

# Immigration Reform

Is Relief for Agriculture on the Horizon?

# Welcome to Florida

Hurricane Free!





**GOLDEN DRAGON**

**福 CHINESE 福  
RESTAURANT**

**PET MISSING?  
NO BLAME US!  
BLAME  
HURRICANE**

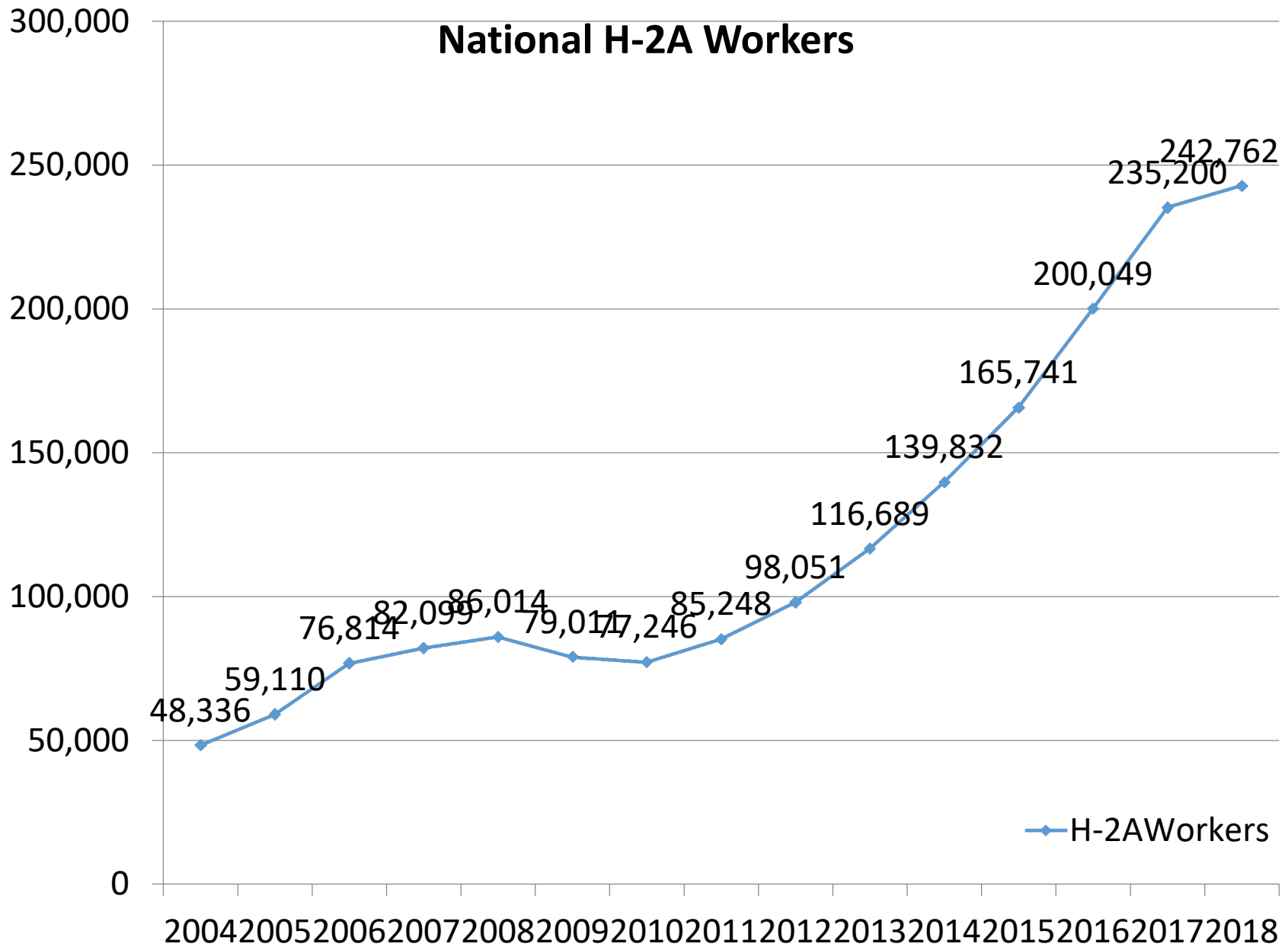
# Overview

- Ag Labor Issue
- Legislation & Regulatory Action
- Where do we go from here?



