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IMPORTATION OF FOREIGN AGRICULTURAL WORKERS

APRIL 11 (legislative day, MARCH 26), 1951.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 984]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 984) to amend the Agricultural Act of 1949, having considered the same, report thereon with a recommendation that it do pass with amendments.

HISTORY OF LEGISLATION

Throughout World War II and since the termination of hostilities, it has been necessary to import agricultural workers from foreign countries in order to assist in the production of adequate supplies of food and fiber for domestic consumption in the United States and for export. Principal sources of foreign farm labor have been Canada, the British West Indies, and the Republic of Mexico, and many workers have been recruited in Puerto Rico. In 1948 the United States and Mexico reached an agreement on the method by which workers from Mexico would be imported for temporary employment in agriculture. In October 1948 Mexico terminated the 1948 agreement and a new agreement was approved and became effective August 1, 1949. The program of importing farm workers from Mexico is now operating under that agreement.

The 1948 agreement established a system of importing workers from Mexico without subsidization by the Federal Government. This system was continued by the present international agreement whereby the private employer, upon certification by the United States Employment Service that he cannot obtain adequate domestic farm labor, recruits workers in Mexico with the joint approval of United States and Mexican Government officials and under their direct supervision. Under the old and present agreement the employer pays the entire cost of transporting the worker from Mexico

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and return, and he pays for supplies and subsistence during the period of movement. He also makes other guaranties to the worker under the individual work contract and is required to post a bond of $25 for each worker to guarantee maintenance of status and departure of the alien agricultural worker.

In addition the 1948 agreement provided that 10 percent of the worker's salary be withheld and then returned to him upon termination of the contract. This provision was deleted in the 1949 agreement. The present agreement also differs from the 1948 agreement in that it contains detailed procedures for handling of complaints of workers against employers violating their contracts and cases of discrimination against Mexican workers.

Violation of contracts by the workers has caused considerable expense to the employers by forcing forfeiture of the departure bonds. Often the worker has returned to his home in Mexico, and while no expense may have been incurred by the Government or the employer in such return, failure by the worker to report his departure to the Immigration and Naturalization Service has caused unnecessary confusion and expense to agricultural producers in this country. On the other hand, many contract violators have been apprehended, and the costs of apprehension must be paid by the employer. In certain instances, this liability has amounted to considerable expense to the employer. Therefore, the agricultural producers in the United States have protested vigorously against the requirement for posting of bonds.

The program of importing farm laborers from Mexico is confronted with a major problem in the form of illegal immigration of workers commonly known as wetbacks. Instead of entering the country at official points and according to law, thousands of workers swim or wade across the Rio Grande River and enter illegally. Because they are often put to work by United States employers before their backs are dry, they have been commonly referred to as wetbacks. The wetback situation presents great economic and social problems. The illegal immigrant is always subject to deportation, and under such circumstances, the wetback will work for wages far below a level which will enable him to maintain a proper standard of living for himself or his family. At the same time, their employment undercuts the going wage of domestic farm labor and thus forces the latter to accept substandard wages also, or move on to other work.

This process not only provides the wetback and the domestic farm laborer with grossly inadequate incomes, but it also affects the status of Spanish-speaking citizens of the United States and retards their assimilation into the normal social and economic life of the country. While the present international agreement addresses itself to the wetback problem, illegal entry of Mexican citizens into the United States has increased greatly and conservative estimates place the number of wetbacks entering the country in 1950 at more than a million. The Immigration and Naturalization Service in the year ending June 30, 1950, deported nearly 500,000 aliens back to Mexico, and undoubtedly as many were never apprehended.

In connection with negotiations to modify the existing agreement, representatives of the United States and Mexico met in conference at Mexico City beginning January 26 of this year to discuss the various

problems noted above. During the course of the conference, the Mexican Government served notice that it was terminating the 1949 agreement.

The United States delegation to the conference was headed by Carl W. Strom, consul general of the United States in Mexico. Chairman Allen J. Ellender of the Committee on Agriculture and Forestry and Congressman W. R. Poage of the House Committee on Agriculture were appointed delegates from their respective committees and served as advisers to the United States delegation.

As an alternative method to the recruitment of farm workers in Mexico by private employers and subsequent posting of compliance bonds, it was suggested at the conference that an agency of the United States recruit such workers and that the Government of the United States guarantee compliance with the individal work contract. It was understood that the United States Government is not now authorized to undertake such a program. The United States delegation agreed to have such legislation introduced in the Congress, and since its enactment would require time for following legislative procedure, the Mexican Government agreed to continue the present international agreement until June 30, 1951.

