Collaborative Solutions to Farm Labor Challenges: What is feasible?

A collaborative project of:

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Table of Contents

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Executive Summary

How can small farmers attract and retain good workers, minimize their administrative burdens, and create new opportunities while doing so? What if a company could help small farmers across an entire region of the country meet their staffing needs, while at the same time covering administrative tasks from payroll to handling workers' compensation claims? What if this company could also guarantee farm workers year-round stability, either by connecting them with off-season jobs or providing them access to unemployment insurance? Further, what if this company gave both farm workers and farm owners the opportunity to take on leadership roles, or even invest and earn dividends? What if it helped farm owners capture social values that made them more enticing to workers and consumers alike?

As a group of partners in agriculture and academia, we have been gathering feedback on these solutions from both farm owners and farm workers through focus groups through a project supported by a Northeast SARE Novel Approaches grant. This report outlines the feasibility of collaborative solutions to labor challenges and proposes a path forward.

This report broadly refers to the proposed solutions as "collaborative labor solutions." In some surveys and focus groups, the solutions were more specifically referred to as "Entity X" as part of a specific narrative used to solicit feedback. Broadly, in any collaborative labor solution, farms across a given region (possibly reaching across multiple states) would pool their resources into a new entity that would recruit and hire workers, distribute them across participating farms, and take care of the legal, financial, administrative, and Human Resources (HR) work involved in employing people. Farm owners would pay this entity an hourly rate per worker, and this would cover wages plus the entity's overhead. We used the shorthand “Entity X” to refer to this framework in our focus groups.

From there, the details of Entity X were meant to evolve to specific needs and desires. A collaborative labor solution could take the form of a farmer-owned cooperative, worker-owned cooperative, farmer-owned LLC, or a wholly separate temporary labor company. Depending on the structure and the specifics of the business model, farmers (and/or workers) could have the opportunity to invest—as well as the obligation of taking part in leadership and finding creative ways to generate a profit. Within any structure, participants would have to solve complex problems: balancing the scheduling needs of different farms, accounting for often unpredictable changes in those needs, ensuring the right balance of skills for different farms, maintaining fair wages, and providing housing and/or transportation for workers.

During the early months of 2021, Farm Commons and a group of partners surveyed several focus groups of small farm owners and farm workers to gage whether they would value the services of Entity X and whether, given the opportunity, they'd be likely to participate. Separate groups of workers and farm owners completed online surveys to register their quantitative responses to various aspects of Entity X's value proposition. They also participated in focus group conversations via Zoom to take part in more detailed and qualitative discussions about Entity X and how the idea aligns with their experiences and needs. Participants were spread across New England and New York.

Farm owners and workers interrogated this concept by holding it up to their daily realities. They welcomed the idea of simplifying their labor challenges but questioned how a collaborative labor solution would integrate itself with a widely varied group of farms, each used to doing things their own way. Farmers generally liked the idea of outsourcing paperwork responsibilities, but many expressed a reluctance to relinquish control over important farm labor decisions and processes, from hiring to scheduling to pay. The feedback, taken as a whole, is neither an endorsement nor a rejection of collaborative labor solutions. Instead, it opens opportunities to go into greater detail with farmers, evolving individualized proposals to better align with their needs. Ultimately, the diversified world of small farms does not lend itself to a "one-size-fits-all" solution.

As the number of participants in the initial focus groups was limited, the partners sought ground-truthing interest in the models and considerations with a broader farmer group. In the spring and summer of 2022, a larger group of small farm owners and workers in the New England and New York region were surveyed with a similar set of questions as the initial focus groups. While qualitative nuances were not captured like they were in the focus group setting, the quantitative responses of this subsequent survey corroborate the general themes and conclusion gleaned from the initial focus groups. On average, the farmers surveyed reported that the services provided by Entity X would be moderately valuable to them; none reported it would be not valuable at all.

This report examines how farm owners and workers responded to the broader concept of collaborative labor solutions, and to the various forms those solutions could take. It outlines key aspects of the four models Farm Commons has developed for collaborative labor solutions—each involving different financial and logistical attributes that, in the real world, could combine in a range of different ways.

Finally, this report offers a plan for moving forward. Over the long term, a sensible path forward is to cultivate more opportunities for communities of farmers to engage in dialogue and support networks for exploring potential collaborative solutions to their farm labor challenges and needs. A new idea such as this that requires a fundamental restructuring of farm labor relationships and needs wide circulation before it has the potential to be accepted broadly. Encouraging further conversations within farmer communities about potential collaborative labor solutions with a specific focus on whether and how farmers might be more willing to accept shared control over labor decisions and processes with other farmers will inform its actual feasibility over time.

In the short term, the findings from the focus groups and surveys also reveal that an initial step for some farmers might be to explore and evaluate options for outsourcing certain administrative and HR work functions through a payroll company. Finally, many farmers would also benefit from building knowledge about often nuanced and complex farm labor legal obligations. The reality is that farmers need to know more about their employment law obligations before they can set priorities, decide on action steps and begin to take action, whether individually or collaboratively.

To put a fine point on it, this project team has concluded that a collaborative labor solution is not feasible at this time. However, the project team does not perceive this as a failure or as the end of the road. Collaborative labor solutions may become more feasible over time, and this report directly contributes to that potential future. This report is not a blueprint for success, but rather the start of a broader conversation about potential collaborative labor solutions. The frameworks it offers are not prescriptive. They are broad proposals, and this process reveals more about those ideas by subjecting them to the scrutiny of deeply practical people. If collaborative labor solutions of this kind ever exist in the real world of farming, their success will depend entirely on the knowledge, enthusiasm, and buy-in of producers or workers themselves. The search for a solution must proceed in the same spirit.

Chapter 1: Understanding Producer Perceptions of Labor Problems and Collaborative Solutions Potential

Across six focus groups in early 2020, farmers discussed their labor challenges and a few potential solutions. They considered the details of a few proposed models for letting farmers pool their resources and ensure access to a more reliable, streamlined labor pool. They then shared extensive feedback about the potential they saw in these models to both solve farm-labor problems and create new problems. Their reactions reflect a broad range of likes and dislikes, but also uncertainty about how well the proposed solutions would work for their individual farms, labor markets, and regional economies. They responded strongly to many in-the-weeds details of the proposed models, but also to the broader principles and challenges involved.

Farmers want to save time and streamline their operations. Many struggle to attract and retain the workers they want. The farmers surveyed for this project by and large felt strongly about balancing their overall financial needs with the imperative of paying just, livable wages. Collaborating with other farms to share a labor pool, through one of a variety of models including worker-owned cooperatives or a more conventional temping solution, appealed to many participants. But they also had serious doubts about how well such a solution could really meet each individual farm's needs, and whether the time commitment involved in different models would be sustainable.

Producer Buy-In

One of the biggest hang-ups in a collaborative labor solution is that each of the models would require farmers to invest time and money in different ways. Farmers express some real discomfort at the idea of trying to balance their existing responsibilities while also effectively starting up a new venture, or at the very least paying new fees to a third-party agency. This did not always strike farmers as a good trade-off for taking a range of HR, payroll, and other administrative work off their plate. Taken together, the responses raise some big questions: Do small farmers really have enough money in the first place to create a collaborative structure in which to manage their labor needs and offload much of the administrative work that comes with employing people? Is there potential for any of these ideas to be profitable or sustainable in the long term? Can these models save more labor than they create?

Farmers were very mindful of their financial limits and uncertainties. That often made them skeptical of the prospect of investing money or time in a collaborative labor solution, regardless of whether it was structured as a cooperative or as a more conventional temping agency.

"I don't have a lot of cash, but I have even less time," one participant said. This expresses a common sentiment that taking on leadership roles within a farm-workforce company—for instance, serving on the board of a cooperative—would be a hard sell. Farmers already have too many things drawing them away from what they see as the core of their work. There's a real uncertainty about whether a given area's group of workers and/or farm owners would offer a critical mass of people with the skills and follow-through to participate in leadership. That in turn

makes it harder for others to confidently commit. It is one of many areas in this discussion that gets farmers intrigued, but also has farmers asking for a lot more detail and assurance.

Wages and Hourly Costs

Presented with the idea of paying some outside organization an hourly rate per worker, farmers questioned how affordable that would really be. Several thought that the proposed rate of $17 per hour underestimated the combined costs of wages and administrative overhead. Farmers weighed all this in the context of myriad pressures on labor—the need to provide livable wages, the need to pay enough to attract skilled and committed workers, the financial pinch of raising wages in such an inherently unpredictable industry. And if a collaborative farm-labor solution attracted a large number of workers, one farmer pointed out, this could trigger additional requirements that come with significant costs, including health insurance requirements.

The wage figures that farmers in the initial focus groups either pay or find acceptable ranged from $12 to $15 per hour. One producer mentioned they'd even be willing to spend $19 per worker per hour as part of a collaborative labor solution. In the subsequent survey with a broader range of farmers, the average maximum wage per hour that owners were willing to pay as part of a collaborative labor solution was $19.75 per hour.

