



April 3, 2019

The Honorable Zoe Lofgren  
Chairwoman, House Judiciary Subcommittee  
on Immigration and Citizenship  
2141 Rayburn House Office Building  
Washington, DC 20515

The Honorable Ken Buck  
Ranking Member, House Judiciary Subcommittee  
on Immigration and Citizenship  
2141 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Lofgren and Ranking Member Buck,

The United States produce industry is in desperate need of a legislative solution to our workforce challenges. For more than a decade United Fresh Produce Association and allied agriculture partners have worked to pass legislation to reform our broken immigration system and help build a legal and reliable workforce.

The attached data tells the story of our declining workforce with limited replacements coming behind. The only solution to ensure our ability to grow and harvest fruits and vegetables in the United States is to provide a path to legal status for our current undocumented workers and to develop a modernized guest worker program that meets the foreseeable needs of growers across the country.

We believe these are the essential provisions of legislation to address the labor crisis in agriculture. For the current workforce, there must be a reasonable transition to legal status for agricultural workers who have been in the United States for several years. In addition, similar legal status must be provided to protect these workers' immediate families – parents and children.

A modernized guest worker program must include the following key elements:

- Year-round visas for workers rather than temporary or seasonal
- A wage rate that is protective of U.S. workers that is fair and predictable
- Inclusion of workers in minimal processing such as cutting fresh fruits and vegetables
- Housing and transportation allowances for foreign workers
- Stronger administrative role by USDA to support U.S. agriculture's needs
- Flexibility for workers/employers in portability with up to three-year visas
- No arbitrary cap on the number of visas; the program must reflect the actual demand for workers in the marketplace.

The United Fresh Produce Association urges you to support immediate legislation that addresses both the challenges of workers currently in the United States, as well as the need to ensure a consistent flow of future workers to harvest the fruits and vegetables in America that help feed our nation and the world.

Sincerely,

Tom Stenzel  
President and CEO

*Founded in 1904, the United Fresh Produce Association serves companies at the forefront of the global fresh and fresh-cut produce industry, including growers, shippers, fresh-cut processors, wholesalers, distributors, retailers, foodservice operators, industry suppliers and allied associations. From its headquarters in Washington, D.C., United Fresh and its members work year-round to make a difference for the produce industry by driving policies that increase consumption of fresh produce, shaping critical legislative and regulatory action, providing scientific and technical leadership in food safety, quality assurance, nutrition and health, and developing educational programs and business opportunities to assist member companies in growing successful businesses.*

# Tackling the Produce Industry's Labor Challenge

Tom Stenzel, President & CEO  
 United Fresh-Cornell Executive Development Program  
 March 27, 2019



## Today's agenda

1. Profile of U.S. fruit and vegetable farm labor
2. Trends affecting current U.S. resident workforce
3. Role of H2A guestworker program in filling the gap
4. What policy changes are required to forge a solution
  - Legalizing status of current workers
  - Modernizing H2A guestworker program
5. What lies ahead?



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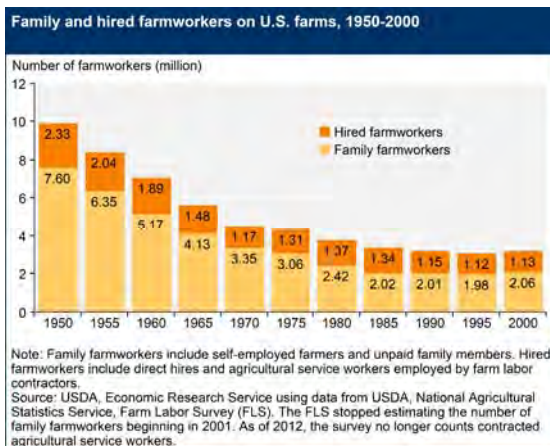
# Tackling the Produce Industry's Labor Challenge

## 1. Profile of U.S. fruit and vegetable farm labor

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## Historical look at U.S. farm workers



- Total farm workers declined from 10 million to 3 million 1950-2000
  - Mechanization of row crops, e.g. corn, soybeans, etc.
- Hired farm workers declined, but less than family workers
  - Represent more labor-intensive crops like fruits and vegetables
  - Produce industry estimates

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## Number of workers continuing to decline