The conferees then agreed to recommend to their respective governments that the following program be established:

1. The Mexican Government would establish migratory stations at such places in Mexico as might be agreed upon by the Mexican Government and the United States Government.

2. Recruiting teams consisting of Mexican and United States representatives would then recruit agricultural workers at places near the residences of the workers, and the workers would be brought to the migratory stations by the Mexican Government.

3. Following screening by the United States immigration officials, the workers would be transported to reception centers in the United States at the expense of the United States Government. Return transportation from the reception center to the migratory station by this Government would also be guaranteed.

4. At the reception center in the United States, the worker would be free to choose the type of agricultural work he desires, and the employer would be free to select the workers whom he desires. Proper supervision of these negotiations by representatives of both Governments would be maintained.

5. Transportation from the reception center to the place of employment and return would be at the expense of the employer, as well as subsistence and other guaranties as required by the individual work contract.

In accordance with the understanding at the conference, S. 984 was introduced on February 27 by Senator Ellender and referred to your committee. Hearings were conducted on the bill and testimony received from officials of the Department of Labor, Department of State, Department of Agriculture, farm organizations, employers of agricultural labor, and officials of labor unions. Two other bills, S. 949 and S. 1106, were also considered during the hearings and at subsequent executive sessions of the committee.

Evidence on several aspects of the problem was presented and discussed thoroughly during the sessions of the committee. More com-

plete utilization of domestic farm labor through Government subsidization, supplemented by the proposed program for importing agricultural workers, was recommended to the committee. However, a program providing Government transportation of domestic laborers within the country and establishment of overnight stops or additional reception centers would involve considerable expenditure by the Federal Government. At the same time, evidence was presented to the committee that the shortage of farm labor was usually in the supply of "stoop" labor, a term used because the worker is required to stoop or bend forward to do his work. The natural inclination of workers to accept higher paid or easier work than such labor often creates a shortage of these workers and agricultural producers have found it necessary to import foreign workers to make available an ample supply. This stoop labor is just as essential as other operations in the production of food and fiber and therefore, your committee believes that provision should be made at this time for supplying the foreign agricultural labor found necessary to supplement the domestic labor force, and the establishment of additional programs for recruitment, transportation, and placement of domestic farm laborers should be considered as the need arises.

ANALYSIS OF BILL

Section 501 authorizes the Secretary of Labor to—

1. Recruit workers in Mexico for temporary agricultural employment in the United States;

2. Establish and operate reception centers at or near the places of actual entry of such workers into the United States for the purpose of receiving and housing them while arrangements are being made for their employment in, or departure from, the United States;

3. Provide transportation from recruitment centers in Mexico to such reception centers and from such reception centers to recruitment centers after termination of employment;

4. Provide such workers with such subsistence, emergency medical care, and burial expenses (not exceeding $150 burial expenses in any one case) as may be or become necessary during transportation authorized by paragraph 3 and while such workers are at reception centers;

5. Assist such workers and employers to negotiate contracts of employment; and

6. Guarantee the performance by employers of provisions of such contracts relating to payment of wages or the furnishing of transportation.

The bill also provides that the Secretary may recruit Mexicans already in the United States for agricultural employment. That provision has been amended, however, to require that such workers must have originally entered the country legally. S. 984 further provides that workers recruited under the program authorized by the bill will be free to accept or decline agricultural employment with any eligible employer, and to choose the type of agricultural employment they desire. Likewise, employers will be free to offer agricultural employment to any workers of their choice not under contract to other employers.

While the purpose of S. 984 is to authorize this country to carry out its part of the agreement reached with the Republic of Mexico, the bill as introduced authorized recruitment of agricultural workers from other countries in the Western Hemisphere, pursuant to arrangements between the United States and such countries, and from Hawaii and Puerto Rico. The bill as reported would confine the program to the Republic of Mexico, since extending it to other countries would change the present method of recruitment of farm workers in those countries for temporary employment in the United States.

Section 502 provides that no workers shall be made available to any employer unless such employer enters into an agreement with the United States to—

1. Indemnify the United States against any loss by reason of its guaranty of such employer's contracts.

2. Reimburse the United States for expenses, not including salaries or expenses of regular department or agency personnel, incurred by it for the transportation and subsistence of workers in amounts not to exceed $20 per worker.

3. Pay to the United States, in any case in which a worker is not returned to the reception center in accordance with the individual work contract, and is apprehended in the United States, an amount determined by the Secretary of Labor to be equivalent to the normal cost to the employer of returning other workers from the place of employment to the reception center, less any portion thereof required to be paid by any other employers.

