesticide worker safety, training that is being sponsored under the EPA's Worker Protection Standards or through independent initiatives sponsored by farmworker service organizations.

Children who work in agriculture are exposed to a myriad of hazards. These hazards include: working around heavy equipment; driving tractors, forklifts and combines; working with livestock; falling from ladders; and drowning in irrigation ditches and ponds. Children are working with knives, machetes and other sharp cutting instruments; risking exposure to pesticides through direct spray and drift; and carrying and lifting heavy buckets filled with produce. Children are working in a stooped position for hours on end, and being exposed to high levels of heat and sun sometimes without access to fresh drinking water or without being allowed appropriate rest periods.

The agricultural work place is a hostile environment filled with high risks of injury and possible death. Not an environment for children and youth who are not even aware of the dangers that they face and the possible long-term impact that an accident can have on their future.

Why Do Children Work?

Children who work in agriculture often work long hours in the fields before, during and after school hours, risking exposure to dangerous pesticides and earning income for which they may never be credited. Most work alongside impoverished parents. It happens because of need. It is a basic matter of survival for the farmworker family, because the adult farmworker is not adequately compensated and does not have the same basic labor standard protections that are afforded all other Americans.

Most farmworker children work out of necessity in order to help supplement their family's limited income. They work in the fields illegally to help increase the productivity of the adult workers. The average income for a farmworker family is less than \$6,000 per year compared to more than \$28,000 for the average American family. It happens because there is nowhere for children to go while their parents work in the fields. It happens because youth dropout of school and have no program that is nationally targeted to address their special needs (to help provide a recovery mechanism to bring them back into the educational and vocational training arena).

However in some cases, farmworker parents take their children to the fields in order to teach them how difficult farm work can be so that their children will value their education more and learn a strong work ethic. Unfortunately, this approach often backfires on the parents. When their children become disenfranchised with the schools and are at risk of dropping out, the children have learned to value the potential of earning a dollar by working the fields today over their potential earning power after they get an education tomorrow.

Recommendations

The United States has been a global leader in efforts to improve human rights protections. With respect to child labor, however, we need to place our focus on the domestic front. The steps necessary to eliminate child labor in the United States are not easy ones—the issue is very complicated. If our purpose is to completely eliminate child labor in the United States, this will require implementing both short-term and long-term solutions if we are to remain a model for the global community.

If we want to maintain our status as a global leader in human rights, a multi-tiered approach must be undertaken to ensure that elimination of the problem results, as opposed to driving

the problem further underground. Consideration must be given to making clear and appropriate distinctions between children of farm owners and all other children who work on farms. This requires development of a more current, realistic view of what constitutes a small, family operated farm—one that engages only the family members in work on the farm and not non-family members or contract labor.

FLSA Child Labor Amendments

First, we must make corrections to modernize the FLSA to eliminate the current exemptions and equalize and increase the protections for children working as hired workers in agriculture. Once corrections to current law are in place, we must improve and expand the enforcement of the law. To simply increase enforcement of the existing weak child labor laws that apply to agriculture will have little or no effect in eliminating the problem.

We must raise the level of protection for hired farmworker children to be equal to the protection provided for other children. Agriculture should join the ranks of manufacturing, mining and construction and be declared a hazardous industry. Therefore, no child under the age of 16 should be allowed to work as a hired worker in agriculture. For children 16 to 17, no child should be allowed to work in hazardous jobs, i.e., including jobs that result in exposure to pesticides, dangerous equipment, risk of falls, and the other dangerous aspects of agricultural employment. Hours of work should be limited for children under the age of 18. These limits should include no work before school, no more than three hours of work after school, and a limit of 20 hours per week during the school term. Additionally, no child under 18 should work more than 40 hours per week when school is not in session. No child under 21 should be allowed to mix, load, apply or handle pesticides or pesticide containers.

The hazardous orders must be revised to reflect the dangers associated with exposure to pesticides, working around and with dangerous machinery and sharp cutting instruments.