Region	States	Change in Number of Field/Crop Workers Employed 2002-2014		
		Farm Labor Survey	Census of Agriculture	Percent Change
California	CA	-87,219	-85,301	-39.4%
Mountain II	CO, NV, UT	-4,244	-7,029	-36.7%
Cornbelt I	IL, IN, OH	-9,043	-14,235	-31.7%
Southeast	AL, GA, SC	-6,956	-8,667	-26.9%
Appalachian II	KY, TN, WV	-4,777	-6,170	-25.4%
Cornbelt II	IA, MO	-3,619	-6,100	-24.5%
Northeast II	DE, MD, NJ, PA	-5,716	-7,243	-19.5%
Florida	FL	-8,504	-9,196	-18.5%
Northeast I	CT, ME, MA, NH, NY, RI, VT	-5,027	-5,926	-17.9%
Southern Plains	OK, TX	-5,669	-7,133	-17.6%
Delta	AR, LA, MS	-3,950	-4,803	-17.0%
Lake	MI, MN, WI	-4,434	-7,412	-14.9%
Mountain III	AZ, NM	-1,853	-2,860	-14.0%
Appalachian I	NC, VA	-3,798	-4,431	-13.4%
Mountain I	ID, MT, WY	233	309	2.1%
Northern Plains	KS, NE, ND, SD	1,129	2,000	6.3%
Pacific	OR, WA	7,595	9,838	12.7%
Overall	-	-145,851	-164,361	-21.8%

Source: Farm Labor Survey and U.S. Census of Agriculture

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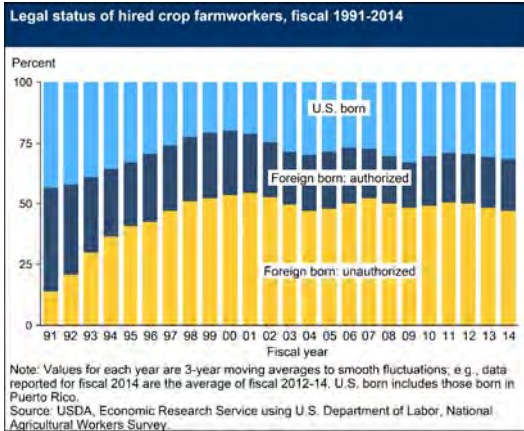
## 12 million total unauthorized immigrants

State of residence	2014	
	Number	Percent
All states	12,120,000	100
California	2,900,000	24
Texas	1,920,000	16
Florida	760,000	6
New York	640,000	5
Illinois	550,000	5
New Jersey	480,000	4
Georgia	430,000	4
North Carolina	400,000	3
Arizona	370,000	3
Washington	290,000	2
Other states	3,370,000	28

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## Who are our farm workers?

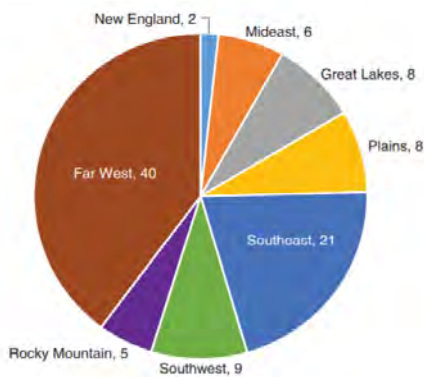


- Produce industry estimates
  - About 1 million fruit/veg farm workers
  - >70% unauthorized
- Early 90s show large *authorized* foreign born worker population
  - 3.2 million granted legal status in 1986 Immigration Reform & Control Act
- Then, rapid growth 1991-2001 in foreign born *unauthorized*
  - Major influx of Mexican workers, mostly in western U.S.
- After 2001, *unauthorized* workers flat to declining

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## Where are our workers?



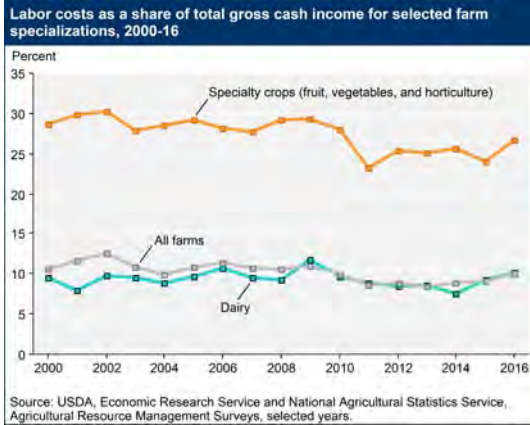
Source: USDA ERS 2018

- Far West (CA, OR, WA) is dominant employer
- Followed by Southeast
- But, we see major differences in employment, attitudes based on types of workers in each region
  - West came to rely on plentiful Mexican labor crossing freely
  - Southeast adopted H2A guestworker program out of need

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## Labor's impact on produce costs

