

PUBLIC HEARING

before

THE COMMISSION TO STUDY THE EMPLOYMENT AND  
COMPENSATION OF AGRICULTURAL LABOR

on

UNEMPLOYMENT BENEFITS FOR AGRICULTURAL WORKERS

Held:  
July 18, 1985  
Council Chambers  
Hammonton Municipal Building  
Hammonton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Thomas P. Foy, Chairman  
Assemblyman Harold L. Colburn  
Senator C. William Haines  
Acting Deputy Commissioner  
and Controller George M. Krause  
Deputy Commissioner Kenneth C. LeFevre  
Assistant Secretary of Agriculture  
Samuel Garrison  
Mr. Angel Dominguez  
Mr. Daniel Bray  
Mr. David Sobelman  
Mr. J. Steven Main

ALSO PRESENT:

David Matos, Commission Secretary  
  
Laurine Purola and Gregory Williams  
Office of Legislative Services  
Aides, Commission to Study the Employment  
and Compensation of Agricultural Labor

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**ASSEMBLYMAN THOMAS P. FOY (Chairman):** Ladies and gentlemen, my name is Assemblyman Thomas Foy, and I am Chairman of the Commission to Study the Employment and Compensation of Agricultural Labor here in New Jersey. I want to welcome you to this public hearing today. I also want to welcome the members of the Commission, the staff, and those who are going to testify.

It is only a few minutes after three o'clock. I would like to give the public and the members of the Commission who may be a few minutes late a few more minutes, so we will start the hearing in approximately five minutes -- maybe a little bit more. We'll start about 3:15 p.m. That will give everyone the same amount of time that we used to give an assistant professor at college before we left class. We gave him 15 minutes. I don't know if anyone here is a full professor, but we have deputy commissioners and assistant secretaries here. Fifteen minutes will be enough. If you want to have a cigarette, get a drink of water, or wander around, you have seven or eight minutes before we commence the hearing.

**(RECESS)**

**AFTER RECESS**

**ASSEMBLYMAN FOY:** Let me introduce myself again. My name is Thomas Foy, and I am an Assemblyman from Burlington County. I am the Chairman of this Commission. With us today, we have a number of the Commission members. I will start at my far left: Angel Dominguez, a representative of CATA, which is a farm workers' association; Daniel Bray, a representative of the Communication Workers and the IUC; Assemblyman and Dr. Harold Colburn, who is also a legislative member of the Commission from Burlington County; and, Samuel Garrison, the Assistant Secretary of Agriculture, representing the Secretary of Agriculture. At my far right: Senator C. William Haines, also from Burlington County -- you can see that we are well-represented -- J. Steven Main, an executive with the New York Times Cable T.V. Company located in Burlington County; Kenneth LeFevre, Deputy Commissioner of

Commerce and Economic Development, who is representing the Commissioner; and, George M. Krause, Deputy Commissioner of Labor, who is representing the Commissioner of Labor.

Also in attendance are a number of staff members from the Office of Legislative Services, legal counsel, and some of the partisan staff.

The format today will be fairly simple, and we will try to expedite matters. It is our intention to take testimony first from the people who have given us advance notice, and then from several people who have indicated that they would like to present their views. I will move to them after I have finished with the people on the witness list.

There has been some advance publicity regarding the hearing. I want to personally express my appreciation to the New Jersey Farm Bureau. They did an excellent job of publicizing what was going to occur here today and the purpose of what we intend to do in this week's Newsletter publication. They have provided a survey and, hopefully, we will hear some of the results of that. I also want to thank the Farm Workers Association, which has performed similar services in terms of both publicizing this hearing and also surveying their membership regarding the purpose of the Commission. Broadly stated, the Commission has been established to inquire into the employment of agricultural people in the State of New Jersey, particularly farm workers, with an emphasis on their relationship to New Jersey's Unemployment Insurance law, which was reformed a little over a year and a half ago.

That concludes my opening comments. Would any member of the Commission like to make a brief opening statement regarding this or any other matter that is germane to the Commission's activities? (no response) All right. I guess the absence of their remarks is a powerful incentive to a speedy meeting.

At this time, let me call our first witness, Cecilio Borges. Please excuse my pronunciation of your name if it is incorrect. If you need the services of an interpreter, please come to the front desk, and the interpreter will join you.



**CECILIO BORGES (through interpreter, Juan Vargas):** Good afternoon. My name is Cecilio Borges. I have been working on farms for more than 25 years. In the last four years, I have had problems collecting unemployment year after year. The problem is, there is hardly any work in Puerto Rico, and this is why we have to come to work in the United States. We have families who depend upon us.

Last year, a group of farm workers and CATA had a march in Trenton, so we could get the opportunity to be able to collect unemployment with \$2,200. One of the consignments was, I will not pick peaches if I am not going to collect. We think it is unjust that we are confronting problems in order to collect. We also believe it is unjust that the amount be increased in order to collect. We want a just amount because if we can't collect, we will not be able to come to work here.

We believe that \$4,300 for most of us is too much. We would like something to be done in that regard.

Thank you.

**ASSEMBLYMAN FOY:** All right. Thank you for your statement. Mr. Vargas, will you translate that to Mr. Borges? (Mr. Vargas complies) Will you answer some questions about your employment situation?

**MR. BORGES:** Yes.

**ASSEMBLYMAN FOY:** What month do you normally come to New Jersey from Puerto Rico?

**MR. BORGES:** May.

**ASSEMBLYMAN FOY:** How long do you normally stay?

**MR. BORGES:** Until October or November.

**ASSEMBLYMAN FOY:** How many hours do you normally work per week?

**MR. BORGES:** When we get here in May, sometimes we work 30, 35, or 40 hours. When the crop is in full force, we work over 60 and 70 hours.

**ASSEMBLYMAN FOY:** All right. How much do you earn per hour?

**MR. BORGES:** \$3.35.

**ASSEMBLYMAN FOY:** Do you know how much you made last year?

MR. BORGES: \$2,700 and change.

ASSEMBLYMAN FOY: What do you receive as a weekly benefit when you collect unemployment in Puerto Rico?

MR. BORGES: This past year I received \$100 per week.

ASSEMBLYMAN FOY: Where do you work? Which farm?

MR. BORGES: Last year, I worked for Mr. Dave Sobelman.

ASSEMBLYMAN FOY: Have you worked for him other years?

MR. BORGES: No.

ASSEMBLYMAN FOY: That was the first year?

MR. BORGES: Yes, sir.

ASSEMBLYMAN FOY: Does any member of the Commission have any additional questions you would like to ask at this time? Mr. Main?

MR. MAIN: Is May to October or November a fairly constant schedule each year?

MR. BORGES: Yes.

MR. MAIN: Are there any years that it could be a much shorter period of time?

MR. BORGES: Yes.

MR. MAIN: How short would that be? How many weeks?

MR. BORGES: When there is bad weather-- A lot depends upon the weather.

ASSEMBLYMAN FOY: Let me follow up on that. Do you work when it rains?

MR. BORGES: No, sir.

ASSEMBLYMAN FOY: So, you lose time on those particular days during the growing season?

MR. BORGES: Yes.

ASSEMBLYMAN FOY: How many years have you been coming to New Jersey?

MR. BORGES: I came in 1972, '73, and 1974; I had a lapse, and then I came in 1981, 1982, 1983, 1984, and this year.

ASSEMBLYMAN FOY: During those years, would he generally have worked as many as 800 hours during the growing season?

MR. VARGAS: He has never tried to figure that out.

ASSEMBLYMAN FOY: Okay. Mr. Bray?



MR. BRAY: Do you normally work for the same farmer or grower for the entire year, whether or not it is a different one every year?

MR. BORGES: In 1982 and 1983, I worked for the same grower. In 1984, I worked for Mr. Sobelman and Mr. Levin.

MR. BRAY: Two in one year?

MR. BORGES: Yes, sir.

ASSEMBLYMAN FOY: Are there any other questions from any member of the Commission? Senator?

SENATOR HAINES: It seems to me that if you came in May and left in October -- is that correct? -- (Mr. Vargas translates to Mr. Borges) -- you would have accumulated at least 20 weeks. If you had 20 weeks, you would be eligible for unemployment.

MR. BORGES: There are times in those weeks that you don't make enough to-- (The remainder of the testimony is inaudible because interpreter was not near microphone)

SENATOR HAINES: Do you mean that some weeks you don't make \$54?

MR. BORGES: Yes, sir.

SENATOR HAINES: Well, you said the minimum hours you worked was 35 hours. If you worked 35 hours, you would make more than \$54.

MR. VARGAS: That was last year, but in other years, he hasn't made that much when he worked for other farmers.

SENATOR HAINES: Last year he made the 20 weeks?

MR. BORGES: Yes, sir.

ASSEMBLYMAN FOY: Where are you housed? Where do you live when you are here?

MR. BORGES: At the camp where the farmer--

ASSEMBLYMAN FOY: (interrupting) Does the farmer provide that?

MR. BORGES: Yes.

ASSEMBLYMAN FOY: Does he provide you with board -- with food?

MR. BORGES: No.

ASSEMBLYMAN FOY: You pay for your own meals?

MR. BORGES: Yes.

ASSEMBLYMAN FOY: I don't have any further questions of the witness. Does anyone else? Senator?

SENATOR HAINES: I have one further question. If you had the ability to change this law, what would you recommend? Should we change the number of weeks that you earn \$54, or would you recommend that we change the amount of money? If we did change the amount of money, what figure do you think would be fair?

MR. VARGAS: He says he would change the amount -- the \$4,100. He says he would have to check what the average worker is making.

ASSEMBLYMAN FOY: Anything else? (negative response) All right. Thank you very much for your testimony. We appreciate it.

Next I would like to call Benjamin Pabon.

**BENJAMIN PABON:** (through interpreter, Mr. Vargas): Good afternoon. My name is Benjamin Pabon. I have worked in agriculture for about five years. Last year when I came to work, I started working for a crew leader named Pedro (inaudible). With this crew leader, I worked for approximately two weeks for the Rusty Lucca Farm in Hammonton. I worked a total of 92 hours for this farmer, and he only paid me for 42 hours.

These 42 hours-- He paid me \$52 for the 42 hours. The other hours he did not pay for. Out of the \$52 that the crew leader paid me, he took out \$40 for food. The other 50 hours the grower did not want to pay, and we had to bring the case to court.

After that, we went to Pennsylvania with the same crew leader to work on a cherry farm. I worked approximately two weeks there, and I didn't get a single penny. According to the crew leader, I owed everything for food.

After working for the crew leader, I went to a farm in Bridgeton to pick peaches. I earned \$1,000, but due to an emergency dealing with health reasons, I had to leave the job. I ended up worse than when I came.

Only in 1983 was I able to accumulate enough money to be able to collect unemployment; I made \$2,201. I believe that the amount for qualification should not be increased due to the fact that most farm workers do not earn much more than that during the crop season.



I also believe that growers should have more responsibility when they use a crew leader to supervise workers on their farms.

ASSEMBLYMAN FOY: All right. Thank you. Let me kick it off by asking a few questions. First, when did you come to New Jersey this year?

MR. PABON: The 18th day of last month. The 18th of June.

ASSEMBLYMAN FOY: Okay. Where do you work this year?

MR. VARGAS: He is with CATA.

ASSEMBLYMAN FOY: He is with the association, so he is not working for a grower this year?

MR. PABON: No, sir.

ASSEMBLYMAN FOY: You indicated that you have been coming here five years?

MR. PABON: That is between New York and New Jersey.

ASSEMBLYMAN FOY: How many of those years have you been able to collect unemployment when you went back to Puerto Rico?

MR. PABON: Only in 1983.

ASSEMBLYMAN FOY: Was that because he wasn't able to work either 20 weeks or earn \$2,200?

MR. VARGAS: He was not able to work 20 weeks.

ASSEMBLYMAN FOY: What was the average number of weeks he worked each summer?

MR. PABON: 10, 12.

ASSEMBLYMAN FOY: What crops did he mostly work with?

MR. PABON: I worked fruit -- peaches, apples -- and lettuce.

ASSEMBLYMAN FOY: All right. Do any members of the Commission have any questions?

DEPUTY COMMISSIONER KRAUSE: You said that you worked 40 hours, or actually 92 hours, and were only paid \$52.

MR. VARGAS: He was paid \$52 for 40 hours.

DEPUTY COMMISSIONER KRAUSE: Okay, but \$52 for 40 hours is far below the minimum wage.

MR. VARGAS: He was working piece work.

DEPUTY COMMISSIONER KRAUSE: Blueberries?

MR. PABON: Yes, blueberries.

MR. VARGAS: He wasn't meeting the minimum.

ASSEMBLYMAN FOY: Mr. Bray?

MR. BRAY: Do you have the option, when you are working for the crew leader and he takes money you owe him for food, to buy your own food instead and have a place to cook it?

MR. PABON: He will not allow anybody to cook in the camp.

ASSEMBLYMAN FOY: Mr. Garrison?

ASSISTANT SECRETARY GARRISON: You indicated that you worked so many hours and received very little money for it. Do you know if that problem was turned over to the State Department of Labor?

MR. PABON: Yes, sir.

ASSISTANT SECRETARY GARRISON: What happened?

MR. VARGAS: He is not up-to-date on what has been happening with it, but on the 22nd of July there is a public hearing on that. I guess it is in front of the courts.

ASSISTANT SECRETARY GARRISON: I believe it is being pursued in two directions. One is a court case, and I believe on the other side, the State Department of Labor has received settlement from the farmer for any unpaid amounts that were due the workers.

MR. VARGAS: He is asking me what we mean by a settlement?

ASSISTANT SECRETARY GARRISON: I don't mean a settlement. I mean, as I understand it, there were two actions being pursued. One was through a separate court action, and the other one, the State Department of Labor met with the farmers and received payment by the farmers for any payments due the workers. Is this correct?

MR. VARGAS: He says he was informed that he was going to have some moneys coming to him, but he says subsequent to that, there was a meeting of 40 farmers, or something like that, and they were opposed to them getting the money.

ASSEMBLYMAN FOY: Are there any further questions from the members of the Commission? Yes, Commissioner?

DEPUTY COMMISSIONER LeFEVRE: I'm just curious. What happens if a worker, through a bad season -- not enough hours, not enough earned, or his expenses were great -- doesn't have the money to fly back to Puerto Rico? What happens then?

MR. PABON: Then you would have to do something to go back.

MR. VARGAS: I don't know what he means by "something."



DEPUTY COMMISSIONER LeFEVRE: Does this happen frequently?

MR. PABON: Yes, many times.

DEPUTY COMMISSIONER LeFEVRE: Thank you.

MR. PABON: Thank you.

MR. MAIN: Do you have a option of working piecemeal versus an hourly wage?

MR. PABON: Yes, if the work is by piece work, it is by piece work. If it is by hour, it is by hour.

MR. VARGAS: They have no choice on that.

SENATOR HAINES: I would like to get a clarification. It is my understanding that by law every worker has to earn the minimum wage, even if he is on a piece-work rate. We have had several conferences with the two Commissioners of Labor who have been Commissioners in recent years, and it has always come back to this. You have to make minimum wage, even if you are working piece work. If I am wrong about this, I would like to hear it. I think this is a clear violation of your rights by the particular farmer, and I don't think anyone in this room condones anyone breaking the law. Am I correct or not?

DEPUTY COMMISSIONER KRAUSE: I believe that is correct. On the piece work, I think they established standards that if you meet the minimum standards, you will be making the minimum wage of \$3.35 per hour.

ASSEMBLYMAN FOY: Do you still work for the same crew leader?

MR. PABON: No.

ASSEMBLYMAN FOY: Did you report him to the Department of Labor?

MR. VARGAS: Yes, he reported him to CATA.

MR. DOMINGUEZ: There is a pending lawsuit against the crew leader.

ASSEMBLYMAN FOY: Against the crew leader?

MR. DOMINGUEZ: Yes.

ASSEMBLYMAN FOY: All right. Let me try to understand the crew leader's function. In previous years, did this crew leader provide the jobs for you? Is he the one who found the work?

MR. VARGAS: That was the first year he worked for that crew leader.

ASSEMBLYMAN FOY: Oh, okay. Mr. Bray?

MR. BRAY: Is a crew leader more like an agent or an employee of the farmer? I mean, is he an agent who may go to different farms?

SENATOR HAINES: I think basically a crew leader acts very much like a subcontractor.

MR. BRAY: So, he is more like an agent than say the foreman of the farm.

SENATOR HAINES: I'm not an attorney. We have an attorney with us, and maybe he can answer that question.

ASSEMBLYMAN FOY: He is acting on behalf of one or more farmers to secure laborers for the particular crop season. That is the function he serves.

As I understand it, the farmer pays the crew leader, and the crew leader pays you.

MR. PABON: Yes, sir.

ASSEMBLYMAN FOY: Okay. I don't have anything further. Thank you very much.

MR. PABON: Thank you.

ASSEMBLYMAN FOY: The next witness on the list is Wilfredo Rivero. Will you come forward, please?

