

(Mrs. McCASKILL) was added as a cosponsor of amendment No. 1096 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1099

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 1099 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1106

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 1106 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1107

At the request of Ms. COLLINS, the names of the Senator from Arizona (Mr. KYL) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 1107 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. SCHUMER, Mr. KENNEDY, Mr. KOHL, Mrs. BOXER, Mr. DODD, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. FEINGOLD, Mrs. MURRAY, Mr. KERRY, Mr. NELSON, of Florida, Mr. KAUFMAN, Mr. CASEY, Ms. CANTWELL, and Mr. LEVIN):

S. 1038. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I believe it is fair to say that there is a farm emergency in this country. Some of it is caused by drought, including out West where California has had, for 3 years, a very serious drought. But most of it is caused by the absence of farm labor—labor to help plant, prune, and harvest.

Many of us have listened to farm bureaus throughout the country, spoken with farmers who are losing land, fallowing land, and leasing land abroad. I think the time has come to do something about it.

Today, with 16 cosponsors, I am introducing an agricultural worker bill

known as AgJOBS. This bill is cosponsored by Senators LEAHY, SCHUMER, KENNEDY, KOHL, BOXER, DODD, LIEBERMAN, BINGAMAN, FEINGOLD, MURRAY, KERRY, BILL NELSON, KAUFMAN, CASEY, Cantwell, and Levin. It would provide farmers with the stable, legal workforce they deserve by reforming the broken H-2A seasonal worker program and offering a pathway to citizenship for hard-working, law-abiding immigrants already employed or who have been employed on American farms.

This bill is supported by more than 200 agricultural coalition and immigration reform groups throughout the Nation.

Since I last came to the floor to talk about a solution to this crisis, it has only grown. The bill is necessary, and I believe Congress must act now to save America's agriculture industry.

Today across the United States, there are not enough agricultural workers to do the pruning, picking, packing, and harvesting of our country's crops. With an inadequate supply of workers, farmers from Maine to California, from Washington State to Georgia, have watched their produce rot in fields, and have been forced to fallow close to half a million acres of land, and billions of dollars are being drained out of our economy as a result.

Farmers are downsizing their operations. Many are buying or leasing land in Mexico. Others are going out of business. Quite clearly, the labor situation facing the American farmer is an emergency.

So some ask: Why don't American farmers hire Americans to do their work? The unemployment rate is high. People are looking for jobs. So why don't they hire Americans?

The fact is, they have tried and tried and tried. But there are very few Americans who are willing to take the job in a hot field, doing backbreaking labor, in temperatures that often exceed 100 degrees. That is a fact.

The other fact is that immigrant workers are the backbone of America's agricultural industry—a huge industry and a proud industry, which is now dying due to the lack of steady labor supply.

Farmers are departing the country in order to stay in business, leaving devastated farm communities behind. In California, in the Great Central Valley, farmers who once tended "America's breadbasket" are now standing in bread lines, with unemployment rates in their communities that are as high as 45 percent. Topsoil from fallowed land turning into dust now blows up in sandstorms and has caused periodic shutdowns of Interstate 5, the State's main north-south freeway.

As a result of Congress's inaction, between 2007 and 2008—1 year—1.56 million acres of farmland, once rich with crops, are now dormant. That is 1.5 million acres dormant in a year. In California alone, in the past 5 years, that amount—1.5 million acres—of production has been lost.

American farmers have moved at least 84,155 acres of production to Mexico. This is what we know of: Over 84,000 acres of farm production now in Mexico. This has resulted in the growth of farm labor jobs in Mexico; namely, 22,285 jobs to cultivate crops that vary in diversity from avocados to green onions to watermelons.

This shortage of workers is devastating American agriculture, and we need to wake up and understand what is happening. In the next 1 to 2 years, the United States stands to lose \$5 billion to \$9 billion in agricultural sales to foreign competition if Congress does not act to provide a workforce for the American farming community.

California has already lost almost \$1 billion from 2005 to 2006. It is estimated we will lose between \$1.7 and \$3.1 billion in the next year. The California farm industry—the largest in America—was almost a \$40 billion-a-year industry. It is deteriorating every year.

We are witnessing nothing less than the slow vanishing of American agriculture.

Ayron Moiola, the executive director of the Imperial Valley Vegetable Growers Association, predicts that California's asparagus crops will disappear completely in the Imperial Valley if their demand for specialized asparagus planters and harvesters is not met.