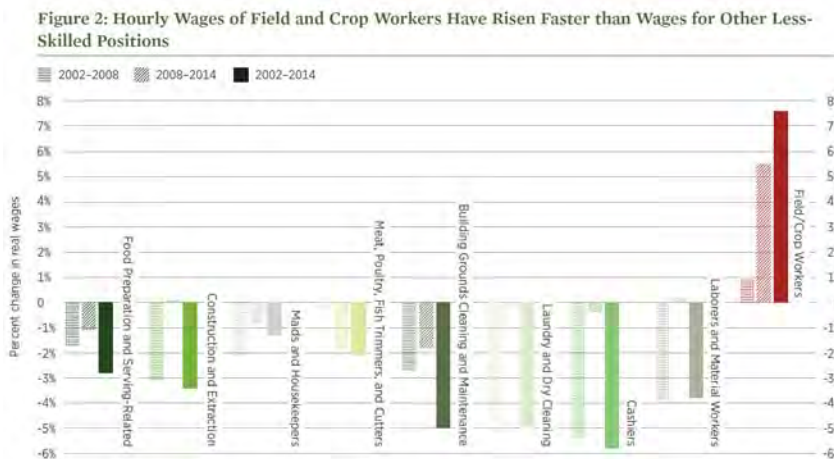


- Labor costs for fruits and vegetables nearly 30% of total revenue associated with crop
  - Three times higher than other agricultural sectors
- When labor costs rise on produce farms, increases must be passed along or profitability squeezed

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## Farm worker wages are rising



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## Fruit and vegetable acreage is declining

Table 6: Change in Acres Planted and Output for Various U.S. Crops, 1992-2012

Crop	Change in Acreage		Change in Output		Change in Output/Acre	
	1992-2002	2002-2012	1992-2002	2002-2012	1992-2002	2002-2012
Fruit and Melons	5.5%	-14.6%	12.5%	-12.4%	6.6%	2.5%
Tree Nuts	30.1%	48.7%	67.3%	82.1%	28.5%	22.5%
Vegetables	10.1%	-13.8%	19.0%	-5.6%	8.1%	9.6%
Total	4.3%	-5.0%	22.4%	3.4%	10.2%	7.4%

Source: USDA Fruit and Tree Nut Yearbook and USDA Vegetable and Melon Yearbook.  
 Note: Both the output change and the output per acre change are based on weighted averages.

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## Tackling the Produce Industry's Labor Challenge

### 2. Trends affecting current U.S. resident workforce

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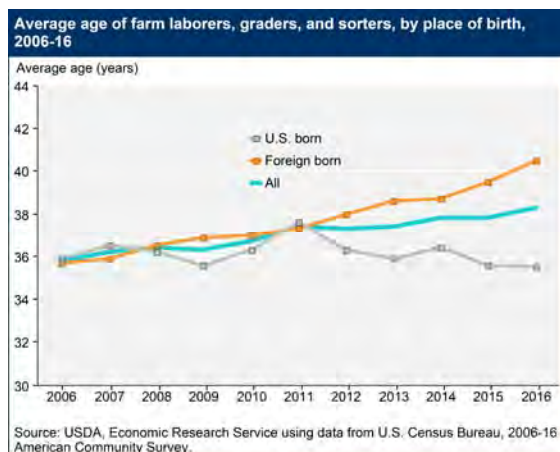
## Trends affecting current resident workforce

- Changes in current U.S. workforce
  - Aging of U.S. resident population without replacement
  - U.S. born, early immigrant children share the “American dream”
  - “Migrant” workers are no longer migrating
- Economic/social change in Mexico
  - Increased work opportunities reduce incentive to leave
  - Declining birth rate
- Changing attitudes regarding immigrants
  - Border crossing for ag work practically zero
  - Interior enforcement disrupts day-to-day life

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## Aging of farm workers



- Aging of foreign born workers
  - Reflects lack of younger workers coming into workforce
- Hard physical work is difficult for aging workers
  - (remember this point for later)

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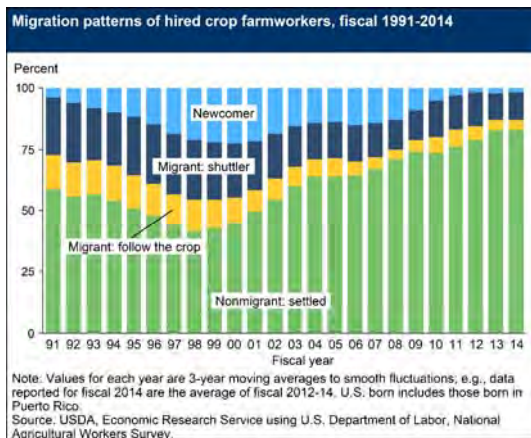
## Children of U.S. farm workers share the dream

*The American Dream is a national ethos of the United States, the set of ideals (democracy, rights, liberty, opportunity and equality) in which freedom includes the opportunity for prosperity and success, as well as an upward social mobility for the family and children, achieved through hard work in a society with few barriers.*

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## Migrant workers are not migrating

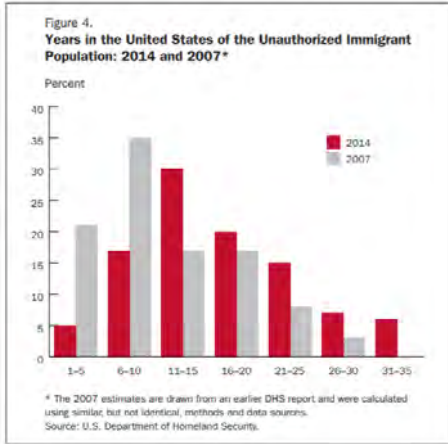


- Domestic workers increasingly staying in one location
  - Production has concentrated, allowing workers to find year-round options
  - Puts huge pressure on remote, seasonal production
  - Who harvests summer broccoli in Maine?

