



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, MONDAY, APRIL 18, 2005

No. 46

Senate

Statement of Senator Dianne Feinstein

Help Those Who Have Worked Here; Don't Create a Magnet

MRS FEINSTEIN: Mr. President, I rise today to express my opposition to the AgJOBS bill as it is currently drafted.

This is a very complicated bill. It is a magnet for illegal immigration. It hasn't been reviewed by the Judiciary Committee. We don't know how many people would be affected by it.

Rather, it has come to the floor as an amendment to the supplemental appropriations bill.

This is not the place for this bill. I believe it is a mistake to pass this bill on an emergency supplemental that is designed to provide help for our military, fighting in extraordinary circumstances.

That's why I co-sponsored an amendment with Senator Cornyn saying that the place to do these amendments is through the regular order, beginning in the Immigration Subcommittee of the Judiciary Committee. This amendment passed by a vote of 61–38.

And that's why I will vote against cloture on the AgJOBS bill and on the other complicated immigration amendment, the Chambliss/Kyl amendment.

If, however, cloture is invoked then I plan on offering six amendments that I believe will improve the bill. Three of the six amendments are on the same topic – allowing aliens to be eligible for benefits under AgJOBS if they have 1 or 2 misdemeanors.

If these amendments are approved by the full body, or are later incorporated into the bill through an appropriate Judiciary Committee markup, then I would be prepared to support the bill.

But otherwise it's my intention to vote against the bill. I simply cannot support the bill in good conscience as it is.

I believe the bill as drafted is a huge magnet. The Judiciary Committee hasn't had a chance to review it, amend it, mark it up. And it doesn't belong on a supplemental appropriations bill.

Now we know that people come to this country illegally.

They come for many different reasons. Some out of fear of persecution. Some for work. All for opportunity.

In 2000, it was estimated that there 7 million unauthorized aliens in this country. And by 2002, this number had grown to 9.3 million. (Census numbers reported CRS

Report on Immigration, updated 4/08/05)

In agriculture, there are approximately 1.25 million (or about 50 percent of the agricultural work force) illegal workers – 600,000 of whom live and work in California. (Department of Labor)

Many of these workers have been here for years, have worked hard, brought their families here, and have built their lives here.

With respect to agricultural work, I know that it is extraordinarily difficult, if not impossible, to get Americans to work in agricultural labor.

I didn't believe it. Several years ago we contacted every welfare office in the state. And every welfare office in the State told us that once they put a sign up, no one responded.

So I think it is the right thing to do to give the workers who have been here for a substantial period of time, who have been working in agriculture, who have been good members of society, and who will continue to work in agriculture a way to adjust their status.

What I do not support is creating a magnet that draws large additional numbers of illegal immigration.

Not only would this have a detrimental effect on our society, but it would harm the people we are trying to help through this bill.

Here's why: an influx in illegal immigrants would flood the labor market, make jobs more difficult to find, and drive down wages.

For those of you who doubt the magnet effect, you have only to examine what happened when President Bush announced his guest worker proposal early last year.

Despite the fact that the President's proposal had no path to legalization, the mere announcement of the proposal fueled a rush along the Southwest border.

The Los Angeles Times (5/16/04) reported: "detentions of illegal immigrants along the border ... have risen 30% over the first seven months of the fiscal year, a period that includes the four months since Bush announced his plan."

Similarly, the *San Diego Union Tribune* (1/27/04) reported: "U.S. Border Patrol officials report a 15 percent increase in the use of fraudulent documents at the world's busiest land border crossing [San Ysidro]. And more than half of those caught using phony documents say the president's offer of *de facto* amnesty motivated them to attempt to sneak into the United States."

Does anyone doubt that this increase was related to anything but the President's proposal?

Of course not.

When I raised the concern that this legislation would be magnet that would attract large numbers with the authors of the legislation, they seemed to believe that the fact that the bill only applies to those who were in this country and working in agriculture as of December 31, 2004, would be sufficient to deter people from illegal entry.

I do not believe that is the case. I think people will see that they only need 100 days of work to qualify for temporary residence; they will not be deterred by the operative date, and will say, "I'll find a job, work 100 days, and then I'm legal and can bring my family."

Length of Time Amendment

The first two amendments I would like to offer would increase the time someone must demonstrate he or she has been in the United States working in agriculture in order to qualify for temporary and permanent residence.

This would discourage others from coming to this country, and help those who have been here for many years.

- Here's what the first amendment would do: In order to qualify for temporary residence, workers would have to demonstrate that they have worked for at least three years in agricultural work prior to December 31, 2004.
- For each of the three years, the worker would be required to show 100 work-days (or 575 hours) per year in agriculture.

- Here's what the second amendment would do: In order to qualify for permanent residence (a green card), workers would have to show that they have worked at least five years in agricultural work following enactment of the bill. For each of the five years, the worker would again have to demonstrate 100 work-days (or 575 hours) per year.

So, by extending the length of time a worker needs to have worked both in the past and the future, these amendments reduce the incentives for more illegal immigration.

Criminal Convictions

I have three amendments that address another major concern that I have.

The bill currently allows someone with one or two (misdemeanor) criminal convictions in the United States to apply for temporary residence or a green card. I think this is a mistake.

So the amendments I am offering strike this language and ensure that those with criminal records do not qualify for benefits – if they have even one criminal conviction in the United States, or anywhere.

I believe that no one who has a criminal conviction should be the recipient of temporary residence or a green card under this program.

Misdemeanors include petty theft, simple assault against persons, driving under the influence, certain drug offenses, and misdemeanor battery.

In some states, they include cases of child abuse or domestic abuse, public assistance fraud, or abandonment of a child under the age of 10.

I do not believe we should allow anyone to apply for a benefit as significant as a green card under this bill if they have committed any crime, let alone the two misdemeanors that the bill currently allows.

Applications Outside the U.S.

The next amendment I am offering would prohibit workers who are living outside the United States from applying for temporary residence under this bill.

The bill allows those living in other countries to apply for benefits under this bill -- as long as they can demonstrate the appropriate time spent in agricultural work in the United States prior to their departure from this country.

This means that someone could come to the United States illegally, work here illegally, return to their home country, and still apply for a green card under this bill. This simply makes no sense.

If we are going to give agricultural workers a way to adjust their status, let's limit it to those who are living and working in this country.

California is the number one agriculture-producing state in the nation.

I recognize that this status is based on the hard work of people who have been living on the edges of our society, living in fear, and constantly worried about being removed from this country.

It is time for the government to recognize that these people have made a substantial contribution to our country and offer them a way to adjust their status.

Remember, there are already 1.25 million agricultural workers here illegally (600,000 in California).

These amendments would concentrate on their adjustment of status, thereby moving the workers and their families from the shadows and allowing them temporary, and subsequently, permanent legal status.

But I think that we have to be careful in how we proceed -- if we do it the right way, we can help those who have been working in agriculture for many years and who have been good, upstanding members of society.

These are the people we should be trying to help: They have children, many of whom are born here and are U.S. citizens. They've paid taxes. Some have bought homes.

They've worked hard for everything they've gotten. They've been good, productive members of society.

But if we do it the wrong way -- we will actually cause great harm to the agriculture workers who have been here for years -- we will create a magnet, flooding the borders, pushing down wages, and making it more difficult to find work.

These are simple, common-sense amendments.

As I said before, I would have preferred to do this in committee where we could have the time necessary to consider such complicated legislation.

But if we are to pass an agricultural workers bill, let it be one that helps those who have contributed to our society and one that won't cause great harm to our nation.

Thank you Mr. President.