Colorado farmers have estimated their State's fruit and vegetable industry will disappear completely in the next 5 to 10 years without some program to provide a sustainable workforce.

As of February 2008, 35 to 45 New Hampshire farm operations have been at risk of going out of business or being forced to severely cut back operations due to labor shortages.

This reduction in farm production would result in an estimated loss of 22,000 acres of farmland and \$58 million of agricultural production for New Hampshire alone. In addition, over 600 full-time farm jobs and 4,300 jobs in agriculture-related businesses could be in jeopardy.

I say to the Presiding Officer, I hear this from your apple growers in New York, and I hear it from the dairy industry throughout America.

The situation is dire from coast to coast, and urgent action is required to halt these trends. I do not think we can afford to lose our entire agricultural industry because this has always been a central and sustainable part of our national economy. Our food is clean; there are strong pesticide controls in this country. I think most of us believe we would much prefer to buy American produce than foreign produce. Yet we may not have that opportunity.

When farmers suffer, there is a ripple effect felt throughout the economy: in farm equipment manufacturing, packaging, processing, transportation, marketing, lending, and insurance. Jobs are being lost, and our economy is going to decline further as a result. Low-producing farms mean a lowered

local tax base—as farms no longer generate income and create jobs.

As can be seen from this graphic I have in the Chamber, for every job lost on a farm and ranch, the country loses approximately three jobs in related sectors that are supported by having the agricultural community in this country.

I have received a letter from the Port of Oakland, which depends heavily on agribusiness for its survival. According to the port, last year more than 750 metric tons of agricultural products, worth approximately \$2.6 billion, were shipped through the port, representing 40 percent of the port's exports.

As these farms disappear, port jobs, basic jobs for people, also disappear. The central issue is not immigration; it is the bottom line of the American economy. I think Congress should be doing everything we can to prevent U.S. farms from closing down.

There is a solution, and it is this bill. This bill is well known, and this bill has been well supported in the past with a majority of votes. It is bipartisan. We can take it up and pass it today, and that would immediately help American farmers bolster the U.S. economy at a critical time.

The AgJOBS bill has two parts. The first meets the immediate needs of our farmers by creating a program that would provide an opportunity for experienced agricultural workers to earn the right to apply for legal status in this country.

The second part meets the long-term needs of farmers by reforming the H-2A program—that is the temporary worker program for the farm industry—so that if new workers are needed, farmers and growers have a legal path to bring workers in to harvest their crops.

The first step of the program requires that undocumented agricultural workers apply for a blue card if they can demonstrate they have worked in American agriculture in the United States for at least 150 workdays within the previous 2 years before December 31, 2008.

The second step requires that a blue cardholder work in the U.S. agricultural industry for an additional 150 workdays per year for at least 3 years, or 100 workdays per year for 5 years.

At the end of this time, a worker can obtain a green card and can continue to work in agriculture.

Workers participating in the program will be required to pay a fine of \$500, show that they are current on their taxes, and that they have not been convicted of any crime that involves bodily injury, the threat of bodily injury or harm to property.

Employment is verified through employer-issued itemized statements, pay stubs, W-2 forms, employer letters, contracts or agreements, employer-sponsored health care, timecards or payment of taxes.

At the end of 5 years, those workers will be able to gain citizenship in this country.

The blue card visa program will be capped at 1.35 million blue cards over 5 years and sunsets after 5 years.

All blue cards will have encrypted, biometric identifiers, and contain other anticounterfeiting protections. This provides, in effect, a biometric identifier for 1.35 million people who are undocumented but in the country today.

AgJOBS would also streamline the current guest worker program, known as the H-2A program, which is currently unwieldy and ineffective.

Among other things, the bill will shorten the labor certification process, which now often takes 60 days, reducing the approval process to between 48 to 72 hours.

Advertising and positive recruitment for U.S. workers in the local labor market is required by filing a job notification with the local office of the State employment security agency.

Petitions for admission of H-2A workers must be processed and the consulate or port of entry notified within 7 days of receipt.

The adverse effect wage rate would be frozen for 3 years, to be gradually replaced with a prevailing wage standard.

H-2A visas will be secure and counterfeit resistant.

The reforms to the H-2A agricultural worker program are especially important to meet the needs of year-round agricultural industries, such as dairy, which are not covered by the seasonal program.

Many say that dairy should use the seasonal H-2A program—but it does not work for that industry. They need workers 24/7, 365 days a year.