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## Replacements are not coming

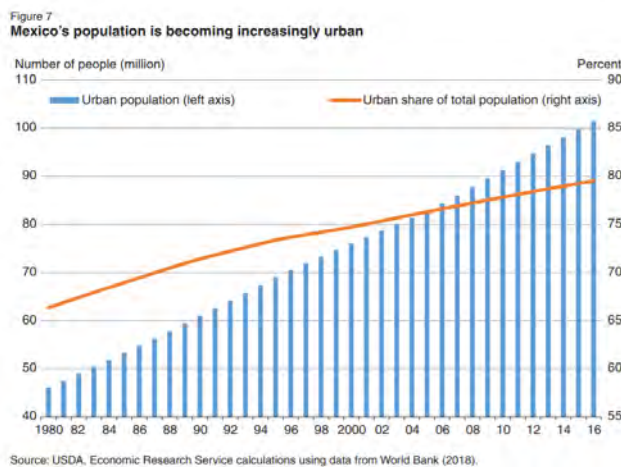


- Between 2002-2012, number of new crop workers immigrating to the U.S. fell by 75 percent
- From 2007-2014, unauthorized immigrants in U.S. for more than a decade grew from 55% to 75%
- Immigrants in U.S. for less than 5% fell from 20% to 5%
- Trends only increasing since

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## Mexicans finding opportunities at home



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## Mexican agricultural work opportunities

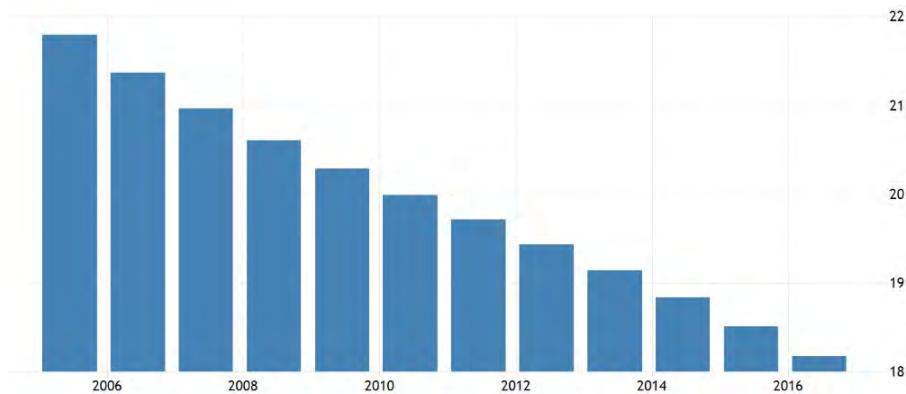
Table 3  
Mexican production of fruit, vegetables, and tree nuts: 2016 versus 2000

Crop	Agricultural year 2016				Agricultural year 2000			
	Area harvested	Output	Yield	Value	Area harvested	Output	Yield	Value
	Thousands of hectares	Thousands of metric tons	Metric tons per hectare	Millions of U.S. dollars	Thousands of hectares	Thousands of metric tons	Metric tons per hectare	Millions of U.S. dollars
Avocados	180.54	1,889.35	10.47	1,621.32	94.10	907.44	9.64	445.71
Green chiles	170.14	3,279.91	19.28	1,293.26	145.67	1,741.68	11.96	775.78
Tomatoes	51.30	3,349.15	65.29	1,278.77	74.63	2,086.03	27.95	846.03
Dry beans	1,575.99	1,088.77	0.69	710.95	1,502.82	887.87	0.59	490.33
Potatoes	64.34	1,796.81	27.93	579.78	67.97	1,627.22	23.94	571.10
Lemons	161.92	2,415.87	14.92	553.17	121.14	1,639.58	13.54	349.12
Pecans	83.51	141.82	1.7	524.24	48.82	59.98	1.23	133.14
Blackberries	12.96	248.51	19.17	496.01	1.15	13.53	11.73	16.45
Asparagus	24.79	216.87	8.75	426.98	13.41	50.44	3.76	99.05
Oranges	314.59	4,603.25	14.63	423.09	323.62	3,812.68	11.78	320.18
Onions	51.50	1,635.05	31.75	421.71	48.64	1,002.49	20.61	198.20
Strawberries	11.09	468.25	42.22	419.31	6.50	141.13	21.7	80.77