Labor Standard Improvements for the Adult Farmworker Parents

Changes to child labor laws serve to eliminate the obvious inconsistencies under the FLSA that encourages child labor in agriculture and children's exposure to greater risks. However, it does not address the underlying root cause that stimulates child labor in agriculture—the inability of the adult parents to earn a living wage while working in agriculture. My second recommendation includes making changes in current agricultural employment laws and policies that encourages federal minimum coverage for agriculture workers. Steps should be taken to remove exclusions for agricultural industry such that farmworkers would be uniformly eligible for the minimum wage, unemployment compensation, workers compensation, and overtime pay. Additionally, agricultural policy should facilitate the employment of domestic farmworkers over the importation of foreign or guestworkers.

The economic necessity for the parents to take the children to the fields must be removed. The only effective way to do this is to enable the working parent to earn a living wage while performing their agricultural work. Exemptions under the law that are afforded to agriculture are not afforded to any other industry. In a market driven environment, a business must be competitive in its payment of wages and benefits in order to attract a workforce—the more dangerous or difficult the job, the higher the pay. Yet, exemptions under current labor standard laws allow for agriculture to continue to operate outside of this environment. For example, agriculture is subsidized by tax dollars to pay for importing foreign labor that displaces domestic workers, instead of requiring agriculture to improve wages and benefits in order to attract its workforce.

Federal tax dollars are used to bring in foreign labor which increases the over-supply of agricultural workers, thus driving down wages and working conditions. No other industry is afforded this level of special treatment. Additionally, agriculture is allowed exemptions under labor standards, and provided numerous other subsidies that do not filter down to the

workforce. Agricultural industry is big business and is largely no longer the mom and pop operations of yesterday. As corporations, the industry should be required to use modern labor management practices and be treated no differently than other industries of similar size, production, revenues, and expenditures.

Farmworker children are working because their parents cannot earn a living wage working in agriculture. Exemptions under nearly all of the federal labor standards result in this occupational group being a large segment of the working poor in this nation. The seasonal nature of agricultural employment, combined with the large surplus of agricultural workers and their declining earnings over the past twenty years, stimulate the need for farmworker parents to take their children to the fields to work in order to help supplement the family's income. If the economic pressures within the family were removed or lessened and the restrictions on working in agriculture increased, then the economic incentive to take the children to the fields would be greatly reduced. Farmworkers need to be treated equally under the law and be eligible for comprehensive coverage under the federal minimum wage, unemployment compensation, workers compensation, overtime pay, and child labor protections.

Enforcement and Penalties

Since 1990, the Department of Labor's Wage and Hour Divisions' level of enforcement activities related to child labor has fluctuated from year to year. Yet, consistently the investment has been in a downward trend. The Department of Labor should establish a strategic plan for the implementation of its enforcement responsibilities, establish a higher commitment of resources for the enforcement of child labor laws, and maintain the investment consistently over the long term. Currently, Wage and Hour relies on a compliant driven mechanism for the reporting of violations before inspections are conducted. This approach will not work effectively in the agricultural sector. Given the economic problems experienced by the parents, service providers' sympathy because of the plight of the farmworker families, Cooperative Extension and Department of Agriculture's concerns for farmers and the industry, any expectations for complaints to be generated in a small, rural agricultural community are unrealistic. Only a persistent, repeated, unannounced, full-scope investigations on all farms, regardless of the number of workers reported, is essential. The number of inspectors must be increased relative to the size and scope of the problem. Increasing inspectors on a seasonal basis during peak harvest seasons may prove to be somewhat more cost effective than hiring full-time inspectors.