The National Milk Producers recently shared with me an economic study done by researchers at Texas A&M that will be released next week on the economic impacts of immigration on U.S. dairy farms. Over 5,000 dairy farms, surveyed nationally, with responses from 47 States, are in this study. Of these, 50 percent use immigrant labor. Immigrant labor now accounts for 62 percent of milk production in 47 States.

As can be seen from this chart I have in the Chamber, eliminating immigrant labor would reduce the U.S. dairy herd by 1.34 million, milk production by 29.5 billion pounds, and the number of farms by 4,532. Retail milk prices would increase by an estimated 61 percent.

This will be the result if we do not recognize what is a basic reality that farm and dairy communities depend on undocumented workers, who are the only workers who will do this kind of work.

This is hard for people to believe. However, a while back, we posted notices in the welfare departments of all 58 California counties that said: Agricultural worker jobs available. Please sign up here.

However, do you know how many workers came from this? Not a single one.

When I drive down the highway, down to Monterey, along the coast, and I go through the great Salinas Valley, I watch the row crops either being planted or sprayed or harvested. You see the workers in the field stooped over, hour after hour, in the sun, when it is 100 degrees or more in temperature, and you can see the specific nature of this type of work.

People think of this work as unskilled labor, but it is not. It is a learned skill. These workers have to move fast and be trained to use the farm equipment. They know how to work skillfully with their hands and move row after row, after row, down the field.

Last summer, a young pregnant woman working in the field collapsed from heat exhaustion and was taken to the hospital, where she died. Working in the field is back breaking, difficult work, and there are very few Americans who are willing to do this work.

The backbone of the agriculture industry in my State is the undocumented workforce and it is time to recognize that reality. I can't have—and Mr. President, you can't have—farmers standing in bread lines because they can't get the labor to plant or harvest their crops. The fields across America are increasingly being fallowed and this does not make sense.

Congress must stand tall and acknowledge that the basic workforce in the American agricultural community is undocumented farm labor. Undocumented workers take these jobs because they are professional and proud of the work that they do. I believe that is desirable.

This bill has previously passed with more than a majority in comprehensive immigration reform. It recognizes that the American farm industry is in crisis; that the industry is deteriorating; and that America is losing its produce. This bill stands up for American farmers and provides them with the workforce they deserve—American farmers like Toni Scully, a pear farmer from Lake County, CA.

Toni Scully experienced a devastating harvest that left much of her pear crop rotting on the ground because she could not find workers in time for the harvest.

Early last year, I heard from Dewey Zabka, an onion and potato farmer in northern Colorado who, for the first time in his company's 50-year history, had to downsize 25 percent of his production.

In the State of New York, 800 farms and \$700 million in sales may be forced to go out of business or scale back their farm operations if labor shortages continue. For the first time since 1991, Jim Bittner, the owner of Singer Farms in Appleton, NY, razed 10 percent of his sweet cherry and peach orchards last year because he could not get farm labor.

For the 2009 season, California growers who anticipate a shortage of reliable labor are deciding to move away

from planting permanent tree crops, including peach, plumb, nectarine, almond, pomegranate, and olive trees. Many of these farmers are supplementing these crops with pistachios, which can be harvested mechanically.

In June 2008, The Oregonian reported that Oregon's pear and onion industries are at risk of not being able to sustain production without consistent labor.

In Yuma County, AZ, where agricultural workers earn between \$10 and \$19 per hour, U.S. lettuce producers were unable to find enough laborers to harvest the spring crop of lettuce for 2008.

The truth is Americans will not do the work that sustains agriculture. It is hard, stooped labor requiring long and unpredictable hours. As a result, the labor shortage will be persistent. It is not going to get better next year, unless we have the courage and the guts to stand up for a major industry in America which deserves a steady labor base, particularly during these difficult economic times. And there are examples all over the nation that Americans simply won't fill these jobs.

H. Lee Showalter, a member of the Pennsylvania Apple Marketing Board, points to the example of the largest Macintosh apple producer in New York, who is required to advertise for local labor before joining a migrant labor program. Of the 300 workers he needed to fill, only 1 American worker applied.

Willoway Nurseries, Inc. has been in business in northern Ohio since 1954. Willoway Nurseries has attempted to recruit local workers, though to no avail. General nursery workers on this farm earn a starting wage of \$9.93 per hour. Yet it has been impossible for the nursery to recruit American help.