MR. MAIN: Mr. Chairman, I have a quick question. As far as the unemployment benefits are concerned and the 20 weeks in the State of New Jersey, that only applies to the amount of time he is working in the State of New Jersey. So, if he is here for two or three weeks, and then he moves to New York or Pennsylvania for a few weeks, does he only use the amount of time he works in the State, or is it cumulative? I don't know; I'm just asking.

ASSEMBLYMAN FOY: It is an accumulation of their time in the various states. They have what is called "interstate claims," which then are passed on down to Puerto Rico. It is based upon the last state they worked in.

MR. MAIN: So, it is not really supposed to be that much more difficult to go through the administrative process because an individual has worked in two or three states. Is it the last state he or she worked in that would take care of administering the benefits?

ASSEMBLYMAN FOY: Maybe Mr. Dominguez would be better able to answer that.

MR. DOMINGUEZ: In the case of the worker from Puerto Rico, let's say he goes back to Puerto Rico. He goes to the local unemployment office and opens a claim. He opens the claim based on the last state he worked in. He can combine, say, New Jersey and Florida.

The problem we are having with that is, there is a lot of paperwork involved in an interstate claim. Sometimes the worker has to wait four, six, seven, or eight weeks before the first unemployment check arrives. It is not the fault of the grower because the grower fills out unemployment papers and sends them to Trenton. The problem is, the worker applies in Puerto Rico and then Puerto Rico sends the claim to Trenton.

As I said before, there will be testimony this afternoon regarding that issue.

ASSEMBLYMAN FOY: All right. Mr. Rivero, you may proceed.

**WILFREDO RIVERO (through interpreter, Mr. Vargas):** My name is Wilfredo Rivero. I have worked on New Jersey farms for 11 years in order to support my family -- my wife and four children in Puerto Rico.

Last year I had a lot of problems with unemployment. I worked on the farms, and I only made \$3,900. After I opened my claim, I had a lot of problems collecting. I began receiving my benefits in March. When I started working again, I had to stop collecting, and I only received half of what my entitlement was.

Every year we have the same problem. Sometimes you just can't collect. When the papers are sent, they are sent in English, and if you don't understand English, you can't fill them out. That is one of the main problems why you get behind on your papers.

Then you come back to work, and as soon as you start working, they knock out your unemployment.

When you make your claim in Puerto Rico, they direct you to make your claim here in New Jersey. While all of that paperwork is being done, the season starts again, and you are just not given any money, or they return your papers because they are not filled out properly. This is the problem we are confronting year after year.

This year the amount goes up, and we don't believe we are going to be able to make it. Last year, I worked 28 weeks to make \$3,900. This year I started in May, and it doesn't look like I am going to make enough.

MR. VARGAS: He and many of his coworkers are of the feeling that there is no work in Puerto Rico, but sometimes they wonder if it isn't better to stay there with no work than to come here. That is his statement.

ASSEMBLYMAN FOY: Do any members of the Commission have any questions?

DEPUTY COMMISSIONER KRAUSE: Yes, I have a comment. It sounds to me like you are qualified for unemployment insurance, either under the old law or under the new law.

Could you explain to us why you think you are having problems collecting your unemployment insurance? It sounds to me as if you are qualified, but there is some problem with your collecting benefits.

MR. VARGAS: He says he worked 28 weeks, and he only made \$3,900. There were some weeks when he worked 27 hours because of the rain and what have you. This year, he has worked a number of weeks already, but they have been having a problem with the rain and bad weather.

DEPUTY COMMISSIONER KRAUSE: I understand that, but I still believe he would be qualified. My question is, you said that he is having difficulty getting the checks. Ask him when he first applies? What date does he apply?

MR. RIVERO: November 25.

DEPUTY COMMISSIONER KRAUSE: November. And, he doesn't receive benefits until March?

MR. RIVERO: Yes, sir.

DEPUTY COMMISSIONER KRAUSE: What was the amount of his first check?

MR. RIVERO: \$116.

DEPUTY COMMISSIONER KRAUSE: There are no retroactive payments?

MR. RIVERO: No, sir.



DEPUTY COMMISSIONER KRAUSE: I'm not sure how Puerto Rico works, but in New Jersey, if a claim is delayed for administrative reasons, usually it is caught up very quickly so that the claim week doesn't start the day he gets his check. It starts back when he first qualified. It seems to me to be an administrative problem, rather than a problem with his earnings.

MR. VARGAS: He says that is the problem. In many cases-- Other people who have worked on the same farms as he has have qualified. For whatever reason, they haven't been able to collect or they collect late.

DEPUTY COMMISSIONER KRAUSE: I would like some specifics.

ASSEMBLYMAN FOY: Where do you apply for your benefits, in Puerto Rico?

MR. VARGAS: He applied in Vineland first; then he transferred it to Puerto Rico.

ASSEMBLYMAN FOY: All right. That was November 25 of last year?

MR. RIVERO: Yes, sir.

ASSEMBLYMAN FOY: Then you transferred your claim to Puerto Rico sometime later -- when you went back?

MR. RIVERO: On December 11.

DEPUTY COMMISSIONER KRAUSE: Will you get him to write down his Social Security number for me?

MR. VARGAS: I'll get that.

ASSEMBLYMAN FOY: Mr. Dominguez?

MR. DOMINGUEZ: I would like to make a point. The reason why he applied here in New Jersey was because we were told by the people in the Department of Labor that in order to accelerate the process to collect unemployment, if you open a claim in New Jersey before you go back to Puerto Rico, then you will have a good chance of getting your money on time. I can tell you about more incidents that happened.

DEPUTY COMMISSIONER KRAUSE: We can look into that.

ASSEMBLYMAN FOY: What is the unemployment rate in Puerto Rico?

MR. VARGAS: He says he doesn't know.

ASSEMBLYMAN FOY: Well, if you can't collect unemployment when you go back to Puerto Rico, what do you do? Do you go on welfare?

MR. RIVERO: You have to look for work, whatever is available.

MR. DOMINGUEZ: There are food stamps. They don't get welfare; they get food stamps.

ASSEMBLYMAN FOY: All right. I don't have any further questions of this witness. Does anyone else?

SENATOR HAINES: I just think we've got an administrative problem, not a legislative problem, here.

ASSEMBLYMAN FOY: Not in this particular instance.

SENATOR HAINES: I would like to ask the speaker what he would suggest would be a fair money level, and what he would suggest would be a fair weekly level of earnings?

MR. VARGAS: He says that with the \$4,100 level, or whatever, he doubts very much that very many people will be able to make that. Sometimes you make \$27 in one week, depending on the weather. Sometimes you work one day, sometimes two days. He says that somewhere around \$3,000 sounds like the average to him, and about \$50 a week sounds reasonable.

SENATOR HAINES: How many weeks?

MR. RIVERO: The 20 weeks-- Many growers don't work 20 weeks. Many growers work 10, 12, or 14 weeks, so it depends on the availability of work.

SENATOR HAINES: Thank you.

ASSEMBLYMAN FOY: Okay, thank you.

MR. RIVERO: Thank you.

ASSEMBLYMAN FOY: The next witness is Theresa Munson. I'm going to invite everyone to beat the heat, if they can. I'm going to get a little more comfortable. (Assemblyman removes jacket) Thank you. You may proceed.

**THERESA MUNSON:** Good afternoon. My name is Theresa Munson, and I am entering my third year of law school in Vermont. This year I am interning with CATA's Farm Workers Support Committee.

ASSEMBLYMAN FOY: You are going to have to speak up because of the competition from the trucks.

MS. MUNSON: Basically, what I am doing this summer is trying to resolve some of the backlog of unemployment cases.

I started working for CATA in May. I have dealt with approximately 100 cases so far. That represents probably about one-half to three-quarters of all the cases we have.

I want to address what I see as problems. As the Senator stated, it is an administrative problem. We have notices in English going out to Spanish-speaking individuals, but by the time they find someone to translate them, many times they have lost their right to appeal. The notices say that you have to appeal a decision within 10 days. It seems that because this is an ongoing problem, it would not take much time for someone in the State Department to write a form letter in Spanish. That would resolve a lot of the problems because the letters they receive are form letters written in English.

A second problem that we have in attempting to help our clients is the lack of an established contact within the Department of Labor. We have a lot of cases, and once we find someone who is willing to help us, we just start sending tons of those cases in. Then people get angry; we are burying them with a lot of cases.

I spoke with Dave McGuire a few times on the telephone, and then we decided that I would deal with Mary DePaco. That has worked out great because she never seems to get ruffled when I call her. She answers letters, and she acknowledges receipt of things. We are nowhere near ending the backlog. I am only here for the summer. When I leave, we are going to have 1985 cases starting up, and we don't have 1983 and 1984 cases resolved.

Another problem is a lack of coordination between the head office in Trenton and the local offices. Three weeks ago, I took a worker to a local office. He had filed an appeal before the Tribunal. We had a notice that basically said— The decision said that the employer's contention that the worker voluntarily quit was not substantiated. We applied for a claim for him and opened his benefits. I saw the worker last week, and I said, "Have you been receiving your checks?" He said, "No." I called the local office, and they said, "We don't know anything about this. You'll have to call the

Appeal Tribunal." I called the Appeal Tribunal, and they said, "We don't know anything. You have to call interstate." I called interstate. I waited five hours for a call back. I called again, only to be disconnected. When I finally got through to someone, she said, "He is only eligible for one week. I don't know why." I asked her why, and she said, "I don't know why. He is only eligible for one week of benefits." Now we have to find someone else to help us figure out why the decision says one week. We thought it would be for his total amount of benefits.

I think that in any big organization when attempting to resolve the problems of a lot of people weekly, these sorts of problems are prone to occur. It just seems it is occurring a lot, and there should be a way to have better coordination between Puerto Rico and New Jersey. There should be a way so the workers could have their information in Spanish; then they could do a lot of this on their own and handle a lot of this in Puerto Rico so they wouldn't burden the State during the summer months.

Thank you.

ASSEMBLYMAN FOY: Thank you. Does any member of the Commission have any questions?

DEPUTY COMMISSIONER KRAUSE: Mr. Chairman, with your permission, Mike Malloy, Assistant Director of Unemployment Benefit Payments, is in the audience, and I'm sure he would be glad to address some of these administrative concerns.

ASSEMBLYMAN FOY: Mike, do you want to come up and take a seat next to Ms. Munson? Ms. Munson, you can stay there because I am going to have some questions for you in a minute. Mike, may we have some comments from you regarding Ms. Munson's testimony with respect to some of the administrative problems? Have you experienced them?

**MICHAEL P. MALLOY:** Yes, we have experienced problems. I was unable to hear a lot of the testimony from the back of the room. I could start out by making a few comments regarding some of the administrative problems that workers who return to Puerto Rico have had in collecting their benefits.



This was an especially difficult year because of the change in the law. Many workers were denied benefits for having invalid claims, and late in the calendar year when the law was changed, they had an opportunity to have their claims redetermined. We redetermined about 1,000 claims that we know of.

ASSEMBLYMAN FOY: How many claims do you normally get from farm workers from Puerto Rico?

MR. MALLOY: That is a very difficult question to answer. At this time, we don't have separate statistics regarding that, although I happen to know that in the last six months, we have received about 1,000. I really wouldn't offer that figure as a relevant statistic because we haven't been tracking it as a separate item.

ASSEMBLYMAN FOY: Do you have the computer capability to do that? Can you put a digit at the end of the code?

MR. MALLOY: Theoretically we do. It is there, but it is not operating at this time. What we are doing though that will probably produce that type of statistic, and also will, I think, help these people to receive better services from the State, is, we have organized within our interstate unit a separate unit that will specialize in processing claims for people who currently reside in Puerto Rico and file claims against New Jersey.

This year we have some other plans to contact farm employers and ask for their assistance, and also to work with some of the worker advocacy groups to gain their assistance in trying to take as many claims as possible before these individuals return to Puerto Rico. We would like to take the claims in New Jersey. We did that on a very small scale -- an experimental scale -- last year.

The problems we had last year were more related to the labor force you are discussing here than they were with our efforts to take claims in New Jersey.

One of the benefits of taking the claims before the individuals return is that we can definitely identify who the people work for. When the claimants return to Puerto Rico, we get into some of the communication problems that were described here today. We are even considering out-stationing a New Jersey worker in Puerto Rico to

perform as a liaison this winter with the Puerto Rican unemployment agency.

Getting information as early as possible about the number of weeks and the amount of wages the people have earned in New Jersey is essential. We would like to get that information, and we are trying to get that information, as early as possible this year so that these people don't have to wait an extended period of time to receive their benefits.

ASSEMBLYMAN FOY: I know the Department has certain publications published in Spanish, as well as in English. Notices that have to be posted and things of that sort are bilingual. Do you foresee any difficulty in printing some of the forms in Spanish?

MR. MALLOY: No, we don't. In fact, we are considering expanding the use of our Spanish language forms.

MR. BRAY: On occasion, the unemployment agencies have had, let's say, a field-off when a big company was going to close or something like that, and they went to the people. Has that been considered, or is it done with farm workers?

MR. MALLOY: That is exactly the type of thing we are considering this year. We are considering three alternatives to capture these claims before the individuals return to Puerto Rico. They are: mass claims possibly being taken on-site at the farm; and, making special arrangements in our local offices in southern New Jersey for the people to come in at special times in groups when we can have interpreters available, or Spanish-speaking staff available to help us get information from the workers. The third option is an option we are using in some industrial layoffs where we receive quite a bit of cooperation from the employer -- in this case, the farmer -- in distributing claim forms and then collecting them again from the workers and returning them to us. We feel that probably the personal mass layoff claims-taking activity that you are referring to would be the most effective, again, because of the communication problem. In fact, this week we are sending correspondence to farm employers to tell them about some of our ideas in this area.

SENATOR HAINES: Don't you have a new form now -- I think my wife received one in the mail -- that is a layoff form you get before the workers--

MR. MALLOY: (interrupting) Exactly.

SENATOR HAINES: (continuing) --leave? These are already filled out. My wife is happy with them.

ASSEMBLYMAN FOY: Did you lay off your wife?

SENATOR HAINES: No, she does the paperwork.

ASSEMBLYMAN FOY: Oh, she is not going to collect. I understand. Okay. (laughter)

SENATOR HAINES: Basically, she is happy with the form because it can be filled out when a worker is laid off. It is only filled out once, where sometimes mail went back and forth three or four times in prior instances.

MR. MALLOY: Especially in gathering the crucial wage information that is needed to qualify the claimant. It gives the employer a chance to--

SENATOR HAINES: (interrupting) Right. I know the farmers I've talked to are very happy that those employees who are clearly laid off at the end of the season are able to collect unemployment immediately. Basically then, they are ready to come back to work in the spring.

MR. MALLOY: The farm employers have been very helpful. One problem that we run into is the continuity of employment. Many of the workers work for several farmers during the season, and we run into a problem in gathering information and identifying each of those employers.

SENATOR HAINES: Well, that is true, but if we happen to be the last employer, and as an apple grower we often are, we have to fill out the information. If we fill out the information that the particular employee worked for us for five weeks and earned \$1,000, and then you get the information from the other farmers that he worked for--

ASSEMBLYMAN FOY: (interrupting) Mike, you indicated that you estimate there are 1,000 claims processed from Puerto Rico?

MR. MALLOY: Well, again, I don't have what I would call accurate statistics on that. I know we have received-- It was maybe the last four, five, or six months, which may not be representative of what we get.

ASSEMBLYMAN FOY: They would be 1984 claims?

MR. MALLOY: Yes, for the most part.

ASSEMBLYMAN FOY: You had approximately 1,000 in three or four months?

MR. MALLOY: Yes, three or four months.

ASSEMBLYMAN FOY: Okay. Do you have any handle on how many workers are actually here during the growing season?

MR. MALLOY: I don't know. It is a statistic we could get though.

DEPUTY COMMISSIONER KRAUSE: We don't keep that information. The only thing I can tell you is the total number of farm employees. We keep that information, but it is not going to tell you how many are from Puerto Rico. We really don't have that statistic available.

ASSEMBLYMAN FOY: Okay. Is there a way we can develop an accurate number?

MR. MALLOY: In relation to the claims that people from Puerto Rico file, or people who are returning to Puerto Rico file, I think we will develop somewhat of an accurate statistic through this specialized unit that we have organized in our interstate section. They will be dealing with the whole Puerto Rico workload. Most of them will be agricultural workers.

ASSEMBLYMAN FOY: Dan?

MR. BRAY: Do you deal with other states? Do you call it the interstate agent plan?

MR. MALLOY: Yes.

MR. BRAY: Is our relationship in dealing with Puerto Rico different than Texas or Oklahoma, or is it just a bureaucracy?

MR. MALLOY: Well, I think it is different in the sense that, again, it all stems from this basic language and communication problem. Possibly it also deals with the number of employers who the people may work for during a season and how well we can operate in



obtaining information from those employers. That, in and of itself, is a big difference though.

ASSEMBLYMAN FOY: Theresa, let me ask you a question. Have you had occasion to discuss the issues of either eligibility as a result of the number of weeks, or dollar threshold eligibility, with the farm workers you have been counseling regarding their claims?