This reflects how much wage conditions (and farms' financial capacities) vary across the region and within individual states and local areas. Farmers are already trying to address that through their own hands-on efforts to develop workforces that are right for their specific farming needs, and through participation in labor programs like H2A (a federal guest worker program). While they liked the possible streamlining effects of a collaborative labor solution, this idea is not at the point where they'd be willing to change course from their current labor efforts, all while possibly investing money into a new venture.

Those most receptive to the various models, especially the more cooperative-oriented ones, noted that they would require good management. "*The LLC or the coop model would work if you had the right manager – but it seems like a lot depends on having the right people in the right positions*," one participant says. Having the right people would require competitive salaries, and several farmers thought that the models underestimated the overall costs of paying those salaries.

Balancing Competing Needs and Interests

The real challenge of creating a viable company or farm labor management organization is meeting the varying needs of participating farms. Budgets, tasks, skills, needs, timing are all so variable from farm to farm and from season to season that farmers were clearly wary of anything that looks like a one-size-fits-all solution. For instance, one collaborative labor model would ask farmers to put in labor requests 60 days in advance. Several participants worried that this would be too rigid to enable farms to adjust staffing in response to emergencies or other unpredictable changes.

Taken together, farmers' responses to problems of labor distribution identify an overarching tension in these models: multiple farms would have to buy in, without being quite certain whether the model could meet everyone's labor needs fairly and consistently. Many farmers also disliked the idea of giving an outside entity control over important decisions and processes, from hiring to scheduling to pay.

Most of the farmers surveyed welcomed the chance to streamline their operations, spend less time on tasks like hiring and payroll, and have a bit more certainty about their labor supply. But this was less of a selling point for at least some farmers who said they didn't see those administrative tasks as much of a drain on their time as it is. From that perspective, it is tough to justify investing time and/or money in a new collaborative labor venture.

Participants also didn't always like the assumptions a collaborative labor venture of any kind would have to make about a geographic region's farm owners and workforce. One assumption is that a given area has enough people in it who are interested in farm work, have the right personality or skill set for a *specific* farm, have the flexibility and willingness to potentially work on *multiple* farms, and are ideally committed enough to keep working in a given area season after season. All of the models discussed also depend on finding qualified managerial staff, so that involves assumptions about such qualified people either already being in an area or being willing to move to that area for a job.

For farm owners already having trouble hiring or retaining workers, it is hard to buy into the idea of a model that makes those assumptions. The different cooperative variants of the model make further assumptions about farm owners and/or workers having the time, skills, and long-term commitment to participate in cooperative governance while also keeping up with their own jobs. Some participants thought their fellow local farm owners and labor pools have what it takes, but not all agreed. Farmers still saw a lot to like in a model that gives owners and workers some real power over the venture as a whole. They also saw its potential to breed conflict in all sorts of different forms—for instance, one farm gaining disproportionate influence within the organization, or another farm simply not being able to get the workers it needs.

Participants understood that a collaborative labor solution would require the farms involved to make some adjustments and trade-offs for the greater good, balancing their needs and desires against those of others using the labor pool. Any model would be up against a peculiar mix of flexibility and rigidity. "*Most farms in my area are pretty well set in their ways. I can see there might be some turf battles over who gets what and when...and then there's the issue of 'I want it done this way and they want it done that way,'*" one farmer commented. Farmers and farmworkers also have to adjust to unpredictable, changing circumstances that require specific skills, often at short notice. Participants were skeptical about whether a collaborative labor solution could serve multiple farms adequately while helping them roll with the punches.

Specific Training and Skills

That need for specific skills and adaptation also brings up a big problem with training. Farmers did not like the idea of training workers outside of the contexts of their particular farms. They were at least open to the idea of centralizing some aspects of HR and administration, but deeply wary of centralized training. Some of the models offer possible ways to balance these concerns, but farmers did not agree about the best way to do that. Each worker could get a base training enabling them to be a "jack of all trades," yet many farmers were skeptical that a jack of all trades could adapt effectively to multiple farms throughout the course of a season. Farmers also disagreed on how much overall training a worker within a collaborative model would need in order to be successful.

This comes back again to control. Farmers feel strongly that each farm is different enough to need a high degree of autonomy, and that a lot of key decisions just cannot be centralized or standardized into simplicity. "*I like to train my crew myself – I want things done a certain way so I stick pretty close to them when they first get started – we sort of all follow one another around,*" one farmer said. "*It's probably not the most efficient way but once they get rolling everything works pretty well*."

Not all of the farmers surveyed chalked up their problems to "labor shortages," exactly. But many noted that for a collaborative labor solution to work, various organizations and institutions need to do more to get people interested in farm labor in the first place--priming the pump, as it were. On top of that, several farmers questioned whether their areas have enough farms, housing, infrastructure, and proximity to population centers to pull together the workers and resources a collaborative labor solution would need.

Retention, Relationships, Advancement

Farm owners and farm workers alike value the chance to develop long-term relationships over multiple seasons. Some participants felt they wouldn't be able to do that within the proposed models. Others suggested various ways that the models could actually *help* with long-term worker development and retention, though these would depend on some very granular details. Despite some skepticism, participants also had at least some faith that a collaborative labor solution could be adjusted to meet their needs.

In addition, farmers questioned whether the collaborative labor solution would provide the framework to help them train workers into management roles, build stronger work cultures, and pay higher wages over time. From both a justice perspective and a practical business perspective, the idea of a third-party making decisions worried some farmers. "*I'd want to be sure the employees were not being exploited – so I think I'd be more worried about that with the temp agency model*," one farmer said.

Along these same lines, some farmers questioned just how fully they would be willing to depend on a collaborative labor solution. They didn't always like the idea of putting all their eggs in one basket. So, some farmers discussed limiting the scope of their participation, i.e., drawing some workers from a collaborative entity, while still maintaining more direct control over at least some portion of their individual farm's workforce. "*I think this is a control thing mostly, but I'd be a little uncomfortable going into a season without my own employees*," one farmer said. Others wanted the flexibility to hire through an outside agency only when specific needs came up. It's not really clear how this sort of partial buy-in would impact the viability of different models overall.

Conclusions

The biggest sticking point is whether a collaborative labor solution can actually create the stability and certainty at the core of the pitch. By and large, farmers know better than to ask for certainty. But where they *can* ensure some certainty, they really want to hang onto it. Farmers struggled with the idea of investing time and money into a collaborative labor venture. They still acknowledged, for the most part, that one or more of the proposed models might help to address at least some of their labor problems.

Many participants liked the idea of streamlining their administrative and HR work, having some level of meaningful involvement in a collaborative venture, and ensuring better wages and conditions for workers. They often disliked the idea of giving up control over various aspects of their farms that they feel need to be handled in very specific ways. They saw great potential in skilled, centralized management, but did not always think the models realistically reflected the costs or the challenges of attracting and coordinating a larger workforce across multiple farms. They foresaw the difficulties that multiple farm owners would have in balancing out each other's needs and interests, while acknowledging that a collaborative labor solution could succeed if all involved "put aside competition and maintain a unified vision.”

Chapter 2: Building Viable Collaborative Solutions to Labor Challenges

Introduction:

Farm Commons developed four different models for a collaborative farm labor solution: A limited liability company, a farmer cooperative, a worker-owned cooperative, and a temping agency. In the process of surveying farmers for their feedback on these four models, it emerged that facilitators needed to do some re-framing. By focusing on the characteristics of each solution rather than the technical terminology surrounding it, facilitators hoped to shift the conversation away from logistical questions and toward fundamentals.

Despite their differences, these models do have some overlap—for instance, there's no reason that a cooperative cannot in some respects operate very much like a temping agency, depending on the choices its managers and participating farms make. Just as importantly, each model sets out to address a common set of challenges farmers experience in five key areas: Recruiting and hiring, administration, scheduling, training, and transportation. Each model proposes to alleviate these problems by allowing farmers to offload or share administrative burdens and provide farmers with access to a pool of skilled, reliable workers.

Additionally, each model attempts to address the concerns a group of farmers might raise if they considered launching a new collaborative venture: cost, adequately prioritizing the labor needs of participating farms, control over the process, having a role in big decisions, the ability to build relationships with workers, and ensuring that workers are trained to meet a given farm's specific needs. The important financial goals would be to pay each worker at least minimum wage, provide liability insurance, and cover the administrative costs that come with hiring and retaining workers. This could cost participating farms at least $17 or more per hour per worker, so it would have to operate efficiently to be successful.

Hiring and Allocating Labor

The solution's main function—regardless of all the other details involved—would be to hire workers and distribute them across participating farms. It can go about this in one of a few different ways:

- The entity can hire workers itself and allocate them across farms on a regular, ongoing basis.
- The entity's owners can make *themselves* available for hire across farms, as worker-owners.
- The entity can hire workers itself and place them on farms on an as-needed basis.