The Washington Farm Bureau reported that nearly 500 tons of apples were not picked in Washington State's apple harvests last year due to picker shortages. As Valoria H. Loveland, director of the Washington State Department of Agriculture, stated in a letter to me:

The reality of our local labor market [is that] local people who want to work are already employed, or are not interested in doing the seasonal and physically demanding work that characterizes our specialty crop production.

Experts estimate that nearly 80 percent of Florida's approximately 150,000 agricultural workers are undocumented immigrants. This is a \$1.6 billion a year business that produces up to 90 percent of the fresh domestic tomatoes that Americans eat between the months of December and May.

Many farmers have been in business for generations. Many farm the land that their parents and their grandparents farmed before them. California farms produce approximately 350 different crops: pears, walnuts, raisins, lettuce, onions, strawberries, and apricots, just to name a few. Without reform, we will continue to see the deterioration of American farms nationwide. This includes the possibility that

certain vegetables and fruits will no longer grow in our Nation, where we have stricter rules and regulations for safety.

Once the trees are gone, they are replaced by crops that do not require manual labor. As a result, our pears, our apples, our oranges will be increasingly coming from foreign sources. This is not what America wants, but it is what Congress's inaction compels.

The trend is quite clear. If there is not a means to grow and harvest our produce in this country, we will import produce from China, from Mexico, and from other countries that have sufficient labor. If our farmers want to stay in business, they will continue to go to Mexico and lease land and grow crops there. We are not doing our duty if we let this continue.

Steve Scaroni has been in the California lettuce and broccoli industry for over three decades. In recent years he has moved 2,000 acres and 500 jobs from his \$50 million operation in Heber, CA, to Guanajuato, Mexico. Steve wants his business to survive, and he can't hire or plant. If he can't plant, he can't pick. If he can't pick, he can't pack, and he won't be able to deliver a harvest. As a result, today Steve exports to the United States about 2 million pounds of lettuce a week. He has spent thousands of dollars to start up the new farms and to train workers to ensure that his crops meet U.S. food safety standards.

In Wilcox, AZ, Eurofresh Farms has transferred tomato crops and 150 workers to Sonora, Mexico, where tomatoes are grown and shipped to the U.S. on a daily basis.

Reforming the system means that we not only protect the agricultural industry, but also the health of this Nation. This past July, the Food and Drug Administration confirmed that a variety of jalapeno and serrano peppers grown in Mexico caused an outbreak of salmonella in the United States. This outbreak was first thought to have originated in tomatoes.

The repercussions of the outbreak were felt on farms from coast to coast. In Georgia alone, it is estimated that the tomato scare cost local farmers about \$14 million in total production value. Nationwide, the tomato industry lost at least \$100 million due to lower prices and reduced demand. At the same time, over the last 15 years, imports of tomatoes have increased 179 percent. Right now, almost 40 percent of the tomatoes that we eat are grown in a foreign country. Yet tomato farmers are being forced to close shop.

The agriculture industry has been seeking a resolution for the labor crisis for the past 10 years. Mr. President, I have received over 50 letters of support for AgJOBS.

I am committed to working with the Obama administration, and Senators LEAHY, SCHUMER, and KENNEDY, as well as the House champions, Representatives BERMAN and PUTNAM, and others, to support U.S. farmers and the work-

ers who provide the skilled labor needed to plant, tend and harvest our crops.

The time is now, and the solution is before us. I urge my colleagues to join me in support of AgJOBS and help restore America's farms before it is too late.

Mr. President, I ask unanimous consent that the text of the bill, letters of support, and list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Job Opportunities, Benefits, and Security Act of 2009" or the "AgJOBS Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, table of contents.

Sec. 2. Definitions.

TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

Subtitle A—Blue Card Status

Sec. 101. Requirements for blue card status.

Sec. 102. Treatment of aliens granted blue card status.

Sec. 103. Adjustment to permanent residence.

Sec. 104. Applications.

Sec. 105. Waiver of numerical limitations and certain grounds for inadmissibility.

Sec. 106. Administrative and judicial review.

Sec. 107. Use of information.

Sec. 108. Regulations, effective date, authorization of appropriations.

Subtitle B—Correction of Social Security Records

Sec. 111. Correction of Social Security records.

TITLE II—REFORM OF H-2A WORKER PROGRAM

Sec. 201. Amendments to the Immigration and Nationality Act.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Determination and use of user fees.

Sec. 302. Regulations.

Sec. 303. Reports to Congress.

Sec. 304. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term "blue card status" means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 101(a).

(3) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(4) EMPLOYER.—The term "employer" means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.