MS. MUNSON: Yes.

ASSEMBLYMAN FOY: In terms of reviewing the claims, what would you estimate the average wage earned of the 100 or so that you have looked at?

MS. MUNSON: In all the cases I've read since I have been at CATA, I can remember very few that have earned over \$3,000.

ASSEMBLYMAN FOY: So, from your experience, it is less than \$3,000. How about in terms of the number of weeks in which they have earned \$54?

MS. MUNSON: I don't really know. I do know from the workers whom I have spoken to -- whom I've interviewed -- that most of them have worked about 16 weeks.

ASSEMBLYMAN FOY: All right. I don't have any further questions. Do any of the Commission members have any questions?

DEPUTY COMMISSIONER KRAUSE: I have one question for Theresa. In counseling these farm workers, do you think they are more concerned with the threshold or with the actual earnings they are being paid?

MS. MUNSON: I don't really know because my concern is finding out how much they earned, where they worked, and how many weeks they worked the year before. I haven't really asked them that sort of question.

DEPUTY COMMISSIONER KRAUSE: Would you like to venture an opinion?

MS. MUNSON: I would think it would be the amount of money they need to earn during the year as opposed to the number of weeks they have in which to earn it.

DEPUTY COMMISSIONER KRAUSE: The need to earn, or would like to earn?

MS. MUNSON: Need to earn in order to qualify. Everyone wants to earn as much as he can. It is a logistics' problem.

MR. MAIN: Do most of the workers work for the same person throughout a growing season? Would you say 50% or 70%? Do you have any idea?

MS. MUNSON: Maybe about 50% work for the same farmer throughout the season, and the other 50% go to other places depending on the sorts of crops the farmers grow.

MR. MAIN: Does this create a problem from an administrative standpoint?

MR. MALLOY: In order to assemble enough weeks of wages to qualify, we are dealing with the weeks and wages that the individual has earned with several employers instead of just one.

MR. MAIN: Does the worker get any information he needs to carry on to the next farmer relative to how many hours he has already worked and how much money he has earned, which would make it easier for the next farmer?

MR. MALLOY: Well, the next farmer wouldn't really be responsible for reporting the wage information of the previous employer. The law provides for the issuance of what we call -- I can't remember the formal name -- a BC-10. That is a Benefit Claim #10. That is a form employers are required to give all employees who are laid off. That form tells the worker very clearly who he was working for, and it also gives the worker the employer registration number -- the unemployment insurance employer registration number.

If the worker presents that when he files his claim, that at least tells us right up front who he worked for. It allows us to correspond with the employer to obtain the wage information we need.

MR. DOMINGUEZ: My experience is that the only people who do that are the people from the Classboro Association. At the end of the season, they provide the CATA workers with a list of all the farms they worked for. That definitely will help you.

MR. MALLOY: Yes, that form is another thing. There is a mailing going out to all New Jersey employers within the next month when we send our quarterly charge notices, which will remind them of

their requirement to issue the BC-10. This mailing will also tell them how they can obtain supplies of the BC-10. In addition to that general mailing, we are going to be corresponding with farm employers with regard to that requirement. That should be of some help.

ASSEMBLYMAN FOY: Let me ask you something. Have you been able to track whether or not there is an employment bubble as to when the bulk of the workers come in? My understanding is that in the early months — May and the beginning of June — there are certain crops that some of them come here for, but basically that is a period of time when there is not a lot of work. Then in July, August, and September, there is an influx.

DEPUTY COMMISSIONER KRAUSE: I think I can answer that. We have some statistics. The peak seems to be in August. There are about 7,000 workers in May; in June there are 9,000; in July there are 10,000; in August there are 11,000; and, in September it tapers off a little bit. The real peak is mid-summer, around August.

ASSEMBLYMAN FOY: Okay. Thank you both. Mike, we may need to call on you again for some information.

Now I would like to proceed to Israel Torres Penchi. (Mr. Penchi not present) Mr. Joseph Garofolo?

JOSEPH GAROFOLO: My name is Joseph Garofolo. I am the Manager of the Glassboro Service Association. The remarks I will make are not necessarily the feelings of all our members, but I think a large majority of them would agree with them.

I heard several people testify today, and there was a lot of truth to what they were saying, insofar as the administrative "bug" up in Trenton is concerned.

I know when workers who work on several farms go back to Puerto Rico they probably give the name of their last employer. If they have not earned enough by the time that comes through, and they pick up the rest, there are delays. I can see that.

We have made an offer to Trenton, and they have accepted. We will give a worker who goes home when he is finished the names of the growers for whom he has worked. If Trenton would send us the

claims, we could give them the amount each worker has earned on each farm, which would--

ASSEMBLYMAN FOY: Mr. Garofolo, let me interrupt for just a second. Just for the edification of the people who may not be familiar with your organization, will you briefly explain to the public and the press what the Glassboro Service is and what you do?

MR. GAROFOLO: All right. We are a nonprofit organization of growers. Our function is to bring in contract workers for our member growers.

ASSEMBLYMAN FOY: Okay. How many member growers do you have?

MR. GAROFOLO: We have approximately 200 member growers.

ASSEMBLYMAN FOY: And you are in what counties in New Jersey?

MR. GAROFOLO: We are throughout the State, but we are most heavily represented in the southern portion of New Jersey. We are actually in other states as well.

ASSEMBLYMAN FOY: On the average, how many contract workers do you bring in during the season?

MR. GAROFOLO: Normally between 1,600 and 2,000. I made a survey, and I noted some figures were thrown out here regarding why they don't all come in earlier. Of course, we don't need them.

ASSEMBLYMAN FOY: Right.

MR. GAROFOLO: I made a study; it is for 1983, but I am sure the percentages would be almost identical. This study consists of 1,547 men. In March, we brought in 84 men under the \$2,200 law; 55 would qualify. Under the new law, only 54 would qualify, but that is a high percentage because they come in early.

In April, we brought in 214 additional workers. Under the old law, an additional 138 would qualify. Under the new law, only 103 would qualify.

In May, we brought in 310 additional workers. Under the old law, 266 would qualify. Under the new law, 190 would qualify.

In June, we brought in 345 additional workers. Under the old law, 249 would qualify. Under the new law, 159 would qualify.

Right here is where we drop down to almost zero. In July, we brought in 307. Under the old law, 120 would qualify. Under the new law, only 12 qualify.



In August, we brought in an additional 221. Sixty-two would qualify under the old law; zero qualify under the new law.

In September, we brought in 66. Six qualify under the old law; zero qualify under the new law.

So, really, what I am trying to say is that-- I might add that the dissension among many growers who may go for the \$4,200 is not because of the dollars. I think they are more upset at the people who quit when they make "x" number of dollars and supposedly qualify. They should not qualify if they leave their jobs, but apparently they are being paid; many growers are complaining about this.

The other bone of contention they have is that normally in the spring of the year -- March, April, May, and even June -- a large number of these people who come in are predesignated workers, workers who worked for John Smith the year before. Many of them do not come the day they are asked for, and they continue to collect.

I know a few years ago, I offered to send Trenton a list of each grower who asks for specific workers, and the workers' Social Security numbers, names, and addresses. Our feeling is that whether the man comes in or not, he should be cut off then and there; the job is available. But, apparently this is not being done.

These are two areas that many of our growers are complaining about.

I think the other thing is -- and, again, as I said, I am not speaking for all our members -- I oppose the \$4,200, very definitely. Many, many of these workers cannot make it, through no fault of their own.

I gave you the figures earlier. We bring in over three-fifths of our men after June, and no way in the world are they going to get 20 weeks and make that kind of money. So, two things are going to happen: they are not going to come, and many of the growers may find themselves with fruit hanging and not enough help. Many of our workers have said, "If we can't qualify, we are not going to come," and I don't blame them.

Unemployment is now part of their job, so if they earn enough, and they finish with that grower, and the last grower is the man who determines it, by God, they should collect.

There has been another misconception in the past. Our contract makes no mention of Unemployment Compensation. There is no indication at all as to whether a man has to finish to collect or not finish to collect. The only thing it states is, if he finishes he gets his end-of-contract benefit, which is two-way transportation. In past years, the administrative procedure in Trenton has been that if he finished a contract, he qualified for UI, even though the farmer still had work. We oppose that vigorously, and we don't think there is any correlation between the contract and the UI.

So, I think we want to be fair on all sides. I would recommend personally that-- I might add that our average stay, per worker, is just under 15 weeks -- 14-3/4 weeks. So, I would like to see it lowered to either 14 or 15 weeks at \$54, and the dollar value not higher than \$2,800.

Again, if a man leaves, he should not collect; if he doesn't come in when he is asked, he should not collect. I think that would be fair on all sides.

ASSEMBLYMAN FOY: All right. Thank you very much for your testimony.

MR. BRAY: Your group represents -- did you say 200 growers in New Jersey?

MR. GAROFALO: Yes.

MR. BRAY: You contract to bring the workers up?

MR. GAROFALO: We contract on their behalf, yes. Then if a grower finishes, he returns him and he is reassigned. So, he doesn't have to work on only one farm.

MR. BRAY: Okay. So, he may work on four or five farms in your group?

MR. GAROFALO: Yes.

MR. BRAY: Does your group look into the-- Are there any qualifications for housing? In other words, I am talking about working conditions.

MR. GAROFALO: Oh, yes. It is stipulated that their housing has to be approved by the proper authorities. They have to earn 160 hours every four weeks. They get free housing. They have to prepare

their own meals. There are many stipulations in the contract that are of benefit to the workers, yes.

MR. BRAY: One other question: You feel that some workers actually want to leave as soon as they feel they have qualified?

MR. GAROFOLO: Yes. They get homesick and they leave, and some growers complain, "I am not finished." Or, even if they finish their contract -- let's not lose sight of that -- they may finish the 28 weeks, or whatever it may be -- the length of the contract -- and they are entitled to that two-way transportation, if the grower still has work, the worker should not be entitled to unemployment.

Now, if someone is telling them otherwise, they are being misled. I don't think there is anything mentioned in the law that has anything to do with the length of work they have here.

MR. BRAY: Is this the bad-apple aspect -- percentages?

MR. GAROFOLO: Do you mean beyond the contract?

MR. BRAY: No, the fact that someone is working just to qualify for unemployment.

MR. GAROFOLO: I don't think it is too widespread, but apparently some of our growers feel it is. Again, I am speaking just for us; maybe with other growers it might not be that way. We are just talking about our own particular group.

MR. BRAY: Thank you.

ASSEMBLYMAN FOY: Are there any other questions from the members of the Commission? Mr. Main?

MR. MAIN: Regarding the two-way transportation, if they fulfill their contract, they then get to travel back to Puerto Rico?

MR. GAROFOLO: They get back what they paid to come in, and they get a free ticket home.

DEPUTY COMMISSIONER KRAUSE: Is that part of their compensation?

MR. GAROFOLO: I beg your pardon?

DEPUTY COMMISSIONER KRAUSE: Is that considered part of their compensation?

MR. GAROFOLO: That is an end-of-contract prerequisite, yes.

DEPUTY COMMISSIONER KRAUSE: But is it included as compensation to them? In other words, if we looked at their earnings, would we see 20 weeks at so many dollars, plus?

MR. GAROFALO: No, we don't show it on their earnings card. It could be construed as an additional amount.

DEPUTY COMMISSIONER KRAUSE: What is the air fare, round trip?

MR. GAROFALO: It will vary. It depends on where they come in. We have some in the Carolinas; that is \$200 each way. This year, it will average about \$150 or \$160 — \$300 or \$320 both ways.

DEPUTY COMMISSIONER KRAUSE: That is not insignificant when you are looking at an alternative earnings test.

MR. GAROFALO: That's true. The only thing is, if the fellow pays more to go to Carolina, he is going to get a bigger credit than the fellow who comes into Newark, for instance, who pays \$150. So, it is not going to be equal, and there can be inequities.

DEPUTY COMMISSIONER KRAUSE: Well, I recognize that, but we are looking for answers.

ASSEMBLYMAN FOY: Yes. I think the point we are getting to is that there is a provision now to include lodging and meals as part of the--

MR. GAROFALO: (interrupting) They prepare their own meals. Lodging is free, but they prepare their meals.

ASSEMBLYMAN FOY: I see, but the law has a provision in it right now which adds in lodging and meals as part of establishing what the weekly base wage is. I think what the Commissioner is suggesting is, that might be amplified to include air fare, which would help some of the people, to a degree.

If you expanded the scope of things that were included as wages--

MR. GAROFALO: (interrupting) But, let's take the grower who gets a man early. This man will not qualify for end-of-contract; he won't go anywhere else; he is going to go home. He will not get it, and he might not qualify otherwise.

It could be unfair, and I think we have to look at this very fairly on all sides.

ASSEMBLYMAN FOY: Are there any other questions? (no response) Thank you very much. We appreciate it.

MR. GAROFALO: Thank you.

ASSEMBLYMAN FOY: From the New Jersey Farm Bureau, Mr. Peter Furey.

**PETER J. FUREY:** Good afternoon, Mr. Chairman. I have prepared a brief statement to present today, and I have extra copies in case anyone needs them.

I would like to highlight the written statement, and not take too much of your time.

The memorandum will set forth our preliminary comments regarding the question of unemployment benefits for agricultural workers. For your information, the New Jersey Farm Bureau is the largest organization of farmers in the State and we are generally regarded as the spokesman for farmers on legislative issues.

As was mentioned at the July 9 meeting of the Commission, we have attempted to conduct a survey of our members on the question of revising the qualification requirements.

This was done by means of a full page description of the issue in our most recent weekly Newsletter, which included a tear-off sheet for return to our office. As part of our remarks, we have included a copy of that Newsletter.

The results of the survey will assist the development of our formal position, which will be forthcoming in a letter to this Commission late next week.

There are several comments we would like to make in the interim:

Our understanding of farmers' attitudes on the question of the new employee qualification requirements is the same as Senator Haines mentioned on July 9. Some favor \$4,100 as an alternative earnings test, some would like the original \$2,200; and, many would probably accept a \$3,000 level. Our survey may give us a better reading on a majority opinion.

The Farm Bureau, as you may know, supported the legislation last fall that granted a one-year extension for workers to qualify for

benefits at the original \$2,200 level. We felt that the needs and characteristics of agriculture were unique when compared to the balance of the State's urban-oriented labor force.

There is nothing in the new formula, which currently approximates the \$4,100 alternative earnings test, that in any way reflects the input of the Farm Bureau, the Department of Agriculture, or any other farm interest, as far as we can tell.

I can elaborate about the legislative history, if you would like, during questions.

One important aspect of this issue that many farmers speak of is the "voluntary quit" once eligibility is reached, when there is still more work remaining on the farm. This is the same thing Mr. Garofolo just mentioned. Some farmers who favor the higher threshold see the higher figure as a means of curtailing this situation. It may only be a matter of better communication and coordination between the farm employer and the Department of Labor in order to resolve this problem, and not, perhaps, the need to raise the threshold.

Another argument against the new threshold is the fact that if many farm workers no longer qualify, some employers may be faced with the prospect of paying into the system without having their employees eligible for benefits. One estimate we have learned of shows that approximately 1,000 agricultural workers would lose eligibility if the present formula is maintained.

We are consulting other state Farm Bureau offices for information about their recent experience with unemployment insurance systems. We are particularly interested in those states which have a mix of industrial and agricultural workers in their labor force, and that have recently revised their statutes in wake of the heavy drain on the industrial sector caused by the 1981/1982 recession. In Michigan, for instance, their minimum weekly earnings test was raised by 50%, a factor that falls in line with the suggested change to \$3,000 on a seasonal basis here. Additional information from these contacts will be provided in our formal position letter.

One final comment concerns the financial picture in agriculture. We are suffering from abnormally low net farm income in



most commodities right now, and have been for the past two to three years. The dairy and grain farmers have been particularly hard hit. Spring vegetable prices this year were near record lows because of late Florida production and heavy imports from California. We lost 70% of the peach crop in 1984, and apples are being undermined by processors purchasing large quantities of apple juice concentrate from Eastern Europe and South America, which is being produced with the assistance of government subsidies.

Any change in a regulation which causes increased expenses for the New Jersey farmer will be sorely felt. We are unsure of how this issue will translate into a farmer's operating expenses until we receive more input. We will have more to say about that next week. Thank you very much for your attention.

ASSEMBLYMAN FOY: Thank you, Mr. Furey. Do any of the Commissioners have questions at this time? Senator Haines?

SENATOR HAINES: I would like to ask Joe Garofolo a question. I thought about this, but I did not ask it.

Joe, do you remember, 20 years ago, how many people went through Glassboro Service?

MR. GAROFOLO: Twelve thousand. In those days we had asparagus which took a large number to harvest.

SENATOR HAINES: Twelve thousand twenty years ago, and it is 1,600 today. Is that approximate?

MR. GAROFOLO: We have updated to 2,000.

SENATOR HAINES: What percentage is that? What is that 12-- Fifteen percent?

ASSEMBLYMAN FOY: Mr. Garofolo, will you please come up and use the microphone. I'm sorry, but we have to get this for the record and we are not able to pick up your response that far back in the room.