We encourage raising monetary penalties for violators to a level that creates a significant disincentive, with the provision of serving time in prison for multiple violations or repeat offenders. Given the Department's modest fines and lack of success in collecting fines levied against child labor violators, we recommend that if an industry is found to be in violation of the law, the first time offender pays no less than a \$10,000 fine per violation. Failure to pay such fines on time will result in the loss of their business license until such fine is paid. For a second violation, the industry loses all rights of access under the law to any federal or state employment exemptions, federal or state benefits or tax breaks afforded industry, or subsidy existing in law or enacted for a period up to five years. This includes prohibiting the employer from using guestworkers or other federal or state subsidized employment agents or services. Should a third violation occur or a pattern of practice be evident, the employer loses all rights for a period of ten years. Likewise it should be made clear that on farms where farm labor contractors are used as the employment agent for hiring workers, responsibility for the farm labor contractor's failure to comply with the child labor law lies with the farm owner. After a second violation, the farm owner is restricted from using any guestworkers or outside employment agents for the purpose of hiring workers and all penalties, restrictions and fines are shared by the farm owner.

Department of Labor educational initiatives that are targeted to prevent child labor in the agricultural sector should be developed and customized for the population. Glitzy campaigns for urban, educated populations are ineffective with the farmworker community. Special efforts must be undertaken to ensure that materials, messages, and media approaches are

appropriately field tested with the population and are conducted by groups with special expertise in this area working with the farmworker population. To do otherwise, is a waste of valuable resources and time.

Needed Services for Children and Youth

At-Risk and Out-of-School Youth Education Program

President Clinton in his State of the Union address pledged to renew the fight against child labor and is advocating increases in several key areas that will have a positive impact on both international and domestic child labor. However, one area continues to remain largely not addressed—the needs of at-risk and out-of-school youth who make up the largest segment of children working in agriculture.

Currently no nationally targeted program exists to address the needs of these children and youth. Large funding increases for fiscal year 1999 have been proposed for migrant head start, \$137 million to serve pre-school children, and migrant education, \$354 million to serve predominantly two-thirds elementary school-age children. The seriously at-risk farmworker youth on the verge of dropping out of school and the out-of-school youth have no program that is customized and designed to address their unique needs, and education and job-related training requirements.

Fifteen years ago, under the Comprehensive Employment and Training Act (CETA), the Youth Employment and Training Program (YETP) served tens of thousands of at-risk and out-of-school youth with basic and remedial education and vocationally oriented training programs. It was hugely successful, but was lost when the Job Training Partnership Act (JTPA) replaced the CETA legislation. In 1995, the JTPA §402 program, the employment, education and training program for farmworker adults, served less than 5,000 youth nationally between the ages of 16 to 21.

Performance standards and job placement outcome requirements under JTPA §402 result in youth being served as if the youth were an adult fully entering the labor market. Unfortunately, this program, as currently designed, does not allow for longer-term educational development, return to full-time school, and related school-to-work educational initiatives that are customized for the farmworker youth. The migrant and seasonal farmworker section under the Workforce Investment Partnership Act, recently passed by the Senate, does have some language that allows for youth-related services, but funds were not made available to provide such services.

Within the 1999 budget, the Administration requested a \$5 million pilot program within the U.S. Department of Labor's 1999 Pilots and Demonstration budget. This will result in one or two grants being awarded for a three-year pilot period while model approaches are studied for migrant youth. In the meantime, up to 57 percent of farmworker youth will continue to drop out of school and out-of-school youth will not be able to achieve their occupational or educational dreams. Although an admirable proposal, this request falls far short of what is needed to immediately address the needs of both seasonal and migrant farmworker youth, aged 12 to 21.

A nationally administered farmworker youth stipend-education program is needed. This could be achieved by establishing a separate authorization for youth funds for this purpose, setting aside 10 percent of the Titles II B and C youth funds under JTPA at the national level to be targeted toward serving both seasonal and migrant farmworker youth, or significantly increasing by adding an additional \$70 million to the funding of the current JTPA §402 program with the provision of providing services for at-risk and out-of-school youth age 12 to 21.