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## Mexican birthrate declining



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## Tackling the Produce Industry's Labor Challenge

### 3. Role of H2A guestworker program in filling the gap

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## H-2A guestworker program

- H-2A program allows U.S. farmers and farm organizations to apply for visas to bring in foreign workers
  - Job must be of a temporary or seasonal nature
  - Must demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work
  - Must show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers

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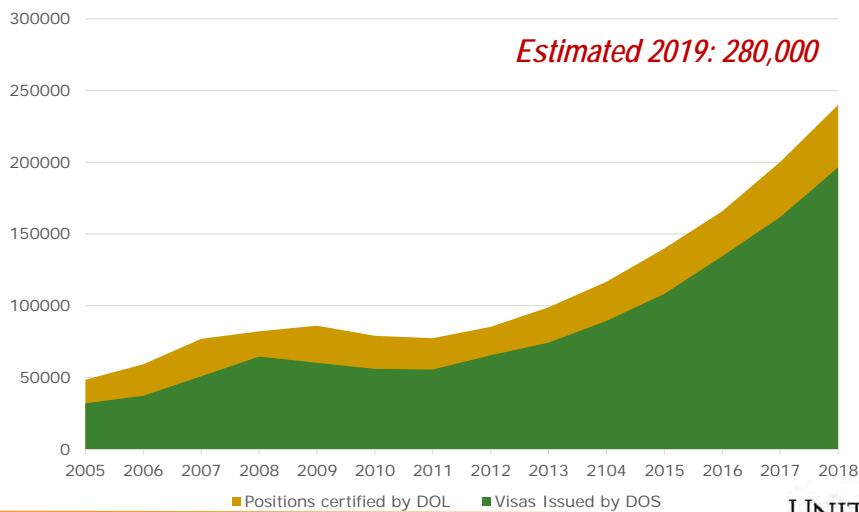
## Challenges using H-2A guestworker program

- Slow, unresponsive, inefficient bureaucracy
  - Program run by Departments of Labor and Homeland Security, not Department of Agriculture
- Cost
  - Adverse Effect Wage Rate (AEWR)
  - Transportation costs to/from U.S.
  - Requirement to provide housing
- Punitive
  - Minor violations mean major liability

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## But it's the only game in town...



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## One grower's experience



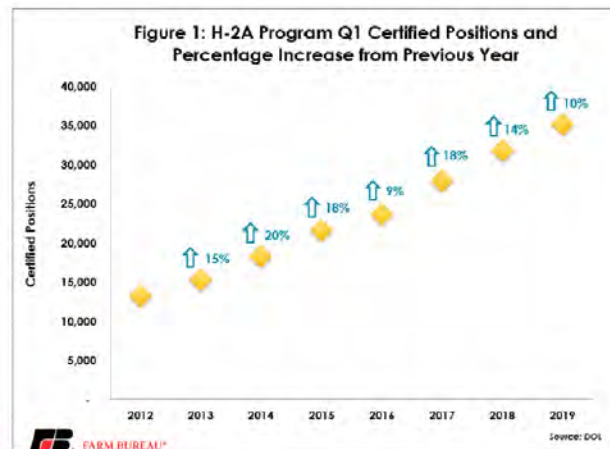
- 7,500 acres peaches in South Carolina
- 800 H-2A workers annually; 20-year program participant

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	10 Year Total		
Total Visa's Applied	462	526	615	680	700	720	740	780	900	820	1000	7,943		
Total Applied	49	95	142	290	104	31	25	11	9	5	5	766	9%	
Employment Eligibility Issues	6	4	3	11	6	15	15	2	2	2	2	68		
Total Hired	43	91	139	279	98	16	10	9	7	3	3	698		
No Show	3	18	19	67	30	0	1	4	0	0	0	142	20%	
Quit (93% in 1 <sup>st</sup> 2 days)	38	68	99	190	55	5	0	2	2	0	0	459	60%	
Terminated	0	3	7	12	5	0	0	0	1	0	0	28		
Finished Contract	2	2	14	10	8	11	9	2	4	3	3	65	1%	

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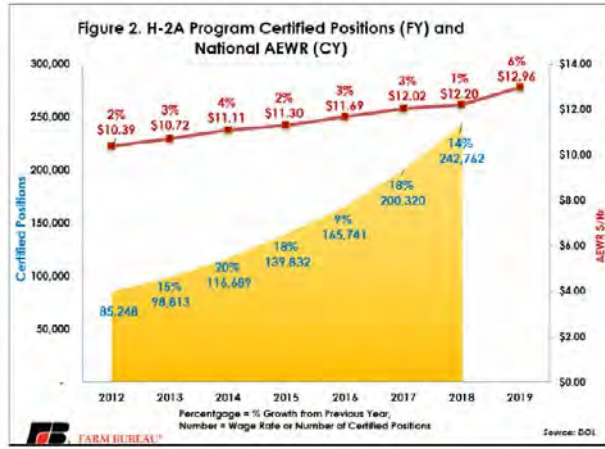
## Annual increases in H-2A certified positions