SENATOR HAINES: The question was, what was the census in the Glassboro Service 20 years ago?

MR. GAROFOLO: Well, we had, at one time, as high as 12,000 workers come through there.

SENATOR HAINES: It is now 1,600, which is--

MR. GAROFOLO: (interrupting) Between 1,600 and 2,000, yes.

SENATOR HAINES: Yes. That is 12%. I don't have a figure, but it is 12% or 14% of what it was.

This ties in pretty closely with what Pete Furey was saying. The agricultural picture is certainly a bleak one, generally, nationwide; and, New Jersey, unfortunately, is participating with the rest of the farmers in the country in this picture.

MR. GAROFALO: Well, of course, a lot of them have gone into grains because of the cost of labor, housing, and so forth, and because their returns were so low.

ASSEMBLYMAN FOY: Thank you, Mr. Garofolo.

Mr. Furey, I have some questions. How many farmers are represented by the Farm Bureau?

MR. FUREY: Our present membership is in excess of 4,600. That includes both growers and people who are partially involved in agriculture.

ASSEMBLYMAN FOY: Suppliers and things like that?

MR. FUREY: Yes. We estimate the number of farmers to be in excess of 3,000.

ASSEMBLYMAN FOY: And, of those 3,000, do you have any statistics compiled that would indicate how many might be involved with hiring labor from Puerto Rico?

MR. FUREY: We have just installed a small business computer in our office, and we have recently begun to obtain information about the commodity-type numbers of workers. Unfortunately, we have only had about a 50% response rate on the detail sheet.

I am preparing a mailing on a nonrelated subject, and we are pulling out that number now. I believe it will be somewhere between 600 and 700.

ASSEMBLYMAN FOY: Geographically, would you know where they are concentrated? Would you venture an opinion?

MR. FUREY: Yes. I would definitely say South Jersey. I would say concentration would be in Cumberland, Atlantic, Gloucester, and, to a lesser extent, Burlington and Camden Counties -- Monmouth County also. Monmouth County has a very substantial vegetable/fruit industry.

ASSEMBLYMAN FOY: Now, in terms of a potential solution, do you want to comment at this point in time as to what changes might be made in the law, or what administrative regulations might be adopted that you think would be most suitable to the farmers we have? There were some thoughts on that in your statement, but do you want to amplify them at this time?

MR. FUREY: Well, this is a preliminary statement. If I can just take a minute, I would like to explain our decision-making process. We have an annual convention which is made up of the delegates of all the counties. At that time, we adopt a policy book. We use that as a basis for our decisions on individual pieces of legislation. For items that come up where we don't have a specific policy, the Board of Directors make the decision.

During the summer, farmers are very busy and we skip the month of July. So, we need to take a little time to consult the Board.

Generally, I think you can read between the lines of this statement that, by virtue of our endorsement of last year's legislation, and also on the basis of Mr. Garofolo's comments on behalf of many of the members of that organization, and our members also, compromise is needed. I personally feel that the path Mr. Haines mentioned at the first meeting is something we can live with.

If you notice, on the survey it lays it right on the line: What do you prefer as far as a threshold?

ASSEMBLYMAN FOY: You are going to make those results available to us just as soon as you have them, right?

MR. FUREY: Just as soon as we can get our hands on them, we will be making a review of those findings.

ASSEMBLYMAN FOY: Thank you. Are there any further questions from the Commissioners? (no response) Thank you very much, Mr. Furey.

MR. FUREY: Thank you very much also.

ASSEMBLYMAN FOY: Our next witness will be Reverend Dudley Sarfaty, the Associate General Secretary of the New Jersey Council of Churches.

**REVEREND DUDLEY SARFATY:** Mr. Chairman, Senator Haines, Assemblyman Colburn, and fellow New Jerseyans, the New Jersey Council of Churches

got involved with farm workers close to 60 years ago, when a number of Church Women United in Northern New Jersey began what has grown to be a nationwide involvement between church groups, Protestant and Catholic women's groups, and farm workers across the country.

The New Jersey Council of Churches has inherited that. I have only been here for seven years, with the job description of Director of Farm Worker Ministry.

They began, and still continue to provide religious services for those farm workers who want to attend them. We raise the funds from their groups to supplement the salaries of chaplains in the three major southern counties where the most intense population is. If we were able to raise more funds, we would go to the less intense counties; but, we would probably not go up to Monmouth anymore because the population there is thinner in terms of residential farmers.

The farm worker problem came to the attention of the Council of Churches through personal experience and involvement with farm workers and finding out, for instance, that a number of New Jersey hospitals, built with public funds -- that is, United States public funds under the Hill-Burton Act -- had a responsibility to provide medical services to indigent persons, but dragged their feet, in a number of cases, in providing those services to farm workers. If one has a language problem, a possible problem with fluency in either language, or an inability to read, we find there are an awful lot of people falling in-between the cracks.

So, the women have collected clothes, although, traditionally, they are too big in size for our present population. They have collected kits to help someone with his personal toilet, kits to give to farm workers in the camps so they can write home to their relatives, and layettes for the women who have babies in the farm worker population.

The problem has been difficult, and, as we have seen with the sorts of problems you are dealing with today, we have tried to intercede with government. You are not dealing directly at this hearing -- however, I think this is within your purview -- with the question of unemployment insurance for the so-called day-haul workers

who come in from the cities. They come out of a poverty climate, they leave a parking lot before the light begins, and they get home after dark. Oftentimes they don't know where they worked and they don't have adequate records which show where they worked. They don't even know. We have discovered, in talking with the Department of Labor, that the State doesn't have the capacity to investigate all of the kinds of problems that exist.

For example, you made reference in your earlier discussions to the fact that the standard for piecework is supposed to be set at a level where, reasonably, an industrious person can earn the minimum wage. That doesn't often happen. The Deputy Commissioner told me that with the limited forces he had, he swooped in on the farms, particularly the blueberry farms that are notorious for being violators, and in all those cases the violators were minority workers. The harm that is done to a lot of innocent and defenseless people is our concern. The farmers shaved off many hours of farmhand work to make it look as though they were being paid the minimum wage. So, when these figures go through the appropriate department, they do not cause anyone to say "tilt," and look it up.

So, we have seen this and we have gotten to know most of our members, who are farmers and not farm workers. In our conversations, we find most of the farmers have no objection to, and actually depend upon, the unemployment insurance as it has been up until this past year, to provide a package.

Senator Zane had some hearings, which I hope your Commission staff will make available to you, in which a fruit farmer in, I believe it was Atlantic County, came over to Senator Zane's district and testified specifically about housing, air fare, transportation from the airport, and the dollar wages he paid to his farm workers over the year. He added to that the unemployment insurance they were eligible for when they went back to Puerto Rico. This added up to a salary that was just a smidgen over the poverty level, and a real improvement over living in Puerto Rico, where the unemployment rate presses 40%; you can't get to the poverty level if you stay in Puerto Rico.

So, our conviction has grown that a stable and dependable work force is going to help New Jersey agriculture. We do not see, with the free market we have in agriculture, the tradition of hiring hands when there is work to be done. If there is a likelihood of possibly achieving an increase in the wage rate, none of our farmer friends suggest it is possible to reach the higher plateau you have now by paying a farm worker overtime. What is traditionally done is to pay people straight time and take on extra workers. That is the whole give-and-take of the free system. That is why you have a higher population in New Jersey at times of higher work.

So, our suggestion would be that it is going to be very hard to improve all of the necessary efforts needed to chase down all of the short circuits. I am not sure it can be done. But, if we maintain a system where the farmers are probably paying enough money into the unemployment compensation fund, willy-nilly, they are not going to drain New Jersey industry.

On the other hand, agriculture is an important New Jersey industry. So, it shouldn't have to apologize to the smokestack industry we have in this State. If we give the farm worker a secure income, even though it is going to be modest, it is going to help agriculture, and you will have fewer people who turn out to be what, euphemistically, we call "bad apples," and you will have a better labor force.

The farmer who projected his unemployment insurance as part of the salary his work force got as gross receipts was very happy and was maintaining the same farm workers year after year on his farm. He described how he and his family had become friends with those people.

So, we are aware of far more problems than we believe this Commission can try to solve. It was very painful for us, last Christmas week, when the bill to establish your Commission had not yet passed both houses, to discover there were people who had gone to Puerto Rico and tried to get claims filed but who couldn't do it. The Governor's Counsel said to us, "Well, when the Legislature passes the bill, we will tell you they can go back again." But, how do we find all those people in order to send them back again?



I hope that, without putting undue stress and strain on the hard-working members of this Commission, we don't get to another Christmas Eve crisis this year.

ASSEMBLYMAN FOY: Thank you very much, Reverend. Senator?

SENATOR HAINES: I am just curious. You mentioned that you had quite a few females involved in your program. The folks that I know from Puerto Rico generally do not bring their wives up here, nor their children, nor girlfriends, etc. It is news to me that there are a great number of females here. Is that correct or not?

REVEREND SARFATY: Well, sir, a Puerto Rican bachelor's girlfriend from Puerto Rico would not be given a layette. One of the chaplains took me over to a cement block home, where there was a pregnant woman who happened to be from Mexico. She couldn't get into the local hospital for her delivery. Somewhere, maybe because of a language problem, she picked up the notion that there was free delivery in Chicago. The chaplain was appalled to think that a woman about to give birth would jump on a bus, so he pressed her husband until he agreed to go to the local hospital.

But there are wives of New Jersey farm workers and people who settle in New Jersey. These people are not just strangers who come and go. You speak today of some genuine migrants, but some of our farm-working people like New Jersey and they want to make a life for themselves here. They do settle down here.

SENATOR HAINES: These are people who are staying here year round. Is that what you are talking about?

REVEREND SARFATY: By and large, that was my experience. A husband got a one-day-a-week job during the winter. The farmer did not have any more work than that. I do not know what his employment eligibility was in that case. But, there are women and children.

There are moneys in the State education budget that are directed to a lot of our rural communities. These moneys are supposed to see to the education of migrant children. Some of the church leaders think that the only hope for a migrant is not that there is going to be an economic future for that person in working as a farm worker, but, to use the phrase they use, "to escape from the migrant

stream." If that is to be the solution, then the children have to have an education.

We do not have the capacity to follow up on how much education is provided to the children. There are children.

SENATOR HAINES: Do you know the numbers? Do you have any numbers? We are trying to get the facts here and I would like to have the numbers. Maybe someone else has those figures.

REVEREND SARFATY: Yes. There is no one that I know of in New Jersey who even has the number of migrant workers securely in hand. When we had farm workers who came up from Florida, who were largely English speaking, it was possible in those days to track them. The number ran from 16,000 to 20,000. Now, the number has obviously decreased, but no one knows by exactly how much.

We have no way of knowing the numbers of people who come in with questionable crew leaders on a bus, who may or may not be licensed, and who work a blueberry farm and get taken back. The Department of Labor and the Commissioner I spoke to had no secure way of knowing actually how many people were involved, how many people were repeaters, or how many people were becoming regular New Jersey farm workers through these commuter bus operations.

SENATOR HAINES: Do you have any idea?

REVEREND SARFATY: I would guess that there must be close to 16,000 people each season who we involve in our agricultural program, as far as laborers are concerned. That is still down from the 20,000. I would peg it at about 16,000. That includes commuters; it includes some people who live here and are dependent upon agriculture for a living; it would include the smaller number of English speaking black citizens who go up the coast; and, it would include the citizens who come from Puerto Rico and speak Spanish. This is on a contract basis.

Obviously, there are many farmers. The fruit grower I described doesn't deal with the Glassboro Service Center; he develops his own contract with the farm workers he wants. So, although the figure has gone down at Glassboro, that was never the whole farm worker population, even when it was up to 20,000.

SENATOR HAINES: That is a surprise to me because I thought Glassboro handled the majority of the workers coming out of Puerto Rico.

REVEREND SARFATY: To my knowledge, sir, it is the largest and the best-known. I am not saying the smaller contracts represent a large number of workers each. If a number of farmers bring up one-half dozen workers, and if a number of workers come up without any contact with anyone and they go out and try to sell their services, that adds up to additional people.

I don't think Mr. Garofolo claimed that he populated the whole farm worker stream.

SENATOR HAINES: No. I am very surprised at this because you said there were about -- somebody said there were about 1,000 claims.

DEPUTY COMMISSIONER KRAUSE: Well, we have some recent statistics. Mike Malloy mentioned that we had 1,000 claims. What period was that for, Mike?

ASSEMBLYMAN FOY: That was the first quarter.

MR. MALLOY: It was the fourth quarter. That was from December to April -- December, 1984, to April, 1985.

SENATOR HAINES: So, basically, what you are saying is that only 1/16th of the number of people in the migrant stream are applying for unemployment. Is that correct? That doesn't seem right to me.

REVEREND SARFATY: Well, your figures would add up, if I can grasp them quickly, as you state them, but the time period in discussion is the time period before the grandfather action by the Legislature had gone into effect, because this Commission had not yet been established. So, we have been told that anyone who has gone, in Puerto Rico, to apply for unemployment funds which cover the 1984 growing season has been told that he was out of time and to go away.

We were told if we could get in touch with them, we could send them back. The Governor's Counsel ruled that they would not be out of time, but I don't know how many ever got the message.

SENATOR HAINES: Well, I am just very curious about these figures because I have a very difficult time believing there are 16,000 people in the migrant labor stream.

REVEREND SARFATY: If you count the low-income people who live here and are dependent upon agriculture, and if you count the people who are brought in by truck or bus, I think the figure will press higher than the numbers that are at Glassboro.

ASSEMBLYMAN FOY: One immediate conclusion is that somehow we as a government are going to have to come up with a better way of measuring precisely what the situation is regarding farm employment, because I have sat here for two hours now and I have heard 10 different figures as to the number of farm workers and the number of claims. I guess it is nobody's fault; but, the fact of the matter is that it is everybody's fault.

REVEREND SARFATY: One of the problems, Mr. Chairman, is -- if I may interrupt for a moment -- there was a time when New Jersey, and I think the Glassboro Service Association was involved, had a specific arrangement with the Department of Labor in Puerto Rico, and when things are channeled through the government, you have an easier grasp on the figures.

We now have a free market, and it is a whole lot harder to channel the figures through anyone who will count them with care.

ASSEMBLYMAN FOY: Mr. Dominguez?

MR. DOMINGUEZ: It is true that a majority of the workers do come from Puerto Rico. It is true that many years ago they came under contract. But, there are many growers not under the contract system. They are on their own. They negotiate with the workers and they are on their own. So, you can't get statistics anymore. We don't know how many farmers in New Jersey hire people from Puerto Rico on their own.

Also, in the past--

SENATOR HAINES: (interrupting) Excuse me. Along that line, could you give us some idea of what your figures are?

MR. DOMINGUEZ: Well, we did a survey last year when we had this unemployment issue with about 60 farms in New Jersey. I would say of those 60 farms, the majority were workers from Puerto Rico. I am sure the figures are right. I could show you a survey that we did.

Also, for the past 10 or 15 years, there are Mexican-American families who come to New Jersey, and they usually do the lettuce crop.

They bring families, and they usually reside in Cumberland County. So, although the majority, I would say, do come from Puerto Rico to work on the farms, you have an increase in all nationalities coming to New Jersey.

Also, in the blueberry season we have noticed a great number of Haitian and Asian workers coming into the various regions. So, it is changing, okay? I think we have to do a survey to know what is happening here.

ASSEMBLYMAN FOY: All right, thank you. Are there any further questions?

ASSISTANT SECRETARY GARRISON: Reverend Sarfaty, you made a couple of comments about farm worker remuneration which interested me, and I would like to pursue that just a little further.

When you were discussing the piece rate and the requirement that the piece rate must equal the minimum hourly rate, which is \$3.35, you made the comment that this doesn't often happen. Could you elaborate a little bit more on that? Could you tell us if you have some specific information that causes you to think that the issue of the piece rate is a considerable problem, if, as you say, the workers don't often make the \$3.35?

REVEREND SARFATY: I guess I misstated myself if I said they did not often make it. If a number of workers don't make it, it would be a low percentage numerically, but from our perspective -- thinking of a group that has trouble with the regular system, and worse trouble when they have a problem, and an inability to follow up and get the remedies of government -- for it to happen 5% to 10% of the time would be often, in my judgment.

We hear stories. We had a graduate student go out from Philadelphia by bus and he was not an experienced picker. A lot of the people who are scooped up in the cities are not experienced. Working the best he could, he could not get the minimum wage the first day he was out. The stories persist -- and I think with some basis -- that there are a few farmers who manage to make the hourly wage look good by dropping the number of hours that are written down.

ASSISTANT SECRETARY GARRISON: Could you tell me who enforces these wage and hour provisions within the State in order to make sure that workers are paid the required amount? What agencies or organizations—

REVEREND SARFATY: (interrupting) Well, I don't want to cast stones. It was during an earlier administration that I went to the Department, so I am sure the man isn't there anymore. But, someone in the Department of Labor was assigned to this. Some of you who are familiar with farms might even know him because he was responsible for the annual spring one- or two-day roadblock for unlicensed vehicles coming into the State. That was his annual spot check, when he would personally, hopefully, put the fear of God into any farmers, or any crew leaders, who were bringing people without proper credentials into the State by bus or truck.