The bill as introduced provided that the employer pay for all expenses up to $20 incurred by the Government in recruitment and transportation of workers. The committee believes normal salary and other expenses of Government officials administering the program should not be charged to the individual employer of the workers recruited by such Government employee and recommends amending the bill accordingly.

S. 984 as introduced also provided that in the case of a worker violating his contract, the employer would pay the Federal Government an amount equal to the cost of returning such worker from his place of employment to the reception center. Your committee has amended the bill to require such reimbursement only when the contract violator has been apprehended within the United States and since the original provision was subject to the interpretation that the employer would have to pay the costs of apprehension, new language is recommended to clarify the intent of the bill that the employer pay only the normal cost of returning such worker from the place of employment to the reception center.

Section 503 provides that no workers recruited under this program shall be available for employment in any area unless the director of State employment security for such area has determined and certified that sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, and that the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed. Your committee believes the State director will be in a position to respond immediately to any real needs in his area for additional workers and can protect the welfare of domestic farm laborers already in the area.

Section 504 provides that workers recruited in Mexico shall be admitted to the United States subject to the immigration laws, and that no penalty bond shall be required which imposes liability upon any person for the failure of any such worker to depart from the United States upon termination of employment. Section 504 also provides that workers already in the country and who otherwise would be eligible for admission to the United States may remain to accept agricultural employment pursuant to arrangements between the United States and the Republic of Mexico. The bill as introduced did not subject retention of such workers for agricultural employment to future arrangements between the two countries.

Section 505 exempts agricultural workers imported from Mexico from social security benefits and taxes, and withholding of, or payment of, such taxes by the employers of such workers. The section further provides that such workers shall not be subject to the head tax levied under section 2 of the Immigration Act of 1917.

Section 506 authorizes the Secretary of Labor to utilize the facilities and services of other Federal and State agencies as may be agreed upon, to accept and utilize voluntary and uncompensated services, and to cooperate with the Secretary of State in negotiating and carrying out agreements or arrangements relating to the importation of agricultural workers from Mexico.

Section 507, as amended, defines the agricultural employment for which workers can be recruited as that covered by section 3 (f) of the Fair Labor Standards Act of 1938, as amended, or section 1426 (h) of the Internal Revenue Code, as amended. The bill, as introduced, provided that in addition to the work considered to be agricultural employment by the above-cited statutes, the term "agricultural employment" would include horticultural employment, cotton ginning and compressing, crushing of oilseeds, and the packing, canning, freezing, drying, or other processing of perishable or seasonable agricultural products. Your committee believes it unwise to enact greatly different definitions of common terms in various statutes and therefore recommends the bill be amended accordingly.

Section 507 also defines "employer" to include an association or group of employers. This provision is designed to reduce the cost of administering the program by permitting the Secretary to deal with an association or group rather than with its individual members. However, the committee believes an amendment is necessary in order to protect the United States in dealing with associations or groups which might later prove financially irresponsible. The amendment would limit the provision to associations or groups which the Secretary of Labor deems financially responsible, or whose individual members are liable for the obligations of the association or group in the event of default by such association or group. The amendment would not require the Secretary to enter into individual contracts with member-employers of any association or group so long as its form of organization or its arrangement with its members is such that its members are liable on its obligations.

The bill is amended to provide in section 508 that nothing in the act shall be construed to limit the authority of the Attorney General to permit the importation of workers from any other country for agricultural employment, pursuant to the immigration laws, or to

permit any such alien who entered the United States legally to remain for employment on farms.

Section 509 provides that the program of importing foreign agricultural workers, as authorized by the act, shall terminate December 31, 1952.

CONCLUSIONS AND RECOMMENDATIONS

In considering this legislation, your committee has endeavored to work out a program which will make available an adequate supply of agricultural workers from Mexico as expeditiously as possible. At the same time, your committee has attempted to keep the cost to the Federal Government at a minimum. Under the program contemplated by S. 984 the Federal Government will assume financial responsibility for, first, costs of recruitment of workers in Mexico and transportation to reception centers within the United States exceeding $20 per worker; second, establishment and maintenance of reception centers in the United States; third, cost of apprehending contract violators; and, fourth, guaranteeing compliance by employers with the individual work contract with respect to payment of wages and furnishing of transportation.