The approach need not be limited entirely to farm work, either. For instance, an entity that hires and distributes its own labor pool could also make its workers available at a premium hourly rate for non-farm businesses. Such businesses, if they are not investors/co-owners/co-founders themselves, would pay the entity a higher hourly rate than those who are invested. This could create some year-round stability for farm workers by connecting them with jobs where their skills are relevant, including value-added businesses, food and beverage retail, or even home gardening and landscaping. Ideally, this would make the overall labor pool in a given area more skilled and more likely to stick around in the long term—and could even generate profit for the collaborative labor solution and its owners. Depending on its scope, a collaborative labor solution could also recruit workers *from* related industries *into* farm work.

To ensure cash flow, farmer-owners in an organization might need to pay up-front for their anticipated work needs over a given time period. Farmers who bought in as owners of a collaborative venture would get priority in access to the labor pool or could get priority access proportional to their investment. In some scenarios, farmers might need to accept a higher markup and pay a little faster in exchange for fast access to extra workers.

Investment and Profit

Some models would give farmers and/or farmworkers the opportunity to invest in a collaborative labor venture—or the obligation to invest, as the venture would require this buy-in to get started in the first place, and in some cases would make its labor pool available only to investing members. Investing members would then also have the chance to share in any profits the venture generates, for instance in the form of dividends. Going this route, the founders would have to decide whether they wanted an equal structure where each member puts in the same amount and gets the same decision-making power, or whether some would have the opportunity to invest more money than others, thereby securing more decision-making power. Even in a scenario where each member invests the same amount up front, some members will make more use than others of the entity's services (and therefore pay in more in the form of hourly fees), so they could be entitled to greater dividends proportional to that use.

Investment can be proportional, if each farm has the ability to invest a different amount of money. This would allocate voting power according to the percentage of interest. If the investments are not farmers but *workers*, the workers could be eligible for a greater share of profits proportional to the amount of work they contribute.

In other possible approaches, neither farmers nor workers would be investing in a collaborative labor solution. Instead, client farmers would simply rely upon an outside company, capitalized from other sources.

Payment

In all the scenarios presented, farm owners who needed workers would pay a certain amount per hour per worker. This would be more than the actual hourly wage paid to the worker. Ideally, the markup over the hourly wage (along with any investment capital) would cover the collaborative labor solution's overhead costs, including the wages for a manager. And this would be the case even in scenarios where the farmers themselves are investors. In most scenarios, the manager would be part-time, possibly working fewer hours during the off-season.

If such a venture attracted enough clients, workers, and capital, it would be financially stable enough to guarantee all its workers a steady wage (at least $11 per hour) and the protection of workers' comp or other liability insurance. Farmers would be able to count on the venture to handle, centrally and efficiently, a lot of basic administrative tasks like payroll processing, recruitment, buying insurance, and ensuring that the appropriate taxes get paid. This does not mean that farmers could outsource *everything* involved in employing workers: each scenario would require those involved to make specific decisions about how to divide up responsibilities for training, transportation, scheduling, and supervision.

The hourly rate that farmers pay into the venture would depend on their assumptions, priorities, and business conditions: How much do they value labor justice? How much is a living wage in a given area? How do state-level laws and regulations impact the cost of doing business? How much would a management position need to pay to attract a qualified candidate who can keep the whole operation running efficiently? Where is the cutoff point where farmers are saving both time and money?

Priorities and Decision-Making Power

Farmer-owners with an investment in the organization could get a say in important leadership decisions, proportional to their investment. Or they could adopt a more egalitarian approach—requiring the same dollar amount of investment from each farmer, and making decisions on a "one member, one vote" basis. Depending on how many farms are involved, that one vote can either be a vote *for* members of the board of directors or voting power *as* a member of the board. In either case, member-farmers would need to follow the board's policies while participating in the venture.

Farm workers themselves could also take on the role of founders, investors, and collaborative owners of a labor solution. In this case, the workers would each put up the same initial investment and have equal voting power to choose a board of directors. This creates a different dynamic from an entity where farmers are in charge, in that it's the workers themselves marketing their labor and skills. In this scenario, workers would set bylaws and founding principles, a board would make higher-level policy decisions, and a manager would still make day-to-day decisions. In some senses, this scenario would give the manager more responsibility and power, especially when it comes to scheduling work shifts and coordinating the training of workers. Additionally, farm owners tapping into this labor pool would need to work with the worker-owners themselves to coordinate the distribution of labor.

The solution could also take a far more centralized approach that is far more hands-off as far as farm owners are concerned: an entirely separate third-party entity, where farmers are simply clients with no ownership stake or vote, and workers are simply employees with no ownership stake or vote. In this scenario, farmers would still have a fair amount of responsibility to supervise the workers assigned to their farms, and they would still need to submit labor and scheduling requests. But a centralized third party would have much of the ultimate power over scheduling, discipline, hiring, and firing. Additionally, the third party—in its capacity as the workers' actual employer—would provide some general training, and leave individual farm owners to provide training more specific to the needs of their particular operations. Client farmers would be able to negotiate with such a third-party entity, and it would be in that entity's interests to have a business model that appeals to farmers and meet their needs. But decisions over the workings of that business model would be entirely in the hands of that third party.

Management Structure

There are numerous ways the leaders and founders of a collaborative labor entity could delegate the day-to-day work and decision making to a manager. In the most conventional business approach, a board would set policies (especially dealing with the key areas of concern: recruiting and hiring, administration, scheduling, training, and transportation) and the manager would carry them out, making the actual decisions about hiring and scheduling, taking care of all the administrative tasks and coordinating transportation for workers. In some cases, the board itself would need to work from rules and broader principles the founders establish in the form of bylaws.

In such a scenario, the farmers themselves would still have to take an active role in operations, in part by submitting their scheduling needs ahead of time, sharing their vehicles for transporting workers, and organizing worker trainings. Depending on how they decide to divide up decision-making responsibility, farmer-members would likely still retain a great deal of responsibility to manage and supervise workers assigned to their specific farms. This would also likely leave individual farmers to figure out things like transportation.

Adding and Losing Members

After a collaborative labor entity gets started, questions arise about how it will bring in new members, and how will it handle departures when an existing member wants to leave? Existing members (whether those members are farm owners or farm workers) could hold the power to vote in new members, or new members could simply join by putting up an investment of a predetermined amount. Departing members would likely need to give written, advanced notice, and under some scenarios could receive a share of the company's assets.

Conclusions

The point of this exercise is to shift thinking away from the technicalities of business structures per se, and toward a consideration of the features and processes that would really determine the success of a collaborative labor venture. The four models proposed do not necessarily represent completely distinct, forking paths. Each model has features in common with other models. And working within one of the models, a collaborative labor venture could still make decisions that align with the sorts of decisions it might make within another model. For instance, there's nothing necessarily stopping a farmer-owned cooperative from doing things a third-party temping agency would do.

The choice of an organizational structure—whether a farmer-owned LLC, a cooperative, or an entirely separate temping agency—does not determine everything about the business model. It provides a very broad framework in which farmers, workers, and/or third parties can try to figure out better ways to meet their needs. Any approach will require a lot of specific decisions about how to operate efficiently, and how to attract a critical mass of both workers and client farms. The people in charge will have to figure out where a manager's responsibilities begin and end. They will also have to make sure that the venture appeals to workers by offering enough opportunity and stability, and that it appeals to farmers by aligning with their business practices and values.

Any venture like this will also face pressure to turn a profit, whether to entice member-owners or to pay off a third-party founder. It will also face pressure to attract workers to a demanding, often dangerous industry. No one abstract model or business structure can accomplish that, but it can empower those involved to make choices that set them up for success.

Chapter 3: Going Deeper in Understanding Producer and Worker Response to Collaborative Solutions

During the early months of 2021, Farm Commons and a group of partners in agriculture and academia hosted a second round of "focus groups" of small farm owners and workers to explore responses and reactions to a collaborative labor solution simply called "Entity X." These focus groups were designed to reflect input from initial focus groups conducted in 2020 on the four original labor models (see 2020 Focus Group Report). In the spring and summer of 2022, a follow up survey was conducted with a broader group of farmers in the region about Entity X. For the most part, the follow up survey results corroborated the themes and conclusions of the 2021 focus groups (see 2021 Focus Group Report).

The basic idea is that Entity X would work with small farms and the labor pool across a given region to help farms meet their staffing needs, provide some year-round stability for workers, and streamline the administrative work and costs involved for everyone. Depending on its structure, Entity X could also give farm owners or workers the opportunity to invest in the venture, take part in leadership, and earn dividends if it is profitable. Entity X would have another selling point: helping farmers capture social value by paying workers a decent wage, possibly appealing to consumers who'd be willing to pay extra for farm products that resonate with their values.

Workers and owners were receptive to the idea overall. They also expressed a lot of nuanced attitudes about whether the venture could really meet their needs while sustaining itself financially. These highly varied responses provide a lot of insight into the questions farmers and workers alike confront in today's labor market. Owners and workers alike tended to have a lot of questions and tended to want to have more detail on how specifically Entity X would work. Absent a higher level of detail, they were receptively skeptical, neither fully endorsing nor rejecting the proposal.

Throughout these conversations, there was also some confusion about what exactly Entity X would be. For many participants, the questions about leadership, investment, and business structure felt like a big shift from how they conceived of the initial proposal. The "farm temp agency" concept seemed to clash a bit with the concept of a cooperatively run venture.