Regardless of the funding mechanism used, to cost effectively administer these funds, I suggest utilizing the JTPA §402 program as the vehicle to integrate both the youth and adult

education and vocational training components. This program can serve as an alternative education program for youth that feel disenfranchised in the traditional school system. Using this service network would ensure the avoidance of duplication of services, keep administrative costs down, and allow for a logical transition for the youth, once educational objectives are attained, to enter the adult job placement program preparing them for the workforce in the 21st century.

Infants and Pre-School Children's Program

Currently the migrant head start program serves pre-school migrant children up to age five. However, the program does not include eligibility for seasonal farmworker children of the same age. The regular head start program does not serve these children—those who live in poor rural isolated communities. The current migrant head start program eligibility requirements are such that once a migrant farmworker settles into a community and no longer migrates, they lose their eligibility to receive migrant head start services for their children. To affect the problems associated with the very young infants and children under age five who are found in and around the fields, appropriate day care services must be provided for both migrant and seasonal farmworker families.

Discussions are currently underway regarding the reauthorization of the Head Start legislation. A change in the definition of the eligible population to include seasonal farmworkers' children, in addition to migrant, would help to alleviate a substantial part of the problem of children being brought to the fields. In order to achieve greater continuity between programs, the definition of migrant and seasonal farmworkers that has been approved under the Senate's Workforce Investment Partnership Act and the House's Employment, Training and Literacy Enhancement Act could be utilized.

Additional funding to serve the seasonal farmworker population would be required, as the current appropriation does not adequately address the needs of the migrant population. Consideration should be given to identifying a specific percentage of funds that are set-aside for the migrant/seasonal head start program. For example, ten percent of the funds could be set-aside and earmarked for the migrant and seasonal head start program. Although the overall head start appropriations have increased substantially, the migrant head start program has not increased proportionately. In order to reduce administrative burden and maximize limited funds, we would encourage that funds be awarded to current migrant head start service providers and identifying other farmworker service providers to assist in communities currently not served. Funds to service this population should be centrally administered from the national level through a single organizational unit within the Department of Health and Human Services.

To ensure that the youngest of infants are not taken to the fields, amendments should include language that allows current and new Migrant/Seasonal Head Start programs to have the opportunity to access funding for the provision of early infant care services for the farmworker population. In order to ensure that such targeting of farmworkers occur under Head Start, a specific percentage should be identified as a set aside for the migrant and seasonal farmworker population. Lastly, the requirement for programs to generate a twenty (20) percent match for migrant/seasonal head start program funds should be fully removed given the poor rural, isolated communities where such centers migrant head start centers are located.

Labeling and Independent Monitoring

Pressure from consumers and large grocery and commodity distributors will help to move agricultural industry away from reliance on children working in the fields. What is needed is a labeling program that identifies for the consumer those commodities and food products that are certified to be child labor free and produced under farmworker friendly conditions. Such labeling requirements would encourage manufacturers and grocery store distributors to require that their purchase and production contracts specifically prohibit the use of child labor in any

aspect of the production of fruits and vegetables for sale to consumers. However, it would be extremely important to ensure that independent monitoring is conducted to ensure that such certifications or claims are true.

Pesticides in the Agricultural Workplace

The short-term and long-term effects of exposure to multiple pesticides that children and adults face who work in agriculture is not known, but especially for children. Therefore, Congress should consider recommending that EPA reevaluate all pesticides in use to ensure that reentry intervals and labeling requirements maintain a 10X-safety margin for occupational exposure by farmworker children, youth, and pregnant and lactating women. As part of the cost associated with the certification and training of agricultural workers, a fee could be assessed to the chemical companies based on the danger level of the pesticide and the volume of use. The revenues from the fees could be used to offset the cost for conducting prevention education initiatives and training for farmworkers who are at risk of exposure to the pesticides.

Conclusion

Whether a farmworker is an adult or a child, a migrant or a seasonal worker, no other people in our society work harder, with as little protections from exploitation, and in return for so few opportunities or benefits. The farmworker adult and child make tremendous sacrifices in health, education, housing, and financial security in order to help provide the abundant supply of low-cost food that we as a nation take for granted.