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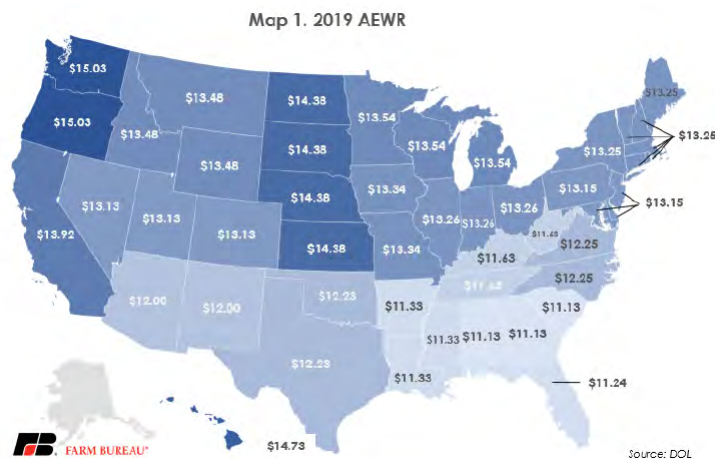
## H-2A usage going up despite wages going up



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## Wage rates for H-2A workers



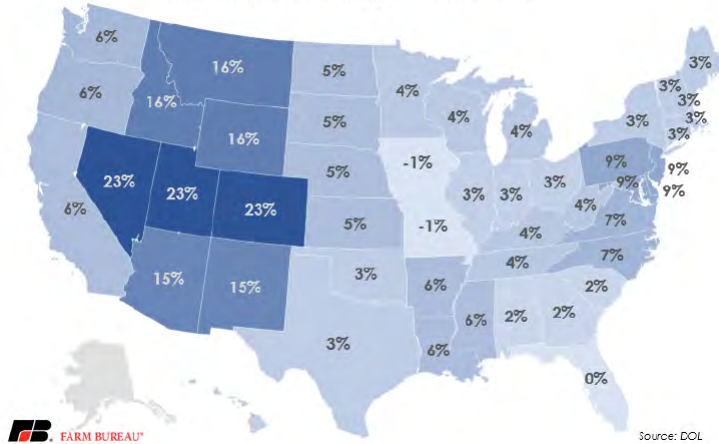
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## Wage increases for 2019

Map 2. AEWR Percentage Increase 2018-19



FARM BUREAU

Source: DOL

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## State minimum wage vs. AEWR

State	Minimum Wage	AEWR
Alabama	\$7.25	\$11.13
Arizona	\$11.00	\$12.00
Arkansas	\$9.25	\$11.33
California	\$12.00	\$13.92
Colorado	\$11.10	\$13.13
Connecticut	\$10.10	\$13.25
Delaware	\$8.75	\$13.15
Florida	\$8.46	\$11.24
Georgia	\$7.25	\$11.13
Hawaii	\$10.10	\$14.73
Idaho	\$7.25	\$13.48
Illinois	\$8.25	\$13.26
Indiana	\$7.25	\$13.26
Iowa	\$7.25	\$13.34
Kansas	\$7.25	\$14.38
Kentucky	\$7.25	\$11.63
Louisiana	\$7.25	\$11.33
Maine	\$11.00	\$13.25
Maryland	\$10.10	\$13.15
Massachusetts	\$12.00	\$13.25
Michigan	\$9.25	\$13.54
Minnesota	\$9.80	\$13.54

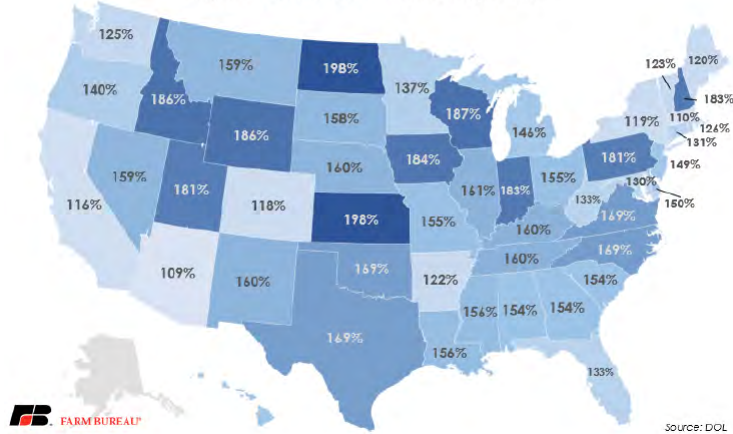
Montana	\$8.50	\$13.48
Nebraska	\$9.00	\$14.38
Nevada	\$8.25	\$13.13
New Hampshire	\$7.25	\$13.25
New Jersey	\$8.85	\$13.15
New Mexico	\$7.50	\$12.00
New York	\$11.10	\$13.25
North Carolina	\$7.25	\$12.25
North Dakota	\$7.25	\$14.38
Ohio	\$8.55	\$13.26
Oklahoma	\$7.25	\$12.23
Oregon	\$10.75	\$15.03
Pennsylvania	\$7.25	\$13.15
Rhode Island	\$10.50	\$13.25
South Carolina	\$7.25	\$11.13
South Dakota	\$9.10	\$14.38
Tennessee	\$7.25	\$11.63
Texas	\$7.25	\$12.23
Utah	\$7.25	\$13.13
Vermont	\$10.78	\$13.25
Virginia	\$7.25	\$12.25
Washington	\$12.00	\$15.03
West Virginia	\$8.75	\$11.63