It is expected that recruitment of Mexican farm laborers by a governmental agency, payment of their transportation to a reception center within the United States and return, and furnishing of subsistence during that time will not cost much more than $20 per worker. The Department of Labor has estimated that such cost might average nearly $35 per worker, but its estimates were based upon the recruitment of workers on the average as far as 500 miles south of the Mexico-United States border. It is hoped that adequate workers can be recruited closer to the border and if so, such costs to the Government will be less than those contained in the estimate. It must be kept in mind that the average cost up to $20 will be paid by the employer, and only where the average cost is more than $20 will the Federal Government pay for transportation and subsistence.

No estimate has been made by the Department of Labor as to the probable cost of establishing and maintaining reception centers in the United States by the Federal Government. However, in the agreement reached in Mexico City, the Mexican Government agreed to establish migratory stations in Mexico at its expense, and it appears fair and reasonable to your committee that the United States Government should bear its share of the program to the extent of establishing the necessary reception centers in the United States near the border. It was recommended by various witnesses in the hearings conducted on the legislation that several reception centers be established throughout the country. As the committee is reporting a bill which would make the employer pay practically all of the cost of importing workers from Mexico, your committee has agreed to authorize the establishment of only those stations absolutely required to furnish the necessary facilities at or near the border. Thus it will be possible to keep reception center costs at a minimum.

The expenses incurred in apprehending contract violators are not expected to add materially to the cost of the program. It is the intent of the legislation that such apprehension will be carried out by the presently constituted authorities in connection with their regular

duties, and in the case of workers not apprehended there should be no cost involved.

Finally, the bill authorizes the Federal Government to assume responsibility for compliance of employers with the individual work contract, with respect to the payment of wages and the furnishing of transportation. However, the bill further provides that the employer must agree to reimburse the Federal Government for any losses incurred by it by reason of its guaranty of employers' contracts. Thus, the contingent liability of the United States in this respect should not result in much loss to the Government.

The United States as well as Mexico must do everything possible to solve the wetback problem presented by great numbers of Mexicans entering the United States illegally every year. Both Governments agreed at the conference in Mexico City to intensify their efforts to control these violations of immigration laws. The program authorized by S. 984 whereby a governmental agency will recruit workers in Mexico in cooperation with officials of the Mexican Government is expected to provide a supply of workers for agricultural employment in compliance with the laws of both countries. While the program does not attempt to cover all phases of the wetback problem, it is expected to be helpful in alleviating the situation.

It is the opinion of the committee that the bill, as amended, will protect the financial interests of the United States and will provide an effective program of importing needed agricultural workers from Mexico. On the other hand, failure to enact legislation authorizing the United States Government to carry out its part of the agreement reached at Mexico City will mean the termination of the present international agreement and importation program as of June 30. Therefore, your committee recommends early enactment of S. 984, as amended.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

AGRICULTURAL ACT OF 1949, AS AMENDED

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TITLE V—AGRICULTURAL WORKERS

SEC. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico), the Secretary of Labor is authorized—

(1) to recruit such workers (including any such workers temporarily in the United States under legal entry);

(2) to establish and operate reception centers at or near the places of actual entry of such workers into the continental United States for the purpose of receiving and housing such workers while arrangements are being made for their employment in, or departure from, the continental United States;

(3) to provide transportation for such workers from recruitment centers outside the continental United States to such reception centers and transportation from such reception centers to such recruitment centers after termination of employment;

(4) to provide such workers with such subsistence, emergency medical care, and burial expenses (not exceeding $150 burial expenses in any one case) as may

be or become necessary during transportation authorized by paragraph (3) and while such workers are at reception centers;

(5) to assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

(6) to guarantee the performance by employers of provisions of such contracts relating to the payment of wages or the furnishing of transportation.

SEC. 502. No workers shall be made available under this title to any employer unless such employer enters into an agreement with the United States—

(1) to indemnify the United States against loss by reason of its guaranty of such employer's contracts;

(2) to reimburse the United States for essential expenses, not including salaries or expenses of regular department or agency personnel, incurred by it for the transportation and subsistence of workers under this title in amounts not to exceed $20 per worker; and

(3) to pay to the United States, in any case in which a worker is not returned to the reception center in accordance with the contract entered into under section 501 (5) and is apprehended within the United States, an amount determined by the Secretary of Labor to be equivalent to the normal cost to the employer of returning other workers from the place of employment to such reception center, less any portion thereof required to be paid by other employers.

SEC. 503. No workers recruited under this title shall be available for employmen in any area unless the Director of State Employment Security for such area has determined and certified that (1) sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, and (2) the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed.

SEC. 504. Workers recruited under this title who are not citizens of the United States shall be admitted to the United States subject to the immigration laws (or if already in, and otherwise eligible for admission to, the United States may, pursuant to arrangements between the United States and the Republic of Mexico, be permitted to remain therein) for such time and under such conditions as may be specified by the Attorney General but, notwithstanding any other provision of law or regulation, no penalty bond shall be required which imposes liability upon any person for the failure of any such worker to depart from the United States upon termination of employment.