DEPUTY COMMISSIONER KRAUSE: To answer your question specifically, Sam, it is the Division of Workplace Standards in the Department of Labor which does the monitoring of wage and hour laws in New Jersey.

ASSISTANT SECRETARY GARRISON: Who else, beyond the State, monitors wages and hours?

REVEREND SARFATY: In any systematic way?

ASSISTANT SECRETARY GARRISON: Yes.

REVEREND SARFATY: I don't know what the Feds do. My general sense is that the size of their work force has decreased, so we get less and less service from them. But, I don't know of any, other than the Workplace Standards group in the Department of Labor.

What I hear is not systematic, or I would have a far more accurate answer to Senator Haines' question regarding our overall population.

ASSISTANT SECRETARY GARRISON: Are you familiar with the Federal government's Migrant and Seasonal Farm Workers Protection Act which was passed in 1983?

REVEREND SARFATY: Yes.

ASSISTANT SECRETARY GARRISON: Does that also cover wages and hourly requirements of seasonal farm workers?



REVEREND SARFATY: Well, I don't know it verbatim. I would presume it does, but you can't have a good law if it isn't enforced. One of the things we were hoping for was that someone in the State would have the funds and the initiative to print, in English and Spanish, what the requirements and obligations are, and to make that available every place a farm laborer is paid, whether it is on a bus, a truck, or at the cashier's box on a farm.

ASSISTANT SECRETARY GARRISON: Is that a current requirement?

REVEREND SARFATY: Well, the Feds adopted something that made it a requirement, so the legislation from our Legislature was dropped. But, I don't know if that is being done.

ASSISTANT SECRETARY GARRISON: But, isn't it part of the Federal requirement at the present time that the information be posted?

REVEREND SARFATY: That's what I have been told.

ASSISTANT SECRETARY GARRISON: Do you know how many inspectors the Federal Wage and Hour Bureau has in New Jersey? I heard a figure myself; I just wonder if you heard it also.

REVEREND SARFATY: Well, it is a low figure and, to my knowledge, they have an obligation to do industrial inspections as well. So, we don't have a Federal strike force that helps us monitor our farm situation.

ASSISTANT SECRETARY GARRISON: Did you hear a number as to how many workers the Federal Wage--

REVEREND SARFATY: (interrupting) I heard a number. I think it was in the order of one-half dozen.

ASSISTANT SECRETARY GARRISON: I heard the speaker who was from that program indicate they had 13 this spring. Now, they were looking at more than farm workers. But, if you take the Federal presence and the State presence, and both are very active, do you hear about an active presence or not?

REVEREND SARFATY: I didn't come to plead for a bigger bureaucracy, but I don't think there is enough presence to be effective. We have to be constant in some of these situations.

When we see a white middle-aged male with a jacket and a necktie get out of a black sedan with a seal on the side of it, before

he can get into the fields, half of the things that are wrong are stopped. So, we have to have a lot of people.

ASSISTANT SECRETARY GARRISON: He doesn't check records then? Are you saying that is the problem?

REVEREND SARFATY: You asked me did we have enough help from the Federal Labor Department, or from the State Labor Department, and I am saying, no, I don't think we have because the inspectors are high profile. If there are children working, by the time he can park on the road and get himself over to the site where they are working, they are not working anymore; they are just playing. This is on the few farms where somebody is scheming to defraud the workers, the general public, and the law.

SENATOR HAINES: Reverend, you are making some rather wild statements at a public hearing that a great number of farmers are violating the law. Now, I think you have to have specifics.

REVEREND SARFATY: Senator Haines, I'm sorry, I didn't say a great number, and I tried to qualify what Mr. Garrison asked me.

SENATOR HAINES: Well, what did you say? I would like to know what you said.

REVEREND SARFATY: Far too many.

SENATOR HAINES: Far too many. What does that mean? You have a wild number here, and you don't seem to be able to pin it down.

REVEREND SARFATY: I haven't quoted a wild number, sir, because I cannot tell you the precise figure. I know it is too many. I am sure you agree that one is too many.

SENATOR HAINES: Certainly, one is too many.

REVEREND SARFATY: And, when the State, and certainly the Council of Churches—

SENATOR HAINES: (interrupting) You are coming here with generalities. We are trying to get specifics, but you don't seem to have specifics.

REVEREND SARFATY: I don't have the staff to develop the specifics when the State and the Federal government, together, can't do it.

SENATOR HAINES: I think if you come to a public hearing and make a statement, you should be able to back up the statement with facts.

REVEREND SARFATY: The only statement I think I made, Senator, in hard numbers, was my guess as to the worker population from all three sources. I am not putting a number on the problems I pointed to. You know, if the Deputy Commissioner hasn't retired and moved out of New Jersey, I could try to get in touch with him and find out what his estimate is. He said he was putting up the roadblocks to set an example for the bad apple farmers. I don't know how many he had in mind. I don't have that number. If I had that number, it would be my duty to turn it over to the government in order for them to act on it.

SENATOR HAINES: Well, I think you should.

REVEREND SARFATY: Well, I don't have those names. I don't have the capacity to develop those names.

ASSEMBLYMAN FOY: One of the problems and the dangers that the whole situation is imperiled by, or fraught with, is the fact that we are dealing in a vacuum in terms of a data base regarding measurable statistics that address the very human dimensions of this problem.

Mr. Garofolo mentioned the fact that there are bad apples in terms of farm workers who come in and quickly try to get their \$2,200 and then leave. They want to go back. No one knows how many of them there are.

You mentioned that there are bad apple farmers who attempt to exploit their workers, or what have you, but we don't have any measurable statistics; we don't know who they are or how many there are.

We have government agencies that are, admittedly, overburdened with a great many tasks that I will accept 1/120th of the blame for -- being one of the 120 members of the Legislature. We continually provide them with additional duties and we don't often provide them with the resources to go forward and carry out those duties in a proper fashion.

It is fair for me to say this because I was Executive Assistant to Bill Clark, who is the Assistant Commissioner -- or who

was the Assistant Commissioner -- who administered all these programs. I used to work in that bureaucracy, but I was smart enough to get out.

The fact of the matter is, this is not a case where one can cast aspersions, but I can understand Senator Haines' taking umbrage, to a certain extent, because we don't want to tar probably the most outstanding sector of agriculture of any state in the nation with the problems that are created by just a few. I think perhaps your remarks may have been misunderstood in that context.

REVEREND SARFATY: They weren't intended to paint-- As I said, most of the farmers are members of our churches, and I wouldn't like to think that a very large percentage of them were exploiting their workers. So, I am not an enemy.

We try to support the effort to not tax the farm widow to death when her house comes up for valuation if the farmer dies. We have been a supporter of the sale of development rights, and other things that we see the farms having a need for.

I did not mean to give you reason to take umbrage, Senator.

SENATOR HAINES: Well, I'll tell you, really, I don't like vague statements because they don't mean anything.

One of the things you also said was that the folks who were doing the job a few years ago are not in the Department of Labor now. It is my impression that Bill Clark is still there.

DEPUTY COMMISSIONER KRAUSE: Bill Clark is still there.

SENATOR HAINES: So, that is another statement that was incorrect. I think you presented us with--

REVEREND SARFATY: (interrupting) Well, I haven't seen Mr. Clark since Governor Kean came into office, so I am only describing what he told me when Governor Byrne was Governor.

ASSEMBLYMAN FOY: Bill Clark outlasts a lot of Governors. He has been through more Governors and more Commissioners than any other State employee in State service, believe me. Governors don't phase Bill Clark, I can advise you of that right now.

REVEREND SARFATY: Well, I wish you would invite him down; he will tell you how his hands are tied when it comes to enforcement.

ASSEMBLYMAN FOY: Let me tell you about my friend, Bill Clark. He has even managed to recycle the Commissioners. Charlie Serraino is back. Bill Clark worked for him 14 years ago, and he is back again.

Well, thank you, Reverend.

SENATOR HAINES: I think that last statement you made, that Bill Clark's hands are tied, is another statement that is incorrect.

REVEREND SARFATY: Well, to be exactly precise and to quote him verbatim, Senator, he told me he didn't have the resources to do very much, that he went out and made a witness, by doing something in the beginning of the season, hoping it would have an effect. I notice that on New Jersey Public Television every springtime, and even since I saw him, there is high visibility given to the effort he makes.

If you have any doubt that I am not being candid with you, you are going to have to ask him whether he told me that or not.

SENATOR HAINES: Well, I think it is pretty difficult to tie Bill Clark's hands. Somebody has to be a pretty big man to do it.

REVEREND SARFATY: Well, I don't like to think my hands are tied, but there are limits as to what I can do in order to get you the kind of statistics you deserve, and that you need. So, I am subject to the limitation of resources as he is, and a lot more.

ASSEMBLYMAN FOY: All right. I would just like to clarify one point. Reverend, you made reference to contributions made by the farmers, and I agree they are not insignificant; however, the benefit payments we make to claimants are more than three times the contributions made by the farmers. So, there is a significant deficit.

REVEREND SARFATY: Well, I take that from the orchard owner who was at the Labor Committee meeting in the winter of 1984, when the Legislature adopted the bill allowing this grandfather clause to go in for a year. He attested to the fact that not just he, but a lot of his friends, were paying a lot, and they didn't think that the rest of New Jersey's employers would have to subsidize the unemployment insurance to farm workers.

I can't give you exact figures on that. You say that the outgo you can attribute to farm workers is larger than the pay-in from farmers.

SENATOR HAINES: I disagree with that statement, and I would like to have it reviewed again because in conversations and meetings we have had with farmers, generally the farm community feels they are paying far more than their workers are collecting.

I think you have to take the total payroll. I think we came up with a figure regarding Farm Bureau members who were farmers. What was that, Pete?

MR. FUREY: Three thousand.

SENATOR HAINES: Three thousand. A great number of them have year-round workers that never collect anything, and I think you have to take in the total farm community. However, I would like to see an analysis of that because I disagree with it.

ASSEMBLYMAN FOY: Thank you, Reverend.

REVEREND SARFATY: Thank you.

ASSEMBLYMAN FOY: We have one additional witness listed for today, Frank Rivera. Is Mr. Rivera here? (affirmative response) Mr. Rivera, will you come forward?

**FRANK RIVERA:** My name is Frank Rivera. I am the Project Director of the New Jersey Farm Worker Opportunities Program in Hammonton.

We currently deliver employment and training services to migrant and seasonal farm workers who have incomes below the poverty guidelines.

I am here to speak about the unemployment income regulation, and how it will affect the population we serve.

Each year, our agency comes in contact with about 2,000 farm workers, of which 700 meet the Department of Labor eligibility criteria. It is important for this Commission to be aware that the primary criteria for a single person is \$5,200, and for a family of four, it is \$11,900, which is below the standard of poverty.

Farm workers, like many other seasonal employees, are dependent upon unemployment income benefits to meet the basic needs of themselves or their families in the transition period between the end of the agricultural season and their obtaining non-agricultural employment.



New Jersey as a whole has had some changes. Many industries have achieved higher levels of production and so are able to offer employees better conditions and opportunities. However, these changes have not affected those who do farm work. Their conditions and salaries are still the same. These farm workers still come every year to different farms. They work from six to nine months of the year, and this is without taking into consideration weather conditions. If it rains, they do not work; this means no pay. This amount of time, in most cases, is not enough to earn the \$4,100 minimum the law requires.

We now have a regulation which allows for the farm worker to be compensated during periods of unemployment based upon what the employer and employees contribute to that system. Changing those regulations does not solve a problem, but creates another one by shifting the State responsibility from the Department of Labor to county and municipal welfare. It is important for the Commission to recognize that there are other seasonal worker groups. Many of the workers our agency services are able to maintain a basic level of existence by utilizing their unemployment income benefits.

Our agency, which provides employment and training to farm workers, has a limited amount of staff to assist the farm worker who makes the transition from seasonal to year-round employment and becomes a taxpayer. With the present unemployment income regulation, farm workers can still provide a maintainable existence. Supportive services are minimal. A change in these regulations will force us to spend most of our efforts on referrals and will cause burdens to the now over-crowded welfare system. Thank you very much.

ASSEMBLYMAN FOY: Thank you very much. Do the Commissioners have any questions? (no response)

I have a couple of questions. Have you, in the course of assisting these various farm workers, had any occasion to discuss the unemployment insurance issue with individual farm workers?

MR. RIVERA: Almost every day.

ASSEMBLYMAN FOY: All right. Do you have any feel for what the earnings of the average farm worker you are dealing with would be?

MR. RIVERA: Actually, the average is about \$2,000.

ASSEMBLYMAN FOY: About \$2,000? And, do you know how many weeks they were employed, or when they might make over \$5,200?

MR. RIVERA: This is very hard to say due to the fact that some of them— Let's say they come in by March, and through March and April there is no work. When they start working two or three hours a day, they still have to pay maybe \$40 or \$50 to the crew leader. When they don't work, they get no pay. Actually, it is very hard to say how many hours they work.

ASSEMBLYMAN FOY: Are there any other questions? (no response) Thank you very much, Mr. Rivera.

MR. RIVERA: You are welcome.

ASSEMBLYMAN FOY: That concludes the printed list of witnesses. Is there anyone else who would like to testify at this session? (no response)

Let me ask the gentleman in the rear a question. You indicated Mr. Penchi will be here this evening. Is he going to be the only witness who will be here this evening, do you know?

MEMBER OF AUDIENCE: There will be others. There are a number of farmers who are working today.

ASSEMBLYMAN FOY: Okay. They want to testify at the evening session. All right. We ran a little bit over, so we are going to start a little bit later; we are going to start at 7:30 P.M.

We will now recess for the dinner break. We will reconvene at about 7:30, in order to give the witnesses a chance to get here and to get started.

I know a number of the Commission members have other obligations this evening. I am prepared to stay here and conduct the hearing in their absence. If you are able to stay, you are certainly welcome, but if you have to go, it is understandable and certainly excusable. We have constituted our quorum; this is simply a recessed session, so we won't need to reconstitute a quorum for the 7:30 continuation of this session.

If you would like, the Commission members will stay for a couple of additional minutes just in case the press has some questions of us, or if the general public would like to discuss matters with us.

Thank you very much.

(RECESS)

## **EVENING SESSION**

ASSEMBLYMAN FOY: Mr. Vargas, will you please interpret my opening remarks?

MR. VARGAS: Right from here?

ASSEMBLYMAN FOY: That will be fine. (As Assemblyman Foy starts to speak, Mr. Vargas interprets for the benefit of the audience.)

Good evening. My name is Assemblyman Thomas Foy. I am the Chairman of this Commission. I welcome all of you here tonight. The members are just starting to return from dinner, and as soon as they have taken their seats, I will begin the hearing with some brief introductory remarks. Then those who wish to testify will be given that opportunity. Should you need the services of an interpreter, Mr. Vargas is available and will translate your remarks for the benefit of the Commission. We will begin in just a few minutes.

## **(BRIEF RECESS)**

## **AFTER RECESS**

ASSEMBLYMAN FOY: I would like to ask that the public hearing come to order now. This is the continuation of the public hearing that began at three o'clock this afternoon. As I said earlier, my name is Thomas Foy and I am Chairman of the Commission to Study the Employment and Compensation of Agricultural Labor.

At this time I would like to introduce the members of the Commission who will be with us this evening: Mr. Angel Dominguez from CATA, who many of you know; Mr. Daniel Bray from CWA, the IUC, and Stockton State College; Mr. Samuel Garrison, Assistant Secretary of Agriculture; to my immediate right David Matos, Commission Secretary; to my far right Mr. David Sobelman representing the farm community; and, to my furthestmost right, Mr. J. Steven Main, Vice President and General Manager of NYT Cable T.V. Company.

We will begin testimony in just a minute. The basic purpose of the Commission -- to give you a brief outline -- is to examine the relationship of agricultural labor and employment of farm workers to New Jersey's current Unemployment Insurance law as a result of the changes which have occurred. We heard testimony from approximately eight witnesses this afternoon, a number of farm workers and representatives from Glassboro Service, the New Jersey Farm Bureau, and the New Jersey Council of Churches. We are going to continue with testimony this evening, and I now call, as our first witness, Israel Torres Penchi. Is Mr. Penchi here yet? (Mr. Penchi not present) Okay, then let me call Pepe DiStefano.

**PEPE DISTEFANO:** I would like to make a few comments about a survey we put together and, in general, answer any questions from the Commissioners I might be able to answer from the work we do in our organization, such as visiting the different farms and talking to the workers about problems like unemployment in New Jersey.