# Agricultural Labor Issue

- Why worry?
  - ✓ National Ag Worker Survey – 51% “Employment Authorized”
  - ✓ But H-2A guest worker program usage has seen dramatic growth
  - ✓ Very difficult to get domestic workers
    - 217 recruitment reports
    - 15,764 job openings
    - 70 referrals from employment service
    - 5 accepted the job





# Potential Reform Actions

- Congress
  - ❖ Congresswoman Zoe Lofgren
  - ❖ Congressman Ted Yoho
- Administration
  - ❖ H-2A Regulatory Reform
  - ❖ Possible Immigration Legislation

# Cong. Lofgren Bill

- Goals – Attempt at bipartisanship
  - Path to Legal Status for current workforce
  - Reform/Streamlining of H-2A Program
  - E-Verify

# Current Unauthorized Workforce

- Certified Ag Worker Status
  - ✓ Eligible if 180 days of work in agriculture in previous 2 years
  - ✓ Valid for 5 ½ years and renewable
  - ✓ Covers spouse and dependent children
  - ✓ Employer must provide record of employment
  - ✓ Safe Harbor for employers (if determined employee was unauthorized)
- Earned Residence (Green Card)
  - ✓ If worked 100 days in ag for previous 10 years – must continue in Ag for 4 years post enactment
  - ✓ If worked 100 days in ag for less than 10 years – must continue in Ag for 8 years post enactment
- Legal Permanent Residence
  - ✓ Provides ag dedicated pool of 40K 'green card' slots for employer sponsorship

# Streamlining & Modernization

- Some helpful changes:
  - ✓ Single platform to file with State Workforce Agency, DOL, and DHS
  - ✓ Adverse Effect Wage Rate (AEWR) – maximum increase per year of 3.25% and maximum decrease of 1.5% up to year 2029
  - ✓ Wage rate at time of contract will not change with new AEWR
  - ✓ Allows a limited number of year round workers but with caps
  - ✓ Allows some staggered entry
  - ✓ No cap on seasonal workers remains

# Streamlining & Modernization

- Some unresolved issues
  - Farm Labor Contractor access to staggered entry
  - What happens to wages after 2029
  - Caps on year round visas
  - Wage disaggregation
  - *Definition of Agricultural Labor and Services*
    - *Does not allow FLCs to haul product from the field to processing/packing house*
    - *Does not allow cooperatives to participate*
    - *Does not allow packing houses not physically located on the farm to participate*

# Cong. Yoho Bill

- Creates a guest worker pool in host country
  - ✓ Home country will conduct background checks
  - ✓ Worker will pay \$2,500 fee to participate
  - ✓ Guest Worker Identification Card – will contain bio metrics for ID
- Visa valid for 5 years and renewable
- No housing required
- No transportation required
- Available to both seasonal and year round work
- Wage rate will be 115% of federal minimum wage or state minimum

# Political Realities

- House Judiciary Committee
  - Chairman Jerry Nadler, New York
  
- Judiciary Committee's Immigration Subcommittee
  - Chairwoman Zoe Lofgren, California

# Regulatory Action

- Proposed rule attempt to modernize and streamline the program
  - 489 page rulemaking document
  - Some good
    - ↑ Allows staggered entry for all
    - ↑ Allows 14 day 'grace period' for start date
    - ↑ Eliminated useless newspaper ads for ag work
    - ↑ Allows post certification amendments to the job order
  - Some not so much
    - ↓ Increases FLC surety bonds exponentially
    - ↓ Does not correct 'Definition of Ag' issue
    - ↓ Says contracted wage rate will change if it goes up – but not if it goes down



# Administration Actions

- Proposed H-2A rule
  - A result of the Sec. of Ag instigating a interagency working group (DOL, Dept of Ag, DHS, and Dept. of State meetings).
- Potential Legislation?
  - Is there White House immigration legislation forthcoming?
    - Jared Kushner meetings

# What's Next



# Options for the Future

- Mechanization, automation
- Diversity of visa workers/countries
- Are there other sources
- Workforce development – apprenticeship – vocational – etc.