Worker Perspectives

The farm workers surveyed liked the idea that Entity X could help them secure steady employment even in the farming off-season, while creating more consistency in wages and worker protections that can often vary from farm to farm. Entity X would have to provide its employees with benefits like workers' compensation insurance, unemployment insurance, and overtime. Workers struggled with some of the trade-offs they might have to make when working for Entity X.

Value of Entity X

Much like the farmers surveyed, workers largely valued the opportunity to develop long-term relationships with one farm over time, getting to know the skill set and culture of a particular place, and gradually earning higher pay and working their way into management opportunities. Shifting from farm to farm from Entity X might provide a valuable variety of experiences, but most workers surveyed saw themselves as being on a long-term management track. They thought Entity X might be more valuable for *other* farm workers, particularly new workers still figuring out where they want to go in the industry.

Workers were still receptive to the standardization and stability Entity X could provide. Under such a structure, they would value having more certainty about protections and benefits, and more professionalized HR processes, not to mention streamlining the search for off-season employment. They also worried about whether Entity X could provide suitable housing and transportation, especially if it assigned workers to different farms over a period of time.

Acceptable Pay Scale

Most workers said they'd want to make between $15 and $20 per hour working for Entity X. They had lower estimates of what other workers would accept. In the subsequent 2022 survey of a larger group of farmers, the mean response reported the lowest rate per hour that farm workers would accept for themselves was $17.43 per hour and a rate of $15.77 per hour for their farming peers.

Workers acknowledged that making lower wages might be acceptable for people just starting their farm careers or people who struggled to find steady employment on one farm. They raised concerns that paying lower wages would be a real weakness for Entity X, making it harder to maintain a long-term farming labor pool. One worker questioned how Entity X could standardize wages across multiple farms that demand different skill sets and different levels of experience.

Benefits and Tradeoffs

Workers clearly valued the chance to have standardized, clear access to the key protections of unemployment insurance, workers' compensation insurance, and overtime pay. The vast majority of workers rejected the idea of accepting a lower base hourly wage in exchange for access to those benefits. The prevailing attitude is that these are simply things workers in any scenario should be able to depend upon and are not a value-add.

"*If I'm committed to working for Entity X, then it would be non-negotiable that if you don't have work for me and I've committed to working with you for a season that you would give me unemployment,"* one worker said. "*There's no dollar less value that I would take for pay*."

Workers were particularly skeptical of this sort of trade-off when it came to overtime, because part of the idea of overtime pay is that it incentivizes employers to keep workers' hours under a certain threshold. Given that incentive structure, accepting a lower base wage in the hopes of earning some overtime struck many workers as self-defeating. Not everyone completely rejected the idea of these trade-offs, but those who *were* willing to accept lower wages in exchange for benefits were generally only willing to sacrifice a small portion of hourly pay.

Because farm work is physically taxing and carries a high risk of injury, workers surveyed tended to feel that access to workers' compensation insurance should be non-negotiable, not part of the decision-making over what job to take or what pay to accept. "*I would be pretty shocked if it wasn't there*," one worker said.

Leadership and Investment

Most workers surveyed saw at least some value in the opportunity to hold a leadership role within Entity X. They were conservative about the time commitment they'd be willing to make for such a role—just under half said they'd put in one hour per week at most. Some were also wary of doing *unpaid* leadership work, or any kind of work that takes them away from the core farm work they truly valued. They worried about putting in leadership work only to be ignored or overruled by other people with power in the organization. Attitudes often seemed to hinge upon how much power workers would really have at Entity X.

Workers were generally not sold on the idea of investing in a venture as member-owners. They were not confident that Entity X could turn enough profit to pay out meaningful dividends, and did not like the idea of branching out into non-farm work in order to generate more revenue. Some asked whether it might be better to simply re-invest any profits into farm infrastructure or higher wages, rather than paying out dividends. As mentioned above, many of the workers surveyed expressed a lot of doubt that Entity X made sense for people pursuing long-term farming careers, which also makes investing a harder sell.

Structure

More than half of workers ranked a worker-owned cooperative as their preferred structure for Entity X. A farmer-owned cooperative came in second, and most ranked a "private business" structure as their least-favored structure. These responses clearly show strong support for a structure where workers and/or small farmers call the shots.

OSHA requirements and FLC registration

Workers valued safety protections, but also tended to acknowledge that sometimes OSHA requirements can be burdensome for small farmers. About half of workers were neutral on whether OSHA requirements would impact their willingness to take a job. They seemed similarly ambivalent about Farm Labor Contractor (FLC) registration, though one-third said FLC registration requirements would make them somewhat more willing to take a job with Entity X. Both of these are questions where varied experiences under different regulations, and at times a lack of detailed knowledge about how these regulations worked, might have made it difficult for some workers to respond to questions with confidence.

<u>Owner Perspectives</u>

Farm owners by and large saw at least some value in Entity X's ability to handle HR, administrative, and compliance work. They also expressed reluctance to give an outside entity control over important operational decisions. As business owners, they wanted to know how Entity X would be able to meet the widely varying needs of different farms across a given area.

Value of Entity X

Most farm owners rated Entity X somewhere from slightly valuable to extremely valuable to their business, and they tended to think it would be more valuable for *other* farms than for their own. The central value proposition of offloading HR and administrative work did resonate with owners. "*I'm at a phase in my business where I'm spending more and more time on the HR side of things, and I really miss farming*," one farm owner said. But some already felt confident about their ability to handle those tasks either in-house or by hiring their own outside bookkeepers, and thus were not as enthusiastic. Others pointed out that they might prefer to use Entity X just some of the time, for just part of their labor force.

The farm owners felt strongly that their particular farms have specific needs—from the right skills to the right personalities—that are hard to centralize and standardize. Like farm workers, they felt that it was important to develop long-term working relationships and work cultures over many years, and often doubted that Entity X would enable them to do that.

"*The hiring process is critical in terms of establishing the kind of one-to-one feelings that you're going to have with a potential employee*," one farm owner said. "*This one-on-one direct relationship is so important on a farm, maybe more important on a farm than your average business, because you're with them a lot more of the time and you're really doing a lot together. Letting somebody else do that doesn't build that*."

Similarly, some farmers worried about the implications of trusting an outside entity to make scheduling decisions. Farms cannot always plan out all their labor needs in advance. Sometimes they will need a bunch of extra workers on very short notice. They also questioned whether Entity X would find enough workers to make its business model viable, especially in more isolated and spread-out rural areas. A couple farmers noted that in some areas, it's more common for farmers to hire workers illegally and pay them "under the table." This practice would obviously undermine overall participation in something like Entity X.

Cost of Entity X

Farm owners expected their peers to be slightly cheaper than themselves, in terms of the marked-up rate they'd be willing to pay Entity X per hour per worker. In the initial 2021 focus group survey, just over one-third of owners said they'd be willing to pay $17 to $18 per hour. In the subsequent 2022 survey of a larger group of farmers, the average maximum wage per hour that owners were willing to pay for proposed services of Entity X was $19.75 per hour.

Some asked whether this approach would really be more cost-effective than existing programs like the H2A guest worker program, whether the figures in the survey truly accounted for all of Entity X's overhead, and whether using Entity X would really save them on related costs like worker housing.

Still, several farmers expressed willingness to pay Entity X a higher hourly rate if it could truly deliver on its promises, and especially if it would help them feel more confident about legal compliance. But many also noted that it's hard to have much certainty about paying a fixed rate for workers you haven't met or trained yet, and they needed more assurance that Entity X could guarantee a consistent quality of work. By the same score, they also wondered how viable it would be to train up Entity X workers into management roles over time.

Benefits and Tradeoffs

The farm owners participating in the surveys work across different states with different requirements for providing unemployment insurance, workers' comp, and overtime pay. This likely impacted how they rated the value of each to their business. A few voiced outright disapproval of unemployment insurance especially, and many thought it would be more cost-effective and valuable to the overall labor picture to make sure that farm workers can get year-round work.

Like farm workers, farm owners brought up a problem with the incentives that overtime requirements create, but from a different angle. They worried that if overtime requirements prompt farmers to limit work hours, this would drive away workers who *want* to maximize their hours. But some felt it was best to avoid overtime regardless, because overworked employees are not productive or safe. Even though nearly half of farm owners said that overtime pay was not at all valuable to their business, several felt that offering it is still the right thing to do.

Farmers owners took a slightly more favorable view of workers' compensation insurance. Some doubted whether Entity X could actually get farmers a better deal on liability insurance than they are already getting through channels like the Farm Bureau.

Social Values

The majority of farm owners surveyed saw at least some value for their own businesses in capturing social values. But more than half would not be willing to pay more to capture those values. Their attitudes about the role of social values in business were complex. Some felt that customers didn't really care about the inner workings of farms' business practices, and some felt exactly the opposite way—that customers would pay more if they knew about and approved of a farm's socially just business practices. There was an overall skepticism, in any case, that it would be worth paying Entity X more in an effort to capture these social values.