At the request of the Commission, we put together a survey, the results of which have been distributed to the members. We went to workers in the major agricultural areas of the southern part of New Jersey. Those areas have different characteristics. For the most part, the workers we surveyed were relatively stable workers, who come back to the same camps each year and work for relatively the same number of weeks, with a number of exceptions. They are fairly experienced workers, kind of what you might call a corps group. We did not take the survey very often among day-haul workers, who are a large segment of the work force in South Jersey -- an increasingly large segment. In certain agricultural industries, they are increasing in New Jersey, such as the blueberry and peach industries.

You can see some of the results of the survey (witness indicates survey he is holding), some of the ones we consider particularly important. For instance, the wage rates. Virtually everyone who responded to the survey was paid the minimum wage. The principal exception is in the nursery industry, where people make \$3.45 to \$3.50 an hour. These workers tend to be among the more stable workers, stable in terms that they will work up to nine months of the

year. Basically, they will go back to the same camps every year. They are at one end of the spectrum. They tend to earn as much as \$5,000 or \$6,000 a year.

On the other end of the spectrum you have workers such as the one who testified earlier today, young workers without much experience, who come to do agricultural work in New Jersey. Basically, they have to find a steady farm for themselves, the kind of a farm to which you can return. You heard about some of the experiences of people who had trouble finding a farm like that, who fell in with a bad crew leader, or a situation where they were paid piece rate, which was not equal to the minimum wage. They have an awful lot of trouble making the kind of money that some of the other workers are able to make, and they are unable to collect unemployment to live off of during the winter months.

We found a variation in the cost of meals. In some camps where workers do their own cooking, they pay as little as \$20 a week. In some camps where there is a crew leader, they pay a standard rate of \$50 a week. This is particularly the case in the Swedesboro and Woodstown areas, where a lot of farmers have stopped providing their own housing. They run camps anywhere from 20 to 50 workers, or sometimes more. This year the rate is \$50; last year it was closer to \$45. Every week that comes out of people's pay. So, if you have a week in which the work is slow and there isn't very much out there, a guy can have basically nothing to take home. If he has a strong week, he might take back \$100, after having his deductions taken out at a farm like that.

ASSEMBLYMAN FOY: Excuse me. It might be useful to have what you're saying translated for the people in the audience. You don't have to repeat what you have said, but for the balance of your testimony, why don't we go forward with a translation?

MR. DiSTEFANO: (As Mr. DiStefano continues, Mr. Vargas translates for the benefit of the audience.) We also took a survey of the weeks of work; that is shown on Page 2. The average workers in our survey were up to 23 weeks of work. I would like to point out, as some of the workers pointed out earlier today, that that basically includes the number of weeks in New Jersey.

When you have a season like last year, where for the first few months it was very wet, or like this year, when the season tended to be very dry up until recently, in some of the vegetable and fruit crops in New Jersey you tend to have a loss of work, a real weak period. There are two results from that. One of them is that in the more stable camps, there is less work. As we understand it, there has been some discussion about raising the level of the weekly qualification from \$54 to -- I forget whether it was \$70 or \$80. This would increasingly wipe people out for the weeks in which the work was slow.

Perhaps an even more serious situation is that of the workers who have less of a stable situation in industries such as the peach industry. This year the peach harvest has been late. A lot of workers showed up at a certain time in June expecting to find work, but there was none. This happens often at the beginning and the end of the agricultural season, and during weak periods in the middle of the season. There are some farmers in areas -- East Vineland is a good example -- who have their crops planted in such a way that basically there is work for the workers throughout the season. There are other areas, such as Hammonton, that are more dependent on one or two crops such as peaches and blueberries. When the weather changes like this, you end up with people sleeping in the streets and in the cemeteries. We had eight people on the floor of our office one week in the middle of June, in addition to the people staying in our own housing.

As one of the workers pointed out -- there is a comment here in the survey and I am looking for it -- "Working conditions depend on the weather." There is not a whole lot people can do about it. The farmers suffer through this also. One of the things people sometimes say is, "When the farmer gets a cold, the workers can catch pneumonia."

I believe we have the average here. I think it is the second point earnings that the workers in our survey made. The average was in excess of \$3,000; it was about \$3,100. However, the majority of the workers were not making this much; 60% of them were making less than \$3,000. The nursery workers and the workers in certain areas who make more money threw the median off. However, most of the workers were

making, you know, at least \$2,000 or \$2,500 -- the majority of the workers. Again, this is not a scientific survey; this is what our numbers turned up.

With regard to the hours of work, we came up with an average of 51 hours a week the workers are working right now. This kind of thing changes. For example, in the apple industry during the harvest, you may be getting as much as 70 hours a week. There are vegetable farmers in a number of areas in New Jersey that regularly, throughout the year, work 60 or 70 hours a week. At the same time, there are situations when workers-- One of the farms we visited yesterday will be waiting essentially without work, while another group of workers is brought in to harvest a certain crop. For instance, Mexicans are used to harvest lettuce and black workers are used to harvest beans. The farmer may use those workers to harvest those particular crops and not use the workers he has in camp.

Another point that was brought out a while back was that there are a number of Mexican workers in agriculture in New Jersey. Under the law, it is the duty of an operation that is large enough for unemployment to be taken out, to take unemployment out for these workers. If these workers go back to their country, as I understand it -- I could be wrong about this -- they have the right to apply for benefits, although it is very seldom done.

The concern of many of the workers who are United States citizens, including Puerto Rican workers, is that if some of the growers are able to work workers who are undocumented workers, and they do not have to take out for Social Security and unemployment, that would be a threat to the workers who are citizens -- to the Puerto Rican workers -- who depend on the unemployment. We would like very much to see the conditions the same for both groups of workers so that a person could not make more money by hiring one group of workers over another group of workers, not because of the kind of work they do, but because of the amount of money it cost.

Another point I would like to make is a point the workers have been bringing up all spring and summer as we have been visiting the different camps. Again, it is the same theme, and it came out very



strongly on the survey. If people are unable to collect unemployment, an awful lot of people are not going to come back to work in agriculture in New Jersey. A lot of this is due to the economic conditions in Puerto Rico, especially in the western part of the Island where a lot of the workers come from. Some workers are able to get work in bean canning plants over the winter; some people cut sugar cane, for which if they are good they can make \$10 a day. But in general the problem is that anything you can grow in Puerto Rico, you can grow in other Caribbean countries where you can pay your workers an awful lot less money. That has wiped out a lot of the agriculture in Puerto Rico.

There was a question brought up earlier about the fact that different agencies regulate conditions in the camps. If the Commission would like, I could address that also, or I can take questions -- whichever.

ASSEMBLYMAN FOY: Why don't we take some questions because we are limited in terms of time and we need to focus on the unemployment issue to a certain extent. Are there any questions from the Commissioners? Mr. Bray, do you have any?

MR. BRAY: Why would a -- you may have explained this -- farmer with a work force on his farm bring in other workers to harvest a particular crop? (Mr. Vargas continues to translate for the benefit of the audience.)

MR. DiSTEFANO: There are particular crops for which it is the custom to pay piece rate, and sometimes those are crops in which a particular group has more experience. For instance, Mexican workers who pick lettuce in Florida and sometimes in California, are brought to New Jersey to pick lettuce. If you have a farm on which there are a number of different crops and one of them happens to be lettuce, during the season in which there is a lot of lettuce being picked, farmers will tend to get a crew of Mexicans to come in and pick that lettuce.

ASSISTANT SECRETARY GARRISON: I have a question. You mentioned two situations, one where a grower may not have to take out for Social Security and Unemployment Compensation, and another where he would have to. Would you please clarify that for me?

MR. DiSTEFANO: My understanding is that on any farms that have a certain size payroll, or larger, it is the law that those farmers take out for unemployment, and they tend to do that. However, apparently there is a tendency -- and there was an article in The Atlantic City Press a while ago that mentioned this-- There are situations where a farmer knows that the workers come from another country and they are probably not going to demand their unemployment; they are probably not going to complain if it isn't taken out; and, essentially he will not pay them for the unemployment. We have encountered that situation a few times. I have no idea how widespread it is.

ASSEMBLYMAN FOY: Mr. Sobelman, do you have any questions?

MR. SOBELMAN: Yes. How scientific or nonscientific is this study? I see your figures, but are they realistic; are they close to being realistic?

MR. DiSTEFANO: In the second paragraph I put it in so many words. It is not a scientific survey. What we did was go to a number of different areas which we knew were larger areas to try to get a spread. But it is really not something that was done to the extent, or with the care of something you would really want to rely on. It might give you an idea, but it is not a scientific survey.

ASSEMBLYMAN FOY: Mr. Main, do you have any questions?

MR. MAIN: With that understanding, do you have any sense at all of what the average yearly take-home would be for the workers in that 60% category?

MR. DiSTEFANO: We have the surveys here, and most of the people are in the \$2,000 to maybe \$3,500 range. There are a lot of people around \$2,800; a lot around \$2,700; and, some around \$2,200. There are a lot of workers here tonight and they are in a much better position to say most of the things I am saying than I am.

MR. MAIN: I have just one other question. On the number of weeks, you mentioned that 23 weeks is typical of the length of stay. Do you happen to know how many of those weeks would apply toward that 20-week level?

MR. DiSTEFANO: No. I could guess there would be three, four, or five weeks in which people did not qualify. But, I am really not sure.

MR. MAIN: Thank you.

ASSEMBLYMAN FOY: How would you like to see the law changed?

MR. DiSTEFANO: I really do not know a whole lot about the law. The one thing is, it has to be kept simple. I understand there is an idea of changing the system from a yearly system to a quarterly system. As I understand the way that will affect the farm workers, it is going to very much complicate the process people have to go through to apply for unemployment.

ASSEMBLYMAN FOY: As the law currently exists, the threshold is \$4,100 and the number of weeks in the alternative is 20 weeks. What do you think-- What changes should be made to either one of those, or both, that would bring it into a more realistic situation as far as eligibility for these workers is concerned?

MR. DiSTEFANO: I would say you're talking about a range of \$2,500 or \$3,000 to collect in a gross year. It seems to me a compromise figure that is going to rope in a lot of people. As I say that, I'm thinking that maybe a lot of people isn't correct; maybe it will be a little bit lower. I think you are going to want to have a figure -- I would guess -- somewhere between 12 and 15 weeks for people to work.

ASSEMBLYMAN FOY: All right; thank you very much.

MR. DiSTEFANO: Thank you.

ASSEMBLYMAN FOY: The next witness will be Osvaldo Aviles.

**OSVALDO AVILES (through interpreter, Mr. Vargas):** Good evening. My name is Osvaldo Aviles. I am a farm worker. I have worked in the State of New Jersey for 12 years consecutively. During those 12 years I worked for the same farm for 10 years. Each year I would work a season of six months. I never had any problems collecting unemployment.

Last year, just as other years, I worked five and a half months. I went to Puerto Rico on November 18 with another six co-workers. Of the six co-workers, five started collecting without any

problem. I thought that just like them I would start collecting with no problems.

Two months after I started claiming unemployment benefits, I received a letter of disapproval. I went to see if they would reconsider and I was given the answer that I was still disqualified. The reason why the grower refused to sign my unemployment was because he was alleging that I had left the job for personal reasons. Three months after claiming, I asked CATA for help, and up to now they are helping me. Four months after claiming, I had a hearing with the Appeal Tribunal. I was represented by Puerto Rico Legal Services and CATA. The judge decided in my favor.

Right now I still have the same problem with unemployment. As far as I understand, I only qualify for one week. Last year I made \$3,200 in 22 weeks of work. I have proof and I presented this proof to the Puerto Rico Department of Labor. I have 16 witnesses. Almost all of them receive unemployment benefits. Out of the 16, between six and eight left the job or were terminated from employment because there was no work. All of them collected. I just don't know the reason as to what is happening to my unemployment.

My question is, when will I receive that money, and if this year we will still encounter the same unemployment problems? That's all.

ASSEMBLYMAN FOY: All right, wait just a second. The problem you are describing seems to be involved with the administration of the program. You seem to be eligible in terms of the money you earned and the number of weeks you worked. Either the grower misrepresented the fact that you left because there was no more work, or administratively there is some problem in the system either in Puerto Rico or here in New Jersey.

I will ask the representatives of the Department of Labor who are here this evening to speak with you through the interpreter after the meeting to get the information so that they may reexamine your claim. If you continue to have problems, please advise Mr. Dominguez, who is a member of this Commission, through CATA. Thank you very much.

Mr. Antonio Martinez?

**ANTONIO MARTINEZ (through interpreter, Mr. Vargas):** Good evening. My name is Antonio Martinez. I am here to say a few words about unemployment. I worked 22 weeks. They sent me about three or four checks, and then they held them after I came to work in the United States.

I then asked Legal Services for help in Puerto Rico. They are helping me. This year we may get to the \$3,000 for unemployment after 20 weeks, but in the meantime they still owe me eight weeks from last year. They sent me a \$30 check. I was told to come back to reopen my claim, but it was too late. I was already here.

**ASSEMBLYMAN FOY:** All right. Let me ask you a couple of questions. In the 22 weeks, did you earn at least \$54 in each of those weeks?

**MR. MARTINEZ:** Yes, sir.

**ASSEMBLYMAN FOY:** What was the total amount you earned for the 22 weeks?

**MR. MARTINEZ:** The total amount was \$3,758.

**MR. MAIN:** What did he say?

**ASSEMBLYMAN FOY:** He said, "\$3,758." So, you were eligible under either alternative test?

**MR. MARTINEZ:** Yes.

**ASSEMBLYMAN FOY:** When you sought the benefits, did you apply in New Jersey or in Puerto Rico?

**MR. MARTINEZ:** In Puerto Rico.

**ASSEMBLYMAN FOY:** And you began collecting, is that correct?

**MR. MARTINEZ:** Yes, sir.

**ASSEMBLYMAN FOY:** And thereafter your benefits were terminated?

**MR. MARTINEZ:** Yes.

**ASSEMBLYMAN FOY:** Did they tell you why?

**MR. MARTINEZ:** No, I was given no reason.

**ASSEMBLYMAN FOY:** My guess -- if I have to venture a guess -- is that this resulted from the fact that there was a change in the law and the gap between that change being corrected by the subsequent law.

Let me ask the representative of the Department of Labor: Have you experienced cases like this, where they were caught in that gap period?

MR. MALLOY (speaking from audience; not near microphone): Yes, but most of the people who reported in the gap period may have been individuals who did not reapply when the interim legislation was implemented.

ASSEMBLYMAN FOY: Can we take information from this gentleman so we can check his claim?

MR. MALLOY: Yes. Give me his name and Social Security number so I will be able to research the situation and answer the questions.

ASSEMBLYMAN FOY: All right.

MR. BRAY: I have a question. The people who were disallowed for falling through the crack-- Would it be absolutely necessary for them to reapply? Couldn't that be pulled back?

MR. MALLOY: We did identify people who were disallowed, as you say, and we did redetermine their claims. However, many people did not even apply. They felt that they were not going to have valid claims so they did not come forward and apply. Many of these people did come back when they learned about the interim legislation.

ASSEMBLYMAN FOY: Mr. Main?

MR. MAIN: What happens to those people who did not apply because of the law? What will be done about those people?

MR. MALLOY: There was a grace period that was allowed by the law, if I remember correctly, which allowed them to reapply through February 1, 1984. There were efforts made to publicize that situation.

ASSEMBLYMAN FOY: However, if they failed to reapply within the grace period, they were out of luck in terms of collecting any--

MR. MALLOY: (interrupting) I would be willing to review anyone's case who feels he was not afforded the opportunity that that law allowed. Whether or not we would be able to pay benefits, I couldn't say, but I would be more than happy to review the situation.

ASSEMBLYMAN FOY: Mr. Vargas, will you advise Mr. Martinez that after the hearing he should give his name, his Social Security number, and his current address to the representative of the Department of Labor, and he will investigate his claim.

MR. MARTINEZ: Thank you.

ASSEMBLYMAN FOY: Thank you. Mr. Herman Cortes?

HERMAN CORTES (through interpreter, Mr. Vargas): My name is Herman Cortes. Last year, if the requirements had been left as they were, I would not be here today testifying. I had no money, and I went through a whole lot of personal problems. They finally gave me unemployment on December 20. I slept in cars, and I had to wait until people went to bed so I could crawl into their cellars without their permission, because I did not have a place to sleep.

I understand the idea is to raise the threshold to \$4,300. I think the workers deserve an increase in pay of about \$6 an hour. I remember last year I was in a bus with a friend of mine, and I heard that President Reagan had assigned \$50 million for the people in Africa who were needy. The Governor of New Jersey also invited all of the people in New Jersey to help the people in Africa. I was thinking about my own situation and I said, "But I'm a neighbor of the Governor of New Jersey. Why is he going to reach out so far when he could reach a little closer?"

I understand that the Legislature has Democrats and Republicans and they are not in the market-- Without thinking of personal benefits, they have to be against that law, because if there are no workers, there is no food. Tomorrow I am going to be cutting peppers, and it is very possible that they will be eating them within the next couple of days. But, next year, they are not going to be eating my peppers, because I'm not going to pick them.

ASSEMBLYMAN FOY: Mr. Cortes, I would like to ask you a few questions. How many weeks did you work last year?

MR. CORTES: Eighteen weeks.