SEC. 505. (a) Section 210 (a) (1) of the Social Security Act, as amended, is amended by adding at the end thereof a new subparagraph as follows:

"(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended."

(b) Section 1426 (b) (1) of the Internal Revenue Code, as amended, is amended by adding at the end thereof a new subparagraph as follows:

"(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended."

(c) Workers recruited under the provisions of this title shall not be subject to the head tax levied under section 2 of the Immigration Act of 1917, (8 U. S. C., sec. 132).

SEC. 506. For the purposes of this title, the Secretary of Labor is authorized—

(1) to enter into agreements with Federal and State agencies; to utilize (pursuant to such agreements) the facilities and services of such agencies; and to allocate or transfer funds or otherwise to pay or reimburse such agencies for expenses in connection therewith;

(2) to accept and utilize voluntary and uncompensated services; and

(3) when necessary to supplement the domestic agricultural labor force, to cooperate with the Secretary of State in negotiating and carrying out agreements or arrangements relating to the employment in the United States, subject to the immigration laws, of agricultural workers from the Republic of Mexico.

SEC. 507. For the purposes of this title—

(1) The term "agricultural employment" includes services or activities included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938, as amended, or section 1426 (h) of the Internal Revenue Code, as amended.

(2) The term "employer" shall include an association, or other group, of employers, but only if (A) those of its members for whom workers are being obtained are bound, in the event of its default, to carry out the obligations undertaken by it pursuant to section

502, or (B) the Secretary determines that such individual liability is not necessary to assure performance of such obligations.

SEC. 508. Nothing in this Act shall be construed as limiting the authority of the Attorney General, pursuant to the general immigration laws, to permit the importation of aliens of any nationality for agricultural employment as defined in section 507, or to permit any such alien who entered the United States legally to remain for the purpose of engaging in such agricultural employment under such conditions and for such time as he, the Attorney General, shall specify.

SEC. 509. No workers shall be made available under this title for employment after December 31, 1952.

SOCIAL SECURITY ACT, AS AMENDED

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SEC. 210. For the purposes of this title—

Employment

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (e)); except that, in the case of service performed after 1950, such term shall not include—

(1) (A) Agricultural labor (as defined in subsection (f) of this section) performed in any calendar quarter by an employee, unless the cash remuneration paid for such labor (other than service described in subparagraph (B)) is $50 or more and such labor is performed for an employer by an individual who is regularly employed by such employer to perform such agricultural labor. For the purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(i) such individual performs agricultural labor (other than service described in subparagraph (B)) for such employer on a full-time basis on sixty days during such quarter, and

(ii) the quarter was immediately preceded by a qualifying quarter.

For the purposes of the preceding sentence, the term "qualifying quarter" means (I) any quarter during all of which such individual was continuously employed by such employer, or (II) any subsequent quarter which meets the test of clause (i) if, after the last quarter during all of which such individual was continuously employed by such employer, each intervening quarter met the test of clause (i). Notwithstanding the preceding provisions of this subparagraph, an individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of clauses (i) and (ii)), by such employer during the preceding calendar quarter.

(B) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton;

(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended.

INTERNAL REVENUE CODE, AS AMENDED

SEC. 1426 * * *

(b) EMPLOYMENT.—The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while

the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (i) of this section); except that, in the case of service performed after 1950, such term shall not include—

(1) (A) Agricultural labor (as defined in subsection (h) of this section) performed in any calendar quarter by an employee, unless the cash remuneration paid for such labor (other than service described in subparagraph (B)) is $50 or more and such labor is performed for an employer by an individual who is regularly employed by such employer to perform such agricultural labor. For the purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(i) such individual performs agricultural labor (other than service described in subparagraph (B)) for such employer on a full-time basis on sixty days during such quarter, and

(ii) the quarter was immediately preceded by a qualifying quarter.

For the purposes of the preceding sentence, the term "qualifying quarter" means (I) any quarter during all of which such individual was continuously employed by such employer, or (II) any subsequent quarter which meets the test of clause (i) if, after the last quarter during all of which such individual was continuously employed by such employer, each intervening quarter met the test of clause (i). Notwithstanding the preceding provisions of this subparagraph, an individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of clauses (i) and (ii)) by such employer during the preceding calendar quarter.

(B) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton;

(C) Service performed by foreign agricultural workers under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended.

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