Leadership and Investment

Farm owners' willingness to put time into a leadership role at Entity X capped out at two to four hours per week—and about 30 percent said they would not be willing to put any hours into a leadership role. In the subsequent survey of a larger group of farmers, farm owners on average reported they would spend 2.22 hours in a leadership position per week assuming they were confident the venture would solve their operation's labor problems at a price they could afford.

Many farmers said that *if* they got involved with Entity X, they'd want to have some say in its decisions. They also tended to feel that they already had enough non-farming work on their plate and were wary of adding more.

Farm owners were somewhat receptive to the idea of receiving dividends from Entity X, but deeply skeptical about investing their own money into it. One said: "*If you know of any farmer out there willing to invest in something, can you have them give me a call?"* This ties into farm owners' profound doubts about whether Entity X would really be a viable model. Like workers, they also did not show much enthusiasm for the idea of expanding into non-farm work in order to give Entity X a better shot at turning a profit.

Structure of Entity X

In the initial focus group survey, farm owners expressed a strong preference for structuring Entity X as a farmer-owned cooperative. A worker-owned cooperative structure was their second preference. Like farm workers, farm owners rarely picked a privately held business as their first choice.

However, in the subsequent survey of a larger group of farmers, farm owners ranked the 3 different farming labor models evenly. There was no clear favorite or least favorite.

OSHA requirements and FLC registration

Farm owners and farm workers had very similar responses to the questions about OSHA regulations—in short, that safety is important but dealing with OSHA is onerous. About half of farm owners did say that having to follow OSHA requirements would make them less willing (to different degrees) to work with Entity X. Overall, they didn't like the idea that participating in Entity X was supposed to make life easier, but would impose additional regulatory burdens on farms. "*If the cost of full compliance with OSHA requirements is offset by the incredibly increased productivity of this labor pool and the patronage dividends I was receiving as a co-op member, that would be one thing*," one farm owner said. "*But short of that, I don't know why you'd take the plunge*."

Responses to the question about being required to register as a Farm Labor Contractor (FLC) were very similar to the responses about OSHA. There was some confusion over whether FLC requirements would create a burden for individual farms, or just for Entity X as a whole.

In the subsequent survey of a broader group of farmers, farm owners on average reported that it would not affect their willingness to source labor from Entity X if doing so made OSHA enforceable against their farm. Similarly, on average they reported their willingness to source labor from Entity X would be about the same if they had to register as a FLC.

Conclusions

Farm owners and workers alike often recognized that Entity X could address at least some of their workforce problems, particularly when it comes to time-consuming HR tasks and the difficulties of finding work in the off-season. On the whole, they remained skeptical about Entity X's overall business model and whether it really works with the realities of small farms' operational needs and business climate. Instead of rejecting the idea outright, participants raised an array of questions to try and flesh out the specifics of how Entity X would work.

How would Entity X handle housing and transportation for workers? Can a "farm temp agency" model really meet the diverse labor needs of small farmers across a given geographic area? Would it advance or undermine the career goals of farm workers who are in it for the long haul? Would different business structures for Entity X give farmers enough power and reward in exchange for their investments of labor and possibly money? Can it create better support structures and social values than farmers are already creating without it? Can it maintain a diversified business model while staying true to its agricultural core? These are just a few of the questions that may help to guide the conversation about Entity X going forward.

Chapter 4: Path Forward

The focus group and survey analysis reveals that farmers welcome the idea of simplifying their labor challenges, but question how a collaborative labor solution would integrate itself with a widely varied group of farms, each used to doing things their own way. Farmers generally liked the idea of outsourcing paperwork responsibilities, but many expressed a reluctance to relinquish control over important farm labor decisions and processes, from hiring to scheduling to pay.

The feedback, taken as a whole, is neither an endorsement nor a rejection of collaborative labor solutions. It clarifies that the ultimate feasibility of the concept of collaborative labor rests on opportunities to go into greater detail with farmers, evolving individualized proposals to better align with their needs. Currently, the ultimate feasibility of collaborative labor solutions is not possible without broader acceptance of the core ideals of sharing responsibility for and control over labor and workforce solutions for individual farms.

Another thing is certain: the diversified world of small farms does not lend itself to a "one-size-fits-all" solution. Communities of farmers are at different stages in the process, have different goals, and are influenced by a diverse set of factors. While collaborative labor solutions might be promising for many farmers, putting together the details of an “ideal” model, or even a few options, is neither feasible nor beneficial at this point or perhaps ever. This certainly is a challenge for project-based endeavors such as this one that gather a group of partners together for a limited period of time. But at the same time, the report opens up possibilities for each partner organization to enhance the adoption of these ideas going forward.

A sensible path forward is to cultivate more opportunities for communities of farmers to engage in dialogue and support networks for exploring potential collaborative solutions to their farm labor challenges and needs. The following discussion recommends three ways that agricultural service providers can help generate these opportunities for dialogue and support:

1. Facilitating discussions on collaborative labor solutions (focusing on shared control)
2. Building awareness about benefits and options of using payroll companies
3. Sharing opportunities for farmers to learn more about employment law obligations

Facilitating discussions on collaborative labor solutions (focusing on shared control)

For a collaborative labor solution to be feasible and successful, farmers will need to embrace the idea of sharing some degree of control over their workers with other farmers. Without shared control, there really is no collaboration.

The crux of the matter is that farmers feel uneasy about giving up control over important decisions and processes related to their workers, from hiring to scheduling to pay. Most farmers openly embrace the idea of giving up paperwork tasks, but they generally feel strongly that each farm is different enough to need autonomy for key decisions relating to their workers.

Farmers’ hesitation in collaborating with other farmers is understandable. Labor pooling is a rather new and innovative idea that diverges from the norm in farming communities who especially have a “do it yourself” mentality. Farmers will need ample time to grapple with the idea of collaborative labor solutions and explore and evaluate potential possibilities. They too will need to be an integral part of the process of designing a solution that addresses their unique individual and collective needs. An essential component of this process will require farmers to explore their comfort zone over whether and to what extent they are willing to share control over some dimensions of their workers with other farmers.

Agricultural service providers can bring this exploration process forward by facilitating conversations with farmer communities in ways that steer dialogue towards identifying where collaboration (i.e., shared control) could be more acceptable. What circumstances and conditions must be met for farmers to feel comfortable sharing control? What control are they willing to share, and to what degree, if those circumstances and conditions are met?

Appendix A includes a resource that agricultural service providers can utilize when facilitating such conversations: *Exploring Collaborative Farm Labor Solutions: A Discussion Toolkit for Farmers* (Toolkit). This 6-page Toolkit is intended to be used as a handout for a group of farmers in a local or regional community who are interested in collaborating to address one or more shared labor challenges they face. The Toolkit provides a roadmap to help farmers identify their shared labor needs, explore points of potential collaboration, and develop feasible action steps in going forward. Ideally the group of farmers gathers to work through the process together, whether in person or online. It may be helpful to have a facilitator help guide the process, such as an agricultural professional or other third party who understands farm labor challenges. The Toolkit handout is accompanied by a 2-page instruction guide which offers ideas for how to best use the handout to generate meaningful and action-oriented discussions about collaborative labor solutions.

This Toolkit provides a launching point for initial and ongoing discussion. Agricultural service providers can use it or create their own iteration depending on the needs of the community and the time permitted. Agricultural service providers are encouraged to offer feedback to Farm Commons and other members of the advisory committee on an ongoing basis and to request additional resources and support as needed.

Building awareness about benefits and options of using payroll companies

The focus groups revealed that farmers overwhelmingly welcome the idea of outsourcing paperwork responsibilities. While it is not a collaborative labor solution per se, one initial or end path forward for some farmers would be to engage the services of a payroll company.

Managing payroll-related employment laws can be time consuming and costly. Certain payroll-related legal requirements change as a farm business grows, making it difficult to track legal obligations. Each of these responsibilities and tasks can be performed by a payroll company. The benefits to a farmer in using a payroll service include more accurate calculations, more efficient and consistent processing, and fewer errors which can save costs and prevent headaches in the long run. The farmer can also reduce liability risks and rest assured that the legal and tax obligations are being met.

Agricultural service providers can provide support by increasing outreach to farmer communities on the affordability and utility of using a payroll company. For example, agricultural service providers can partner with local start-up incubators who may already have information and resources on utilizing payroll service providers. Agricultural service providers can also organize networking tables at farmer conferences to share information and resources about payroll outsourcing options. These are just a few ideas.

Perhaps the optimal way for farmers to learn about best payroll service providers in their region is from other farmers. Agricultural professionals can create ways to encourage farmer to farmer communication about payroll services. For example, they can facilitate forum discussions, online or in person, as well as conduct surveys and provide other opportunities for knowledge sharing.

Sharing opportunities for farmers to learn more about employment law obligations

The reality is that farmers need to know more about their employment law obligations before they can set priorities, decide on action steps, and begin to act. Many farmers are not aware of the exact nuances of their employment law obligations, let alone prepared to consider their willingness to undertake compliance or collaborate with other farmers to comply.