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## State minimum wage vs. AEWR

Map 3. 2019 AEWR to Minimum Wage Ratio

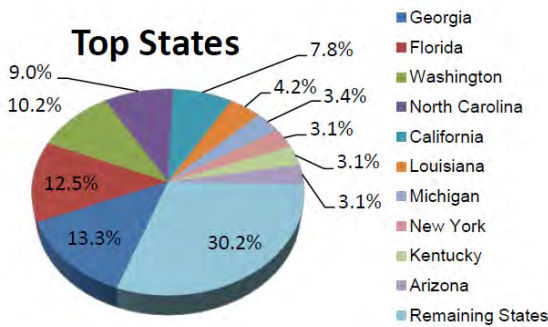


Source: DOL

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## Where are H-2A workers?



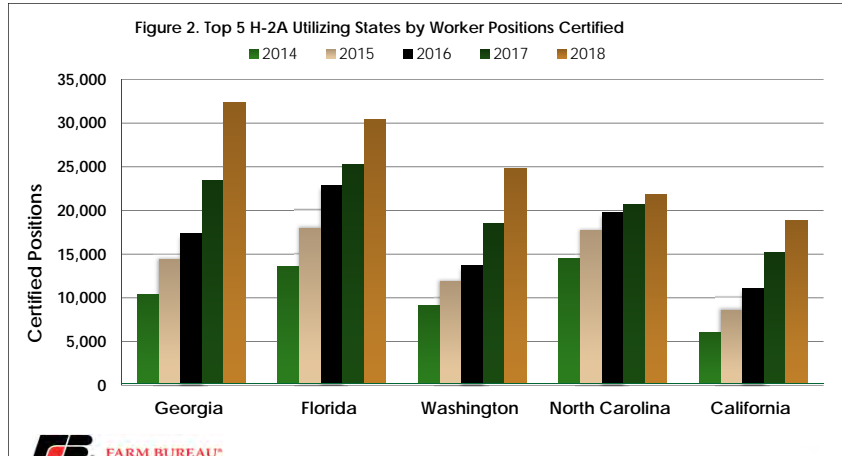
State	Count	Percentage
Georgia	32,364	13.3%
Florida	30,462	12.5%
Washington	24,862	10.2%
North Carolina	21,794	9.0%
California	18,908	7.8%
Louisiana	10,079	4.2%
Michigan	8,359	3.4%
New York	7,634	3.1%
Kentucky	7,604	3.1%
Arizona	7,497	3.1%

Source: USDA ERS 2018

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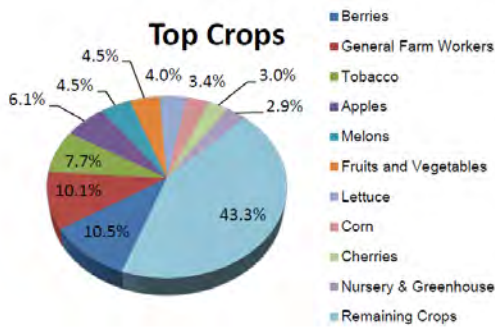
## Usage continues to increase



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## What crops use H-2A workers?



Source: USDA ERS 2018

Top 10 Crops/Occupations	Count	Percentage
Berries <sup>3</sup>	25,424	10.5%
General Farm Workers	24,414	10.1%
Tobacco <sup>4</sup>	18,652	7.7%
Apples <sup>5</sup>	14,920	6.1%
Melons <sup>6</sup>	11,026	4.5%
Fruits and Vegetables	10,858	4.5%
Lettuce <sup>7</sup>	9,758	4.0%
Corn <sup>8</sup>	8,254	3.4%
Cherries <sup>9</sup>	7,245	3.0%
Nursery and Greenhouse Workers	7,117	2.9%

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4. What policy changes are required to forge a solution?