I urge that, in the future, whenever legislation is being considered that works to improve the circumstances of children and youth, that farmworker children and youth be remembered and not be left out. That they, like other children, are afforded access to the same level of protection, benefits under the law and opportunities that all other children share. As we prepare for the future, all children and youth, including farmworkers, need a chance to have the best education available in order to be prepared for employment in the 21st century.

Again, thank you for this opportunity to speak on behalf of farmworkers (especially the children and youth who so desperately need your help).

Founded in 1971, the Association of Farmworker Opportunity Programs (AFOP) is the national federation of employment and training programs servicing low-income migrant and seasonal farmworker families in 49 states and Puerto Rico through 450 field offices located in rural agricultural America.

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Executive Director L. Diane Mull's press statement

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Executive Director L. Diane Mull's press statement about the release of the GAO Report

Thank you, Congressmen Lantos, Waxman, Sanders and Secretary Herman for this opportunity to speak today regarding the GAO report on child labor in agriculture. I am extremely pleased that a critical step to document the problem of child labor in America has been accomplished. This can help arm the Administration and the Congress to make needed changes within the Fair Labor Standards Act (FLSA) and its regulations to raise the level of protection of farmworker children and make it equal to that of all other children. And lastly, Congressman Lantos, I want to thank you for the leadership role that you have taken on this issue in the House of Representatives.

I want to applaud the recent efforts of the Department of Labor. Through the Fair Harvest/Safe Harvest campaign, much needed information is being made available to the farmworker population. I hope that this will be an ongoing and expanded effort, until we are assured that every farmworker family in America knows and understands their rights and how to protect their children from the dangers in the agricultural workplace.

Although agriculture is one of the most dangerous industries in the United States, children are legally allowed to work at very young ages, for unlimited hours before school and after school. The work is affecting their education. As many as 45 to 55 percent of farmworker children are dropping out of school. This is affecting these children's chance for a good education—an education that can help them break out of this cycle of poverty.

Children are dying and being injured in our fields. Children are being sprayed with pesticides, being run over by tractors, being injured and hurt in order to put food on tables across America and around the world. Just recently, a 9 year old was run over and killed by a tractor while working in a blueberry field in Michigan, a 13 year old was knocked off a ladder where he was picking cherries in Washington state and was run over by a trailer being pulled by a tractor, and a 17 year old while picking peaches and pruning apple trees in Utah was sprayed twice with pesticides in one week, he died of a massive brain hemorrhage. Children are dying and

are being injured and their precious lives and futures are being stolen.

As the custodians of our children, we, as a nation, are charged with safeguarding their futures. We are charged with protecting them from exploitation on the job by prohibiting child labor for children under the age of 14 and by preventing children and minors from working in hazardous occupations that endanger their lives. Farmworkers, as an occupational group, are often excluded from such basic job protections as the federal minimum wage, workers compensation, unemployment insurance, and overtime pay. Because farmworker adults cannot earn a living wage working in agriculture and do not typically collect public assistance, farmworker families are forced to bring their children to the fields in order to put food on their table. It becomes an economic necessity for their children to work so that the family can survive.

At hand are issues that reflect how we view the rights of individuals within our society. If we fail to protect adequately all segments of the work force from job hazards, we risk the creation of a class system that defines the rights of some workers as superior to those of others. To continue to allow inequity in labor standard protections calls into question our integrity as a civilized society. To know that these individuals are largely minority and immigrant workers speaks to an even more egregious form of discrimination.

The Association of Farmworker Opportunity Programs through the Children in the Fields campaign supports both the Children's Act for Responsible Employment (CARE) and the Young American Workers Bill of Rights—badly needed legislation that addresses these disparities by providing equal protection and equal standards for children who work as hired workers in agriculture.

The fruits and vegetables we eat are washed with the blood, sweat and tears of America's farmworker children. It is time for action. It is time that we stop this injustice and provide protection for these children. We must act before any more children lose their lives or are injured. We must act before more children sacrifice their futures to put food on our tables.

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