Agricultural professionals can create a path forward by developing access to this information more broadly. Agricultural professionals are in the best position to promote understanding when they have a deep enough base of knowledge themselves to adequately identify where legal issues and questions are, or should be, occurring. This information can be hard to come by, but one source is the Guiding Resilience workshop from Farm Commons. The employment law module of this 5-module workshop is devoted to helping agriculture professionals build their knowledge and ability to guide producers with reference to employment law issues.

Farmers themselves also need expanded opportunities to learn and manage their employment law obligations. Working with local attorneys for individual consultation is a primary way that farmers have traditionally gained this information. Some farmers are in a position to pay market rate for these services. Those who are not in a position to pay market rate can look to pro bono service providers such as the Legal Food Hub for a potential referral. At the same time, the lack of qualified attorneys as well as farmers' reticence to seek professional help on this subject can be persistent barriers. In these cases, pro bono assistance is not the entire solution. Farmers appreciate and benefit greatly from educational opportunities in employment law, and a well-rounded solution will continue to make workshops and print guides amply available to any producer exploring their employment law obligations.

To further this solution, this project team has developed a set of farm employment law summaries for the Northeast states included in this project region, which are included in Appendix B. These handouts are easy to understand, easy to distribute online, and easy for agricultural service providers to photocopy. We are also conducting a series of webinars to significantly advance community awareness of employment law obligations.

Conclusion

Collaborative labor solutions offer many possible approaches for farms looking to pool resources and streamline the administrative side of farming. Through any of several investment and management structures, a collaborative labor solution may allow farmers to take an active role as owners or sign on as simple clients. Beyond its immediate goals of connecting workers who need jobs with farmers who need help, this solution could also serve bigger goals of worker justice and capturing social values. Such a venture could also seek out greater financial stability by branching out into non-farming labor markets. If the venture made the right choices, it could foster a more robust farm workforce across its service area.

Producers view collaborative labor solutions with both great interest and great skepticism. Whether they own a farm or work on other people's farms, those surveyed for this research project questioned whether it would be feasible for small farmers to launch a new venture at the needed scale. They expressed a whole range of attitudes about the central trade-off involved: offloading some of their labor hassles, while also trusting a new entity to adequately take care of their specific needs. Their qualitative and quantitative responses raise a whole bunch of new questions and challenges that can inform further development of collaborative labor solutions.

To move this process forward, farmer communities will need to engage in further conversation. The dialogue should especially focus on shared control—because that is the biggest sticking point for farmers, but frank and intentional discussion can help them overcome it. The appendices to this report provide tools for stimulating further discussion of both the bigger picture and in-the-weeds details. Agricultural service providers can also nurture this process going forward by educating farmers about the issues involved, particularly employment law obligations and the use of third-party payroll companies.

Throughout this process, farm owners and workers have provided a rich, deep picture of the labor difficulties they face. Their input will bring initially broad, theoretical ideas into focus.

Appendix A:

Exploring Collaborative Farm Labor Solutions: A Discussion Toolkit for Farmers

Exploring Collaborative Farm Labor Solutions:
A Discussion Toolkit for Farmers

Instructions

This Toolkit is intended to be used by a group of farmers in a local or regional community who are interested in collaborating to address one or more shared labor challenges they face. The toolkit provides a roadmap to help farmers identify their shared labor needs, explore points of potential collaboration, and develop feasible action steps for moving forward.

The Toolkit presents seven operations and HR functions where farmers could collaborate: (1) recruitment, (2) training, (3) payroll-related employment law compliance, (4) scheduling, (5) health and safety, (6) food safety, and (7) retention. There is a Table for each operation and HR function that highlights opportunities, systems and challenges for collaborating. Farmers are asked to take notes on a set of reflection questions for each function.

The Toolkit then provides a pathway for a solutions-oriented discussion through a process of Appreciative Inquiry. Appreciative Inquiry is a process of asking open-ended, future-oriented questions that focus on strengths and opportunities. Appreciative Inquiry questions also help generate strategic action steps that can help keep the initiative going.

Ideally the group of farmers gathers to work through the Toolkit together, whether in person or online. It may be helpful to have a facilitator help guide the process, such as an agricultural service provider or other third party who understands farm labor challenges.

The size of the group could be anywhere from 2 to 10 farmers. A larger group might present challenges in keeping the discussion on track and getting to a meaningful path forward. Farmers might consider selecting a set of farmers who are representative of their community so that the discussion illuminates disparate needs that may be present.

A feasible time frame for the process would be anywhere from 2-3 hours, which could be completed in 1 session or split across 2 sessions. The farmers could together review the introduction and then either individually or in dyads go through each of the seven operations and HR functions while taking notes on the reflection questions for each. The group could then engage in a discussion on the Appreciative Inquiry questions to develop a path forward. Depending on the size of the group, farmers could work through the Appreciative Inquiry questions together or in smaller break out groups.

Sample Schedule (long)

- Disseminate handout, review introduction – 10-15 minutes
- Review and reflect on seven operation and HR Functions – 70-90 minutes
    - 10-15 minutes per section, including reflection questions
- Moving forward through Appreciative Inquiry – 45-60 minutes

It could be feasible to use this Toolkit in a shorter gathering session. This is especially true if farmers receive the handout before meeting as a group and each works through the seven functions in the table while taking notes on the reflection questions for each. This task could take anywhere from 1 to 1.5 hours. When convening together, each participant could have 2-3 minutes to report on their reflection notes. The group could then engage in a discussion on the Appreciative Inquiry questions to develop a path forward, either together or in smaller break out groups.

Sample schedule (pre-work)

- ❖ (At home) Read introduction, review and reflect on seven operation and HR Functions 60-90 minutes
- ❖ Individuals share reflection notes with group (20-30 minutes)
- ❖ Moving forward through Appreciative Inquiry – 30 minutes

It might also be feasible and worthwhile to use an iteration of this Toolkit in a one hour break out session at a farmer conference. A workshop facilitator could prepare and present a 10 minute summary of the Toolkit contents, which might be supported by a slide presentation. The presentation could include a brief introduction to the idea of collaborative labor solutions as well as an overview of collaborative possibilities for each of the seven operations and HR functions. The participants could then break up into smaller groups for 20 minutes and go through 1-2 of the seven operations and HR functions highlighted in the tables. Perhaps the farmers could choose the 1-2 functions that are most challenging for them. Each small group could then report back their reflections to the larger group. The larger group could then together engage in a discussion on the Appreciative Inquiry questions to develop a path forward, either together or in smaller break out groups.

Sample schedule (condensed)

- ❖ Disseminate handout, review introduction – 10 minutes
- ❖ Small groups work through 1-2 functions – 20 minutes (10 minutes per section)
- ❖ Moving forward through Appreciative Inquiry – 30 minutes

Exploring Collaborative Farm Labor Solutions:
A Discussion Toolkit for Farmers

** This Toolkit is intended to be used by a group of farmers in a local or regional community who are interested in collaborating to address one or more shared labor challenges they face. Ideally, you're meeting together in person or online. Be sure to review the instructions that go along with this handout.*

Farm labor challenges abound
No farm is immune from the challenge of meeting its labor needs. While more established farms might have one or a few full-time employees, extra seasonal help might be needed. Owners of small to mid-sized diversified farms can sometimes manage the workload themselves; however, they might need hired help at the height of the season or for more intensive tasks. They must then sacrifice time and money to manage recruitment, payroll, training, and other human resources (HR) obligations. Labor shortages in the community can make it difficult to find this extra help. When considering the time and costs involved, farms often pay a hefty price to meet their farm labor needs. Bad hiring decisions can also be expensive.

Possible solution: Collaborate!
Collaborating and pooling resources with other farmers provides a possible solution for farmers to address some of their farm labor needs and desires. If farmers come together to aggregate their farm labor demands, they can potentially attract a more qualified workforce, share the costs of training and compliance, and streamline various HR operations.

By coordinating key aspects of farm labor through a collaborative initiative, each farmer would not necessarily have to acquire all the skills and knowledge, legal and otherwise, required to navigate the complexities of hiring and managing farm labor. This could save farmers significant time and money. Such a collaborative initiative could happen in a wide variety of ways. It could be initiated by farm owners, by the farmworkers, or both. It could be done informally, or through a formal business structure such as a cooperative or LLC. There is no one-size-fits-all answer!

Where does one start?
First off, let's not get caught in the legal nitty gritty details. A good first step is to explore areas of farm labor where you and other farmers in your community might want to collaborate.

What aspects of farm labor are you interested in collaborating with other farmers?
Various operational and HR functions that farms ordinarily do on their own could be shared through a collaborative labor solution. This might be attractive to farmers who find themselves buried in the paperwork of hiring and managing employees.

The tables that follow include some services that a collaborative solution could offer. Each function includes the corresponding opportunities, systems for streamlining labor operations, and challenges to keep in mind when deciding which functions are ideal given the needs and desires of farmers in your group.

Potential Collaborative Operations and HR Functions

Read through each of the seven functions one by one. Take 3-5 minutes for reflection and jotting down thoughts, feelings, insights, or questions that arise in the space provided.