ASSEMBLYMAN FOY: Did you make \$54 a week in each of those 18 weeks?

MR. CORTES: No, I made about \$2,700.

ASSEMBLYMAN FOY: How many years have you been working here?

MR. CORTES: This is my second year.

ASSEMBLYMAN FOY: How much are you earning a week this year, do you know?

MR. CORTES: I am earning \$143 to \$180 a week.

ASSEMBLYMAN FOY: How many weeks have you been here?

MR. CORTES: Right now, five weeks.

ASSEMBLYMAN FOY: How long do you think you will be here?

MR. CORTES: Until October, I think.

ASSEMBLYMAN FOY: October, so under the old law you would still qualify?

MR. CORTES: Maybe.

ASSEMBLYMAN FOY: Under the new law it's maybe; under the old law you would make more than \$2,200. Unless we change the law, you won't be back next year? (laughter) You understand the purpose of this hearing is to try to reach a consensus, an idea, as to how to properly address the problems of the farm workers and, also, the farmers.

MR. CORTES: Yes. I believe that you are all men of principle.

ASSEMBLYMAN FOY: We are going to try to reach the right decision that will allow you to keep picking those peppers, because I like peppers. Thank you.

Our next witness will be Mr. Israel Torres Penchi.

**ISRAEL TORRES PENCHI:** My name is Israel Torres Penchi. I have worked for Puerto Rico Legal Services since 1974. Since 1974, I have been working in the Migrant Division of Puerto Rico Legal Services. Up until 1978 we dealt with different cases regarding problems with migrant workers.

MR. BRAY: Excuse me. Is that in New Jersey or Puerto Rico?

ASSEMBLYMAN FOY: We're going to have an interpretation, aren't we?

MR. PENCHI: The Puerto Rico Legal Services is an agency to give services to migrant workers in Puerto Rico, but because of the phenomenon that Puerto Ricans come by the thousands to the United States to work on the farms, the employees of the Puerto Rican Legal



Services migrate to assist them. I have been coming to the United States since 1977. The first time, I went to the north of New York.

ASSEMBLYMAN FOY: Mr. Vargas, will you please translate as we go along?

MR. VARGAS: Yes, sure.

MR. PENCHI: Since 1980, the Migrant Division of Puerto Rico Legal Services has been dealing mainly with unemployment cases. We have had other cases of legal filings of the workers, Worker Compensation, and many other problems related to the workers. But, the main problem, since 1980 as I said, has been the unemployment cases.

I would say that there are five main problems related to Unemployment Compensation of migrant workers. The first of them is the delay in the payment of the benefits. Many workers file their claims in November when they come back to the Island, and many of them do not get their benefits until March, April, and sometimes May, when they have to come back again to the farms. Some of them receive the benefits six or seven months later, after they are already here. They can't solve their problems when they are on the Island. That is supposed to be the reason for the unemployment benefits.

Another problem is the checks that never come which the Department says were sent. Sometimes, one, two, or three checks are omitted or skipped, and the worker has to claim them again and send papers that he has already sent. But, he doesn't keep a copy, and he has problems when he tries to figure out what he said in the papers that were lost. For that reason he has not received his checks. I know of workers who haven't received checks that were not given to them in 1982 and 1983. They are still trying to get those benefits.

Another problem which confronts the workers is, sometimes -- especially this year -- many workers do not get the monetary determination. They don't know how much was assigned to them, or how many weeks they can expect to have unemployment benefits. They cannot make appeals about something they don't know.

Another problem which confronts farm workers is that some farmers, when the worker goes to the farm to ask for a job, do not tell the worker that he doesn't have to pay unemployment because he has less

than 10 workers, let's say. Sometimes, that worker goes back to Puerto Rico expecting to receive his benefits one or two months after he files a claim, but when he gets the monetary determination, he finds out that there was a big steal, because the farmer didn't pay. When he tries to find out how much he earned at the farm, they say he wasn't covered because the farmer didn't have to pay unemployment.

Even though I mentioned that some papers are lost when I commented about the lost checks, or omitted checks, I have to mention it again. Many workers are having problems with their papers. They send the papers and two or three months later -- sometimes six months later -- they find out that the papers are not in the record. They do not get paid because supposedly they did not send IB-2s to the Department when they sent their paper every two weeks, or every week, or whatever.

ASSEMBLYMAN FOY: Let me ask a question about that issue. Do the workers generally apply for their benefits in Puerto Rico or in New Jersey?

MR. PENCHI: In Puerto Rico, when they go back after they finish the work for the farmer.

ASSEMBLYMAN FOY: They finish work in November, they return to Puerto Rico, and they go to the Unemployment office and apply with the Puerto Rico Department of Labor. Is that correct?

MR. PENCHI: Yes.

ASSEMBLYMAN FOY: And, the Puerto Rico Department of Labor then sends the form to the New Jersey Department of Labor?

MR. PENCHI: The initial claim, yes. But, after that -- and this is a big problem for Puerto Rican workers -- they have to deal directly with the Department of Labor of New Jersey. They have to send the papers themselves. They have to fill them out in English, or get someone to fill them out. That is a big problem. That started to happen, I think, one or two years ago when there was an agreement between all of the states -- or almost all of the states -- that the worker would have to deal by himself and not through the Department of Labor, or the local offices of the Department of Labor.

Another problem is when the worker receives the determination that he will not get the benefits because of some reason. He appeals the decision, and then he receives a letter in English saying, "Call this number. Call this number on this date, and charge the call to the Department of Labor. You will have a hearing by telephone." It is very difficult for a farm worker to speak English. If you ask him to speak on the telephone in English and to try to tell his reasons for leaving a job, or whatever, that makes it very, very difficult for him to prove he is right in what he is saying. There is a language barrier; plus, he doesn't understand the whole procedure that is taking place. Previously, when he went before a referee in any local office in Puerto Rico, the referee took the testimony of the farm worker in Spanish. Then it was sent to the Central Office to be translated, and that was what the referee here received. But now, the worker has to call himself and make his defense himself.

ASSEMBLYMAN FOY: So, aside from the issues of eligibility with respect to the number of weeks worked, or the amount of money earned, you believe there are some institutional obstructions that prevent the worker from collecting money even if he does make the threshold?

MR. PENCHI: Definitely.

ASSEMBLYMAN FOY: Have you been in touch with officials from the Department of Labor regarding these issues?

MR. PENCHI: In 1982, I went to a meeting at which I discussed about 20 or 25 cases I brought from Puerto Rico where there were problems. I spoke to the gentleman in charge of the Interstate Office. I told him what the main problems were in these cases. Individually, some of the cases were solved, but then the next year they got worse. I am not sure if it was in 1983 or 1984 that people from Puerto Rico Legal Services, people from Camden Legal Services, a member of CATA, and someone else who I don't remember, went to the Department of Labor and had a meeting with an official there. They told him all of the problems that the Puerto Rico farm workers were confronted with in dealing with their cases. He took note, and it was agreed that employees from the Department of Labor of New Jersey

would go to the camps before the workers left -- one or two days before the workers left -- to fill out the forms here in New Jersey, in order that there would be less problems for the workers. This was done in some cases, but even in those cases there were problems. I know a worker who is at the Levine farm right now who filed his claim here in New Jersey. He got one check when he went back to Puerto Rico. The only thing was a change in address, and the checks stopped. I think he is still having problems with those checks.

ASSEMBLYMAN FOY: I am going to ask the representatives of the Department of Labor to review the situation that has been described. We are going to be meeting again on August 1. I would like you to have a summary you could make available to the Commission members about these types of things. Also, Mr. Penchi, you will be able to communicate directly with Mr. Malloy, because it sounds to me as though many of these problems could be handled internally. One big thing is the language barrier, and the printing of some of the applications and forms in Spanish would greatly expedite the process of collecting.

In addition, we may be looking toward the type of situation in which we are going to need a bilingual liaison, almost, regarding this. I know the Department has some thoughts along those lines. Maybe it is something that needs to be developed and put into place for this growing season, because we don't want to repeat-- We don't want to cure one problem, you know, in terms of what we do here, and then still be faced with some institutional problems that prevent workers from collecting who are entitled to it by virtue of meeting either threshold.

MR. MALLOY: May I make a comment?

ASSEMBLYMAN FOY: Sure.

MR. MALLOY: With regard to the bilingual problem you mentioned with the telephone interviews, we have already, in the Puerto Rico unit we have established -- which I mentioned this afternoon -- hired some new bilingual staff. We expect to make additional staff available to that unit for this season to help especially with that problem, communicating in general, and, also, communicating on the determination issue.

ASSEMBLYMAN FOY: I don't want to spend Charlie Serraino's money, but it is really the taxpayers' money. Maybe, instead of having collect calls, you might want, for a period of time, to consider an 800 number specifically for that purpose. That would actually save the State some money because you are only charged for the time that the 800 number is used. You may want to contact the telephone people just to explore that possibility. Then, prior to the end of this season, give some thought to making that number known throughout the migrant community, so that when they go back they will know to call that number if they need information or if they have any trouble. That is one very simple way the issue could possibly be approached.

MR. PENCHI: I want to say one more thing. It is about the amount that the farm worker has to earn during the year. In all of the cases I remember, there are not more than 2% of the farm workers who make \$4,000.

ASSEMBLYMAN FOY: How about the 20 weeks, based upon your experience? This would be basically your opinion in terms of the experience you have had with the cases you have dealt with. What would be the average number of weeks they would be here, working, and earning more than \$54 a week?

MR. PENCHI: I would say that the problem is how many weeks they can work, because some workers -- many workers -- get here in June and July. Then it gets more difficult for them to make the 20 weeks. For the workers who come to a specific farm where the farmer has a relationship with them, where the workers come every year at a specific time, March or April, it is not difficult for those workers to get the 20 weeks at \$54. But, for those workers who have to wait until there is enough work around to come and find the farmer, it is more difficult.

ASSEMBLYMAN FOY: Thank you very much for your testimony. Do any of the Commissioners have any specific questions they would like to ask? (negative response) All right, thank you very much.

At this time, I will call on Mr. David Rizzote of Hamonton, a grower who wishes to testify. Mr. Rizzote is also a member of the State Board of Agriculture. Am I pronouncing your name correctly, Mr. Rizzote?

**DAVID RIZZOTE:** You're close; no one gets it right. Thank you, Assemblyman Foy. I would like to apologize for not preregistering for the hearing tonight, but I wasn't sure I was going to make it here by nine o'clock. Fortunately, we did not work quite as long as we did the rest of this week, and I got out on time. (Mr. Vargas interpreting Mr. Pizzote's remarks for the benefit of the audience.)

I would like to state that I am a member of the State Board of Agriculture. I am also the President of the New Jersey Peach Promotion Council and a member of the Atlantic County Board of Agriculture Executive Committee. However, the remarks I am going to make affect me as the owner and operator of Glossy Fruit Farms here in Hammonton.

From what I heard from the few witnesses who have spoken while I was here, I would have to agree about the procedural problems with the Department of Labor. The reason I say this is because each year I have a fairly stable work force of 25 to 30 people. I guarantee that five or six of them are going to come back with problems relating to receiving benefits. In our case, and I would like to emphasize this maybe for the rest of the farm community, I think it is imperative that the farmer take time out to help some of these workers with these problems.

To get back to our operation, as I stated we have a stable force of 25 to 30 every year. I am fortunate enough to have almost the same crew come back every year. Our operation consists of peaches, apples, tomatoes, cucumbers, strawberries, and sweet potatoes. We are fortunate enough that most of our men do make the minimum under the 20-week requirement. We also have a few who qualify -- I guess they are in the 2% of the farm workers -- under the \$4,100 minimum.

I think the problem the Commission has deals with the weeks versus the amount. I would like to make a suggestion that you take a pretty good look at making an exception for agricultural workers regarding the minimum amount of weeks needed to qualify for Unemployment Compensation, and make it somewhere in the neighborhood of 14 or 15 weeks.

As far as the maximum amount is concerned, at Glossy Fruit I would have to think that higher than the \$2,200 minimum would be necessary. I don't feel it is going to affect the work force outside of maybe a few of our larger blueberry growers. In their case, most of their employees -- I can't say most, but a large number -- would not come under the Unemployment Compensation program.

I came here tonight to make a statement that a definite look should be taken at the minimum number of weeks, with a possible compromise as has been talked about between the \$2,200 and the \$4,100 minimum threshold.

I am going to close here because I have a big Italian feast to go to down the road with my sons.

ASSEMBLYMAN FOY: The Feast of Mount Carmel.

MR. RIZZOTE: I would like to state that I'm sorry -- I'm speaking to Mr. Garrison -- that you did not have quite the farm input that there should have been tonight, but the gentlemen behind me (indicating workers in the audience) know that farmers work just as much as they do. It is kind of hard for them to get out to make some type of public comment, even if the meeting does go until nine o'clock.

ASSEMBLYMAN FOY: Let me add that you were well-represented by the Farm Bureau. They advocated your position extremely well.

MR. RIZZOTE: Personally, I would like to see a few farmers get out, but as I said, it is kind of tough at this time of the year. I am not going to apologize for them because I don't think any apology is necessary. I'm sure we would have had a few more if the hearing had been held at a different time of the year.

ASSEMBLYMAN FOY: Thank you for your testimony. Are there any questions from the members of the Commission? Let's start with Mr. Bray.

MR. BRAY: What would it mean to you if your crew did not come back next year?

MR. RIZZOTE: I'm pretty fortunate, as I stated before, that I have a stable work force.

MR. BRAY: Assume they did not come back. What would it mean to you?

MR. RIZZOTE: I believe we would have problems, but I am also sure that because of the way I treat my employees, I will always have a stable work force.

ASSEMBLYMAN FOY: Mr. Sobelman?

MR. SOBELMAN: First I would like to state that I am a farmer also.

MR. RIZZOTE: Good; I have another guy here.

MR. SOBELMAN: Yes, you do have another farmer here. My question is, how long is your farm season? You start with strawberries and you run all the way into sweet potatoes pretty late in the fall. How long is your farm season?

MR. RIZZOTE: Most of my men come back in the middle of May and they don't leave until the middle of November.

MR. SOBELMAN: So, it's approximately 23 weeks. What is your rationale for the 14- to 15-week period?

MR. RIZZOTE: I would rather see a compromise on that end than I would on the dollar amount.

MR. SOBELMAN: But, how would that work?

MR. RIZZOTE: For the few farmers, other than our blueberry farmers, who would fall into the category of maybe having row crops, disregarding the strawberries now-- See, our strawberries take in about a month of work and, as you know, strawberries are a crop that has not fostered too well in the last few years. There are not too many growers who grow them. So, you know, that is a four-week period. Maybe those other farmers won't have any work for these people.

MR. SOBELMAN: Well, I would like to play the devil's advocate with you just for a moment, being another farmer. Suppose your men came in and worked 14 weeks, said, "See you, Buddy, we've got our 14 weeks in. We can collect." Now, it probably won't happen with you because you have a good relationship with your workers, and I do too. But, suppose you had men come in and say, "Well, we've got our 14 in," how would you feel about that?

MR. RIZZOTE: I think it's a possible situation, and it would be a problem for some farmers.

ASSEMBLYMAN FOY: Let me ask a question. Doesn't the law currently provide that a voluntary quit renders you ineligible?



MR. RIZZOTE: Not many people would take that route.

ASSEMBLYMAN FOY: Theoretically, they can't collect, unless they slip through the cracks, and we discussed that at our afternoon session.

MR. SOBELMAN: Right, there are many cracks; there are many loopholes.

MR. RIZZOTE: I think it would be a problem, but I think it is up to the individual farmer to possibly add incentives. I believe most of them do, even though publicly we are made to look like slave drivers. In all fairness to the gentleman sitting to my right, I think we are far from that. I think a farmer with any common sense at all will take a route whereby he can overcome the problem of his workers taking a hike before he is finished his work.

MR. SOBELMAN: I have one more question. What do you think it actually costs you per hour, per man, with your housing, with your unemployment, with your Social Security, with all of the government expenses? What do you think it actually costs you per hour, per man, to have a migrant worker working for you?

MR. RIZZOTE: Last year, unemployment alone was over \$20,000 -- alone. Some of it is employees, but not a major portion. That is why I am getting a computer; I have to preface that. I am going to try to sit down one day and figure it out. But, my men are not paid the minimum wages portrayed. They are paid two-way transportation. We house them, with an electric bill of \$240 a month. I have two camps where I house the 25 to 30 men. I just had both of them painted; it cost me \$3,400 to paint them. I ordered five new stoves today at a cost of \$780, and it is no coincidence that it was today. The gasman just happened to stop today to make repairs and he said, "We need new stoves," so I said, "Go out and buy them."

I would like to state that these gentlemen are paid far more than the minimum wage. When I get my computer I will probably sit down and—

MR. SOBELMAN: (interrupting) Can you give us just a ball park figure off the top of your head of what you think it probably costs you?

MR. RIZZOTE: I think Glassboro works on 18%, so if you discount their legal fees and so forth, you're down about 10% more. So, we're broaching, I would say, \$4.50 or \$5.00. That is an off-the-top-of-my-head guess, and I wouldn't want anyone to come back and question me on it. Until I sit down and get everything worked out, I would say that is the ball park figure.