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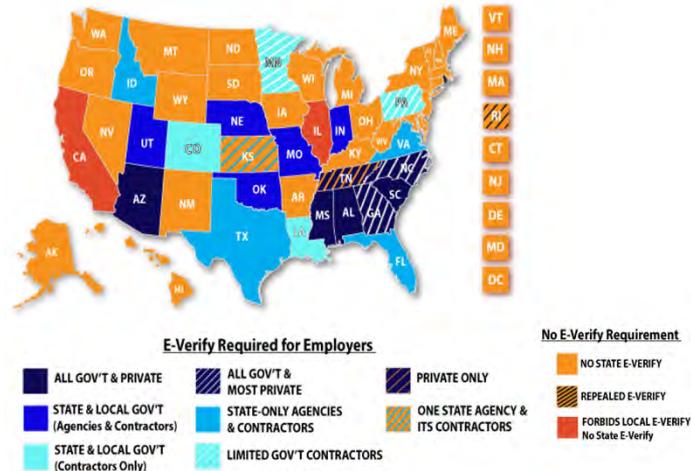
## Critical policy changes needed

- Legalization of current workforce
  - They're aging, not being replaced, but still vital
  - Arizona State researchers estimate if we lost current unauthorized workforce, wages would rise 50% and produce prices 40%
  - Mandatory E-verify laws at state level, and potentially federal, pose a significant threat to employers, even when following the rules
- Reinvented H-2A or new guestworker program
  - Current program is just too cumbersome, expensive, unsustainable to meet the long-term needs of U.S. agriculture

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## The threat from mandatory E-verify



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## Legalization of current workforce

- Ag workforce is part of larger immigration debate
  - 12 million total unauthorized in country; 1 million ag workers
- Comprehensive immigration reform is difficult
  - No immigration reform since 1986, despite multiple efforts
  - But we need to recognize that these ag workers are vital to the country
- Surveys show a majority of Americans support a solution between amnesty/immediate citizenship vs. deporting them all

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## Requirements for current workforce

- Adjustment to legal status for qualified ag workers
  - Been in the country for some number of years
  - Worked in agriculture for some period of time
  - Commitment to remain in agriculture post legalization for some time
  - Background checks to ensure no criminal record
- Legal protection for nuclear family
  - Parents, children
- Legal protection for employers whose workers come forward

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## Requirements for new guestworker program

- Extend seasonal/temporary visas; consider up to 3-year visas
  - Dairy, other ag sectors need year-round workers
  - Future workers likely to be from around the world; Mexico and Central America can no longer meet the need
- Flexibility for employers and workers
  - Offering contracted and “at-will” employment (portability for worker)
- Wage rate tied in some way to minimum wage
  - Clear and predictable wage structure
  - Recommend considering minimum wage plus XX percent as simple, effective way to protect U.S. citizen workers

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## Requirements for new guestworker program

- Housing and transportation costs must be covered
  - But a cash allowance would be more practical
  - Allows workers to choose their own living space
- Program should be administered by USDA as a farm program
  - In cooperation with DOL and Homeland Security, but not managed by those agencies
  - Mediation/arbitration of disputes
- And most important, no arbitrary cap on number of visas
  - If Americans won't do the work, and USDA affirms employers' need, why would you purposely limit growers' ability to feed the country?

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## Tackling the Produce Industry's Labor Challenge

5. What lies ahead?

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## What lies ahead – government's view

- Looking to the future, immigration policy will play a role in the supply of foreign-born workers to U.S. farms. In the short run, an expanded agricultural guest worker program (or increased use of the existing H-2A program) could help U.S. farmers attract workers from a shrinking farm labor pool.
- However, given the long-term decline in the U.S. farm labor supply and the structural changes occurring in the Mexican economy, investments in less labor-intensive technologies, more efficient labor management practices, and a move away from the most labor-intensive crops may be more viable long-run strategies for U.S. agricultural employers.

*USDA Economic Research Service  
November 2018*

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## What lies ahead – private-sector view

- Four strategies that U.S. agricultural employers are pursuing in response to the contracting labor supply:
  - 1) Supplementing the current supply of labor with guest workers;
  - 2) Stretching current supply of labor through the use of mechanical aids;
  - 3) Substituting or replacing workers with machines;
  - 4) Another possibility is to shift production away from labor-intensive crops.

*Phil Martin  
UC-Davis economist*

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## Labor-saving mechanization



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**LA  
Times**



As California's labor shortage grows, farmers race to replace workers with robots  
JULY 21, 2017 | REPORTING FROM SALINAS, CALIF

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## Yes, the robots are coming



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## Conclusion?

- We'd better do all we can to change the current course of labor trends in fruit and vegetable industry
  - Legalization of current workforce
  - Adoption of new, improved guest worker program
- It's time to invest in innovation
- Let's try not to get to option 4 and leave fruit and vegetable production behind

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## Tackling the Produce Industry's Labor Challenge

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