Spoiler alert: Keep in mind that a collaborative labor solution requires you to relinquish some control over certain decisions and processes related to your farm workers. As you review each of the seven functions, feel into your comfort zone for letting go of some control over this function.

Reflection: *For each function, reflect on the following and jot down notes in the space provided*

- *What collaborative opportunities or challenges stand out for you for this function?*
- *Are there other opportunities or challenges not mentioned?*
- *Are you willing to release some control over this function?*
- *What conditions must be met for you to let go of some control?*
- *What thoughts, feelings, insights or questions come up for you as you consider collaborating on this function?*

1. Recruitment	
Opportunities	A lot of time goes into recruiting a single employee, not to mention the cost of running help wanted ads, doing background checks, and spending time interviewing at the expense of work that needs to get done on the farm. By going through a collaborative initiative, a farm can outsource recruitment. Recruiting and selecting workers is a skill that many farmers do not have the time or interest to develop; yet, bad hiring decisions can result in wasted time and money. There are also legal issues that come into play when making hiring decisions, such as state and federal anti-discrimination laws, migrant worker laws, and so on. It can be cost effective to pay for the expertise or allow a collaborative initiative to specialize in the practical and legal aspects of recruitment.
Systems	The collaborative initiative runs a recruitment campaign; it leverages full-time, diverse opportunities on multiple farms to attract more skilled farmworkers to the community.
Challenges	Farmers must be reliant upon the collaborative initiative's judgment and screening when recruiting farmworkers; they might not have the opportunity to interview on their own or choose their first pick. By recruiting workers for other farms, the collaborative initiative might have to register as a Farm Labor Contractor under migrant worker laws; any associated costs would likely be passed on to farmers.
Reflections:	

2. Training	
Opportunities	Farmers could coordinate to provide skill-based training including operating farm equipment, picking, pruning, handling livestock, and so on. Farmers could design joint training to meet their shared needs. Farmers could also benefit from workers who have a broader base of skills. These workers are often critical thinkers and apply innovative solutions to a variety of farm work. A worker who is respected and appreciated for his or her knowledge is likely to stick around. In addition, providing broad skills training is essential to being legally classified as an internship or apprenticeship program. The collaborative initiative could potentially pursue this type of classification on behalf of the participating farmers. Broad-based training would likely be of interest to farmworkers; even those who work predominantly in one sector might be eager to expand opportunities by learning the trades of another sector.
Systems	The collaborative initiative surveys farmers and farmworkers to assess desired skills and organizes training to match results.
Challenges	Some farm-specific training will still need to be done. Depending on the sector or type of farm, general training may have little or no benefit to the farmer.
Reflections	

3. Payroll-Related Employment Law Compliance	
Opportunities	Managing payroll-related employment laws—including minimum wage, taxes, unemployment insurance, and workers' compensation requirements—can be time consuming and costly. The collaborative initiative could handle most, if not all, of these functions. This is beneficial for farmers who only need part-time or temporary work or who do not already have such systems in place. It can also be beneficial to farmers with larger and/or year-round workforces. Certain payroll-related legal requirements change as a farm business grows (e.g., workers' compensation, overtime) making it difficult to track the legal obligations. These farmers can take advantage of a collaborative initiative that handles various threshold triggers.
Systems	The collaborative initiative hires an accountant or signs up for an online payroll and benefits system—which can range from $40 to $75 per month, depending on the number of workers—to administer payroll for workers across multiple farms, saving farmers time and money.
Challenges	Farmers who already have full-time workers and are only seeking to fulfill part- time or temp labor needs already have systems in place for adhering to payroll-related employment law, so this service might not save them much time or money. The collaborative initiative might be required to carry workers' compensation to cover worker injuries and/or need general liability insurance to cover liability risks. These costs would likely be passed to farmers.
Reflections	

4. **Scheduling**	
Opportunities	By joining forces, farmers and farmworkers could efficiently coordinate their schedules to best match farm labor supply and demand in their region or community. Ideally, a farmer could simply make a phone call to get their farm labor needs filled—whether last-minute, temporary, full-time, part-time, or project-based. A collaborative venture could also provide significant savings to farms that expand but continue to hire seasonal help. These types of farms are hit hard by the cost of unemployment insurance. By creating year-round positions, the collaborative initiative could offer savings for these farms.
Systems	Participating farmers fill out a survey each year describing their labor needs (e.g., timing, number of hours, type of labor, and preferred skills). The collaborative initiative coordinates the scheduling, assigning farmworkers to match the farmers' needs.
Challenges	The demand for farm workers peaks during high season, so there may not be enough supply and some farmers may be left without labor when they need it most. The collaborative initiative will have to establish a system for determining how farms are prioritized. Similarly, the collaborative initiative will have to prioritize which farmworkers get off-season work.
Reflections	

5. **Health and Safety**	
Opportunities	Farmers often spend a lot of time training employees on safety issues or may be reluctant to assign employees certain tasks given the risk of injury. The cost of workers' compensation or other insurance policies covering worker injuries is heavily dependent on the types of tasks assigned to an employee as well as proactive actions taken by the employer to prevent injuries. A collaborative initiative could invest in developing expertise in this area to help farmers shape positions to keep these costs low. It could also offer joint safety training. In addition, it could advise farmers on legal standards for providing a healthy, safe workplace— including requirements related to providing housing, posting warning signs about dangerous equipment or toxic substances, and establishing emergency protocols.
Systems	The collaborative initiative stays abreast of health and safety legal requirements, organizes general safety training for farmworkers, and offers on-farm consultations to help farmers provide safer workplaces and comply with laws.
Challenges	Some farm-specific training will still need to be done. The farmer may have to spend as much time doing farm-specific training each time a new worker comes.
Reflections	

6. **Food Safety**	
Opportunities	The collaborative initiative could invest in learning about and staying abreast of ever-changing food safety laws. For example, the venture could provide general food safety training or advise farms on what to include when holding their own training. It could even advocate on behalf of its members for advantageous ways of interpreting, implementing, and changing food safety laws (local, state, or even federal). Each farmer could see a reduced cost in terms of learning about and complying with food safety laws as well as advocating for their interests.
Systems	The collaborative initiative gathers legal requirements and best practices for on-farm food safety protocols, holds general food safety training for farmworkers, and helps farmers develop their own farm-specific food safety training.
Challenges	Some farm-specific training will still need to be done.
Reflections	

7. **Retention**	
Opportunities	Many farmers struggle to retain skilled workers for longer than a season or two. This occurs partly because skilled farmworkers often desire a managerial role or more of an ownership stake in their work, which many farms cannot provide. A collaborative initiative could improve farmworker retention by providing benefits and perhaps offering management or other career advancement opportunities.
Systems	The collaborative initiative offers farmworkers vested ownership interest after a probationary period. Benefits could include distribution of profits based on contribution, decision-making power, incentives for further education, health insurance, paid time off, retirement plan, and so on.
Challenges	From the farmer's perspective, workers who are assigned to farms sporadically (i.e., not on a consistent basis) may not be as committed to the farm's objectives. The farm may not have as much opportunity to build its team and worker morale to retain workers over the long haul.
Reflections	

Moving Forward: Developing Action Steps

Take some time for each farmer to share with the larger group their reflections on each of the functions. Be sure to take note of any consensus or themes that might be arising regarding a willingness to share control. This may be the seed for taking action!

Here are some ways to get the moving forward discussion started:

- Have each farmer list the most challenging labor-related functions they face.
  - For example, which labor-related functions or activities are the most time consuming, expensive, or have the most negative effect on quality of life?

- Are any of the priority functions or activities your group brainstormed not mentioned in the table above? If so, brainstorm the opportunities, systems, and challenges for each.

- Which labor-related function(s), if any, does the group share a degree of comfort around relinquishing some control over?
  - What circumstances or conditions need to be in place for farmers to feel more comfortable in letting go of control and sharing or outsourcing this function?
  - Who is willing to develop (1) a proposal and timeline for putting these circumstances or conditions in place and/or (2) a work plan and timeline for sharing or outsourcing this function?

Getting stuck?
When considering potential collaborative farm labor solutions, it can be easy to get stuck in the overwhelm of labor challenges and obligations. It's also tempting to fixate on the nitty gritty details of the business structure or legal obligations. This too can lead to an impasse. We end up losing sight of the forest for the trees.

Appreciative inquiry is a helpful way to guide us toward forward thinking solutions and strategic actions. Here are a few Appreciative Inquiry questions to help the group identify and nourish their shared vision around collaborating or pooling resource to meet their farm labor needs:

- What is our intention here? What's the bigger purpose?

- What possibilities exist that we haven't yet thought of?

- What's the smallest change that could make the biggest impact?

- What do we know so far and still need to learn about/research?

Essential Action Points

- When will we meet again?

- What will each of us do beforehand to move this initiative forward?

Appendix B:

Basics of Farm Employment Law – Fact Sheets by Northeast State

Basics in Farm Employment Law: Connecticut

Minimum Wage: Connecticut farm and ranch businesses are obligated to pay at least the minimum wage to workers. As of 2022, the Connecticut minimum wage is $14/hour.