ASSEMBLYMAN FOY: All right. Thank you very much, Mr. Rizzote. I appreciate your testimony. Enjoy the festival.

We have one more witness, Reverend Roger Richardson, Pastor of the Hammonton Presbyterian Church.

REVEREND ROGER RICHARDSON: As stated, my name is Roger Richardson. I am Pastor of the Hammonton Presbyterian Church. I am also the director of the migrant work done by the New Jersey Council of Churches in our area. With the Chaplain who works with me, Reverend Roberto Hernandez, who does the on-field work, we have available to migrant workers and general Spanish-speaking people in our area, clothing, food, and any other resources we are able to put together to help them. Besides this ministry, which is also spiritual in nature, we have a worship service in Spanish at nine-thirty. In my church, which is about a block and a half from where you are meeting tonight, we have a number of farmers, the Farm Home Administration Director and, also, the local supplier for a number of the farm products, such as chemicals and farm equipment, as part of the congregation.

I would like to add that I am also from an Ohio farm family. We raised dairy cattle, but I have some appreciation of what it is like out in the fields.

What I want to say besides the obvious need our region has for farm workers is about the richness they add, because they are workers. We are not talking about people who come here with a hand out or who want something for nothing. In this room, I'm sure you well know, there are assembled some of the hardest-working people that you or I will ever have the privilege of being in a room with.

I know, especially through some of the folks working with the Farm Home Administration, that the farmers in this area, in this region in New Jersey, are not doing what we would call poorly as compared to

what some of the farms out in the Midwest and Central states are facing. I also know the amount of help that is available and the kind of personnel who are willing to work with farmers to put their farms in order and to give them the kind of administration they need.

I came to say that those same kinds of resources -- and I am glad to see that you are all here working in their behalf -- are what the farm workers need and deserve, that kind of justice and human treatment. I just want to stress the feel of the moral imperative we have as New Jersey residents to care for people who are working hard in our State, on behalf of our economy, and who are willing to come here voluntarily and give of themselves, and that part of their lives, to enrich us. I do not necessarily mean materially; I'm talking about the full round of how they enrich the life of this State of New Jersey.

They come through the doors of our church and worship next to the farmers. We have a joint communion that is done in Spanish and in English. We see a number of folks, especially in the beginning of the season, like last year when it was quite rainy and there was no work, who need help to get started and get settled in the area. Those times when they are not working, from what I understand, obviously can't count on the employment record. That is a concern. They're here; they're willing, ready, and able, but because of circumstances beyond their control, they are not being utilized.

So, I came here tonight on behalf of those people I see on a regular basis in my church and, also, for the farmers who are compelled by an ethic of concern for those who surround them in their lives, to request you to consider some way to make the grace period a continual kind of stance in grace to whatever maneuvering that needs to be made through the Legislature to open it up so that these folks can be covered when they need it and for their families.

That covers what I wanted to say.

ASSEMBLYMAN FOY: Thank you very much, Reverend Richardson. Do any of the Commissioners have any questions? (negative response) Your remarks were well spoken, and I assure you they will be well taken.

Is there anyone else from the public who would like to speak at this time? (no response) Hearing none, I declare this hearing adjourned. Thank you all for coming.

**(HEARING CONCLUDED)**



## **APPENDIX**





# this week

IN FARM BUREAU

(USPS 627-860)

July 13, 1985  
Vol. XXXI No. 28

Report to members - Week ending

**AG WORKERS-UNEMPLOYMENT COMP.:** The first full meeting of the Commission to Study the Employment and Compensation of Agricultural Labor was held on Tuesday afternoon this week. Assem. Thomas Foy (Burl.) was elected chairman. The commission appears to be focusing primarily on the subject of unemployment compensation (U.C.) benefits for farm workers, and in particular the issue of annual earnings qualification.

Under the U.C. program, workers may qualify for benefits in two ways: earning at least \$54 per week for 20 weeks in a base year; or, meeting the alternative earnings test on an annual basis. Farmworkers traditionally have had difficulty making the weekly test, because of the limited season and occasional work interruptions. Consequently, the annual earnings test has become most important. Under the prior law, the annual earnings test was \$2200, but now it is \$4100. Many farmworkers complained last fall about the change, claiming that the \$4100 was unrealistically high. Farmers' attitudes are mixed. Some fear that the higher figure may lead to a shortage of workers; others feel that most workers can earn the new amount and also complain that some workers left prematurely after reaching the \$2200 level in previous years. A farmer's U.C. premium is determined by a formula which compares the "pay-out" to his employees versus the "pay-in" contributed by the farmer.

New Jersey Farm Bureau, in cooperation with the study commission, is conducting a survey of its members who may be affected by the change (\$2200 to \$4100) in qualifications for ag workers to provide some input for a potential change in the legislation. One idea that surfaced at the first commission meeting was to reduce the minimum from \$4,100 to \$3,000 annually. That change to \$3,000 may not be a fixed figure but rather an adjustment to an indexing formula to approximate \$3,000. Also being considered would be a liberalization of the rules to allow overtime hours to count toward additional "base weeks". Still another is adjusting the credit for room and board which counts toward the employee's earnings (currently it is \$65 per week). All Farm Bureau members who are in the U.C. program are strongly encouraged to complete the survey form provided below and send it to the FARMHOUSE as soon as possible. The commission will conclude its work by August 1, the survey form should be submitted no later than July 22. Thank you!

**PUBLIC HEARING ON U.C.:** The commission noted above will hold one (and only) public hearing on Thursday, July 18 in the Council Chambers of the Hammonton Municipal Bldg., Central Ave. and Third St. The session will span the late afternoon and evening: starting at 3:00 p.m., breaking for dinner at about 5:30 p.m., and then resuming again about 7:00 p.m.. All farmers who wish to voice an opinion on the issue outlined above should feel free to do so and attend this hearing. Persons wishing to testify should contact Laurine Purola at (609)984-0446.

## FARM EMPLOYEE U.C. SURVEY - 1985

Number of employees covered by U.C. \_\_\_\_\_

Preference for annual earnings minimum (approx.) (Check One) \$4100 ( ); \$3000 ( ); \$2200 ( )

Do you support changing other qualification factors to help workers reach the minimum?

Yes \_\_\_\_\_; No \_\_\_\_\_; No Opinion \_\_\_\_\_

If the new minimum (which increases to \$4300 in Jan., '86) is not adjusted for ag workers, do you believe a labor shortage or other problems will be created?

Yes (labor shortage) \_\_\_\_\_  
Yes (other problems) \_\_\_\_\_  
No \_\_\_\_\_  
No Opinion \_\_\_\_\_



# COMITE DE APOYO A LOS TRABAJADORES AGRICOLAS

July 18, 1985

P.O. BOX 458  
GLASSBORO, N.J. 08028

## BRIEF FARMWORKER UNEMPLOYMENT SURVEY

At the request of the Commission CATA distributed a questionnaire to some 82 farmworkers at 12 farms distributed over the Glassboro, Hammonton, Rosenhayn, East Vineland, and Swedesboro areas. Most of these workers are Puerto Rican migrants living in farmer-operated housing. A few workers live in crewleader-operated housing; at least one is Mexican. No day haul workers are included.

The sample is small and includes many experienced workers who return to the same farms year after year. The figures include only 82 workers, out of tens of thousands. It is not a scientific survey.

1. AVERAGE EXPERIENCE: 63 of the 82 workers had worked in New Jersey previously; several had worked in other states. The overall average was 6 years experience. 14 of the workers had 15 years or more.
2. AVERAGE EARNINGS: Individual workers made as little as one thousand and as much as six thousand dollars last year; the average is \$3,105. However 60% of the workers made less than \$3000 last year.
3. HOUSING OWNERSHIP: Only 7 of the 82 workers live in crewleader-operated housing; most lived in farmer-run housing.
4. COST OF MEALS: 75 of the 82 workers reported paying their own food costs ranging from \$20 to \$50 a week; average was \$32 per week. Meal costs vary as to whether there is a cook in the camp. Crewleaders tend to charge \$50 a week in their camps.
5. COSTS OF HOUSING: Only 1 worker claimed to pay for his housing.
6. WAGE RATES: 81 of the 85 are paid minimum wage (\$3.35). The other 4 are all nursery workers and receive 3.45 or 3.50. None of the workers surveyed work piece rate, the common practice in the blueberry, strawberry, and a frequent practice in fruit harvest, sweet potatoe, and lettuce industries. Piece rate results in wages of between \$1 and 4.25 an hour, in CATA's experience. Workers with 30 yrs. experience receive the same as new workers.

7. WEEKS OF WORK: The workers averaged 23 weeks, 2 days work each season; this however includes total time in New Jersey and typically includes several weak weeks during slow periods.
8. HOURS OF WORK: Workers reported the following current hours:
- |                 |                 |                 |                 |                 |
|-----------------|-----------------|-----------------|-----------------|-----------------|
| <u>30-40/wk</u> | <u>40-50/wk</u> | <u>50-60/wk</u> | <u>60-70/wk</u> | <u>70-80/wk</u> |
| 17              | 24              | 24              | 9               | 8               |
- This averages to 51 hours/week. It should be remembered that the workweek fluctuates widely over a given year.
9. RATES OF APPLICATION: Almost all of the workers intended to apply for benefits (77 of the 82).
10. FAMILIARITY : 52 of the workers said they were familiar with the new higher level of qualification; 21 said they were not.
11. IF YOU DON'T RECEIVE UNEMPLOYMENT BENEFITS, WILL YOU RETURN TO WORK IN NEW JERSEY?
- 74 of the 79 workers (91%) said they would not.

COMMENTS A number of workers added their own thoughts.  
These include:

"Very well, I suppose that, if they raise the amount to earn for unemployment, they should raise the hourly wage. I think they should pay us \$4.75 an hour. Remember--no workers, no food!"

"\$3000 is also high--that would be hard. \$2500 would be more possible."

"The level is too high. We arrived in April and it still doesn't look like we're going to make enough. They have to either raise the wage or lower the unemployment."

"Work conditions depend on the weather. There should be obligatory overtime pay."

"We came because we needed the work."

"We need the work."

"They won't come back if it's not possible to collect (unemployment)."

"They should consider that the nutritional level is very low. They should also consider that in 25 weeks it won't be easy to make \$3000."

"Many times the minimum wage isn't paid."

"They either raise the wage or lower the unemployment. Otherwise, it would be better to stay in Puerto Rico!"



# CAMDEN REGIONAL LEGAL SERVICES, INC.

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PATRICIA BOWEN ATKINS, EXECUTIVE DIRECTOR

July 24, 1985

Assemblyman Thomas Foy, Chairman  
Commission to Study the Employment and Compensation of  
Agricultural Workers in New Jersey  
129 High Street  
Mount Holly, New Jersey 08060

Dear Assemblyman Foy:

I was unable to testify at the recent hearing, and Gregory L. Williams of the Office of Legislative Services suggested that I send you this letter. The information I wish to present concerns two major enforcement problems under the current Unemployment Compensation Law. I understand that because of the Commission's time constraints, the recommendations it will make will not at this time concern enforcement. Nevertheless, I would like to suggest two areas that need the Commission's attention.

I represent more than twenty (20) migrant farmworkers from Puerto Rico who were among more than five hundred working under and paid by crew leader Emelina Rodriguez on the farm of Atlantic Blueberry Company in 1984. Neither she nor Atlantic Blueberry Company kept the required payroll and personal information records for these more than five hundred (500) workers. For this reason, and because neither Emelina Rodriguez nor Atlantic Blueberry Company was willing to recognize any obligation to contribute to the unemployment compensation fund for these workers, it took me approximately six to nine months to get my clients benefits after they completed work in 1984. As of this time, the 450 plus additional workers who were paid by Emelina Rodriguez have received no unemployment benefits for the work performed picking blueberries for Atlantic Blueberry Company.

In addition, to see the magnitude of this one case, Emelina Rodriguez is only one of sixteen crew leaders who paid workers for work performed on the property of Atlantic Blueberry Company in 1984. Emelina Rodriguez herself told me that none of these other crew leaders paid unemployment compensation into

the fund, and since there are only two farm labor contractors (crew leaders) who even have unemployment compensation numbers and therefore accounts in the State of New Jersey, it is apparent that no unemployment compensation was paid on the hundreds and hundreds of workers paid by these other fifteen crew leaders who worked for Atlantic Blueberry Company in 1984.

It is my understanding that the exact same practices are being used at Atlantic Blueberry Company in this current 1985 harvest season.

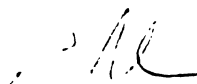
The two major enforcement problems are suggested by this one example. First, almost none of the crew leaders who paid agricultural workers in New Jersey are paying into the Unemployment Compensation fund. The result is that the fund is diminished and workers are either determined ineligible for benefits or their benefits are lower than they should be.

The second enforcement issue suggested by this example is that the New Jersey Department of Labor makes no effort to determine, where it is legally justified, that the farmers upon whose property and for whom work is being performed are employers of agricultural workers. There is clear New Jersey statutory authority to determine the farmers to be the employers and responsible parties for the payment of Unemployment Compensation into the fund. Because of the difficulty of enforcing the law against crew leaders, and because of the difficulty of collecting contributions from them, farmers should be determined to be employers when New Jersey allows for this determination. It is my opinion that in most situations, the farmer can and should be determined to be the employer for unemployment compensation purposes in New Jersey.

I hope that the Commission will be able to pursue these enforcement matters and I am willing to provide additional information upon request. I should also tell you that the records of Atlantic Blueberry Company and all of its crew leaders have been and are being audited and the Commission may be able to get detailed information on this particular case from this audit process.

Thank you.

Sincerely,



LAURENCE E. NORTON, II  
Staff Attorney  
FARMWORKER DIVISION



New Jersey  
Business & Industry  
Association

P.O. Box 230  
102 West State Street  
Trenton, New Jersey, 08611  
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July 19, 1985

TO: The Commission to Study the Employment and  
Compensation of Agricultural Labor

We noted from press coverage of the Commission's meetings that statements made to the Commission went beyond the exploration of reforms in the hiring, unemployment and compensation of migrant farmworkers and focused on earnings tests (labor force attachment standards) of the state unemployment insurance law.

We wish to remind you of the conclusions of the Governor's Commission on Unemployment Insurance on the problem of migrant workers: "that this unique problem does not lie with the UI Reform Act but is reflective of systemic problems in the agricultural industry in New Jersey. Therefore, we recommend that the Legislature establish a special Task Force to examine these problems and draft recommendations for their solutions. In making this recommendation, the Commission reiterates its strong belief that no additional analysis or amendments to the UI law should be addressed by the Task Force." (Statement of the Commission submitted to Governor Kean on November 15, 1984.)

The Legislature clearly shared the Commission's conclusions and reiterated them in ACR-151 which created and set forth the responsibilities of the Commission to Study the Employment and Compensation of Agricultural Labor. ACR-151 states: "It is the intention of the Legislature that problems of New Jersey agricultural workers be addressed without sacrificing the basic principles of the recently enacted unemployment compensation reform law, which was a product of cooperation between business and labor."

Neither the problem of agricultural workers nor its solution lies in the UI law. The current alternate earnings test is a reasonable standard which bears the same relationship to average wage and price levels as the previous \$2,200 standard when it took effect on January 1, 1975. An unrealistically low eligibility standard would threaten the UI fund while encouraging some industries to use unemployment benefits as a means of holding down wage levels.

We urge you to reject overtures to involve the Commission in an inappropriate discussion of the UI program and to focus, as intended, by ACR-151 and by the Governor's Commission on Unemployment Insurance on the important issues relating to the employment and compensation of agricultural workers.

It is important that the Commission recommend meaningful responses to problems cited by migrant workers including:

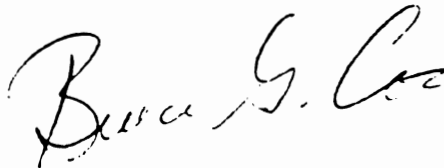
- (1) lack of adequate information to workers on the duration of employment, earnings and benefit standards.

- (2) lack of coordinated hiring and scheduling of workers; and
- (3) lack of adequate state monitoring of hiring and compensation practices as well as record keeping on the number of persons hired, compensation levels and duration of employment.

The three month extension of previous eligibility standards, effective October 1, 1984, occurred because it was understood that thousands of Puerto Rican farmworkers began working in the spring of 1984 under the mistaken assumption that they would continue to qualify for benefits under the old law. In fairness to them, provisions of the old law were extended to encompass the 1984 growing season.

No such misunderstanding should have occurred this year. Eligibility standards under the new law should have been reasonably well known by those hired for the 1985 growing season. The problem feared some by farmers, that higher benefit eligibility standards would result in unavailability of workers for the 1985 growing season, appears not to have materialized.

Again, we urge you to reject overtures to involve the Commission in an inappropriate discussion of the UI program and to focus, as intended, by ACR-151 on the important issues relating to the employment and compensation of agricultural workers.



Bruce G. Coe  
President



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