Overtime: Connecticut farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Connecticut are prohibited from requiring employees to work more than 7.5 consecutive hours without at least a 30-minute meal period. It must take place at least 2 hours after the start of their shift and before the last two hours of their shift.

Workers' compensation: Connecticut farm and ranch businesses are obligated to secure workers' compensation for agricultural workers just as for other workers.

Unemployment Insurance: Farms and ranches in Connecticut must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: Delaware

Minimum Wage: Delaware farm and ranch businesses are obligated to pay at least the state minimum wage of $10.50/hour for all hours worked in a workweek if the farm assigns non-agricultural labor at any time during a workweek.

Delaware farm and ranch businesses that assign exclusively agricultural labor in a workweek might still be obligated to pay at least the minimum wage of $10.50/hour, depending on the size of the business. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, then at least the minimum wage of $10.50/hour is required for the entire year (regardless of the type of labor). If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, then the farm business is not obligated to pay a minimum wage (except for a week in which non-agricultural labor was assigned as described above).

A "man-day" is defined as any day during which an employee performs agricultural work for at least one hour. For example, if two individuals perform at least one hour of agricultural work in a day, the employer has two man-days.

Overtime: Delaware farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Delaware are not required by law to offer meal and rest breaks at specific intervals or of specific length to employees performing agricultural work. Meal and rest breaks may be required when an employee performs non-agricultural work.

Workers' compensation: Delaware farm and ranch businesses are not obligated to secure workers' compensation for agricultural workers.

Unemployment Insurance: Farms and ranches in Delaware must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: Maine

Minimum Wage: Maine farm and ranch businesses are obligated to pay at least the state minimum wage of $12.75/hour for all hours worked in a workweek if the farm assigns non-agricultural labor at any time during a workweek.

Maine farm and ranch businesses that assign exclusively agricultural labor in a workweek might still be obligated to pay at least the minimum wage of $12.75/hour, depending on the size of the business. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, then at least the minimum wage of $12.75/hour is required for the entire year (regardless of the type of labor). If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, then the farm business is not obligated to pay a minimum wage (except for a week in which non-agricultural labor was assigned as described above).

A "man-day" is defined as any day during which an employee performs agricultural work for at least one hour. For example, if two individuals perform at least one hour of agricultural work in a day, the employer has two man-days.

Note, however, that any farm with over 300,000 laying birds must pay all workers at least the Maine minimum wage of $12.75/hour for all hours worked.

Overtime: Maine farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Maine farm and ranch businesses are not required to provide a rest break to employees. However, farms with over 300,000 laying birds are not exempt and must give their employees 30 consecutive minutes of rest time for every six hours of work.

Workers' compensation: Maine farm and ranch businesses are not obligated to secure workers' compensation for workers engaged in agriculture as seasonal or casual laborers, if the employer maintains at least $25,000 in employers' liability insurance, with at least $5,000 in medical payments coverage. Also, farm and ranch businesses in Maine with six or fewer agricultural laborers are not obligated to secure workers' compensation, if the employer maintains employers' liability insurance of at least $100,000 multiplied by the number of full-time equivalent employees and has at least $5,000 in medical payments coverage.

Unemployment Insurance: Farms and ranches in Maine must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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FARM COMMONS

Basics in Farm Employment Law: Maryland

Minimum Wage: Maryland farm and ranch businesses are obligated to pay the applicable state minimum wage for all hours worked in a workweek if the farm assigns non-agricultural labor at any time during that workweek.

As of 2022, Maryland's minimum wage is $12.50/hr. for businesses with 15 employees or more and $12.20/hr. for businesses with 14 employees or less.

Maryland farm and ranch businesses that assign exclusively agricultural labor in a workweek might still be obligated to pay the applicable state minimum wage rate, depending on the size of the business. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, then the applicable state minimum wage is required for the entire year (regardless of whether the work assigned is agricultural or not). If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, then the farm business is not obligated to pay a minimum wage (except for a week in which non-agricultural labor was assigned as described above).

A "man-day" is defined as any day during which an employee performs agricultural work for at least one hour. For example, if two individuals perform at least one hour of agricultural work in a day, the employer has two man-days.

Overtime: Maryland farm and ranch businesses are obligated to pay overtime wages to workers performing agricultural labor for all hours worked over 60 in a workweek. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Maryland are not required by law to offer meal and rest breaks at specific intervals or of specific length to employees performing agricultural work. Meal and rest breaks may be required when an employee performs non-agricultural work.

Workers' compensation: Maryland farm and ranch businesses are not obligated to secure workers' compensation for agricultural workers unless the business has 3 or more full-time employees OR annual payroll of $15,000 or more for all full-time employees.

Unemployment Insurance: Farms and ranches in Maryland must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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FARM COMMONS

Basics in Farm Employment Law: Massachusetts

Minimum Wage: Massachusetts farm and ranch businesses must pay workers performing agricultural work at least the state's agricultural minimum wage of $8.00/hr. Agricultural work is defined as work conducted on the farm involving growing and harvesting agricultural, floricultural, and horticultural products. If the business assigns a worker non-agricultural work, including any post-harvest tasks, the business must pay that worker the Massachusetts minimum wage of $14.25/hr.

Overtime: Massachusetts farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Massachusetts are required to offer a thirty minute unpaid meal break if the employee works more than six hours.

Workers' compensation: Massachusetts farm and ranch businesses are obligated to secure workers' compensation for agricultural workers just as for other workers.

Unemployment Insurance: Farms and ranches in Massachusetts must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: New Hampshire

Minimum Wage: New Hampshire farm and ranch businesses are obligated to pay at least the minimum wage of $7.25/hour to workers **if** the farm assigns non-agricultural labor at any time during that workweek.

New Hampshire farm and ranch businesses that assign exclusively agricultural labor in a workweek might still be obligated to pay at least the minimum wage rate of $7.25/hour, depending on the size of the business. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, then the minimum wage of $7.25/hour is required for the entire year (regardless of whether the work assigned is agricultural or not). If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, then the farm business is not obligated to pay a minimum wage (except for a week in which non-agricultural labor was assigned as described above).

A "man-day" is defined as any day during which an employee performs agricultural work for at least one hour. For example, if two individuals perform at least one hour of agricultural work in a day, the employer has two man-days.

Overtime: New Hampshire farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in New Hampshire are required by law to offer a 30-minute meal break after an employee has worked five-consecutive hours, unless the employee can eat while working and it is feasible for the employee to do so.

Workers' compensation: New Hampshire farm and ranch businesses are obligated to secure workers' compensation for agricultural workers just as for other workers.

Unemployment Insurance: Farms and ranches in New Hampshire must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: New Jersey

Minimum Wage: New Jersey farm and ranch businesses are obligated to pay workers performing agricultural work at least the state's agricultural minimum wage. As of 2022, the agricultural wage is $11.05/hr. The agricultural minimum wage is scheduled by statute to increase annually through 2025 until it reaches $15/hr.

If the business assigns a worker non-agricultural work, the business must pay that worker the state's regular minimum wage. The minimum wage is adjusted each year and depends on the number of employees. In 2022, businesses with fewer than 6 employees must pay at least $11.90/hour and Businesses with 6 or more employees must pay at least $13/hour.

Overtime: New Jersey farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in New Jersey are not required by law to offer meal and rest breaks at specific intervals or of specific length to employees performing agricultural work. Meal and rest breaks may be required when an employee performs non-agricultural work.

Workers' compensation: New Jersey farm and ranch businesses are obligated to secure workers' compensation for all employees or be approved for self-insurance.

Unemployment Insurance: Farms and ranches in New Jersey must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: New York

Minimum Wage: New York farm and ranch businesses are obligated to pay at least the minimum wage to workers. The minimum wage in New York depends on where an employer is located. As of 2022, the minimum wage for New York City, Long Island, and Worcester is $15.00/hr. The minimum wage for all other locations in New York is $13.20/hr.

Overtime: New York farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker works 60 or fewer hours per week and performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

In January of 2022 the New York Farm Laborers Wage Board voted to decrease the overtime threshold for agricultural workers from 60 to 40 hours. This change will be phased-in over a ten-year period, reducing by four hours on a biannual basis, starting Jan. 1, 2024 at 56 hours. Jan. 1, 2026 the threshold will be 52 hours; Jan. 1, 2028, 48 hours; Jan. 1, 2030, 44 hours; Jan. 1, 2032, 40 hours.

Meal and Rest Breaks: New York farm and ranch businesses must provide a 30-minute noonday lunch period for employees who work shifts of more than 6 hours that extend over the noon day meal period (i.e., from 11am to 2pm). Workers starting before 11 a.m. and continuing after 7 p.m. are entitled to an additional 20-minute break between 5 p.m. and 7 p.m. If the shift is more than 6 hours but starts between 1 pm and 6 am, then the employee is entitled to a 45 minute break somewhere in the middle of the shift. The New York State Commission of Labor allows certain employers to shorten the meal period to not less than 20 minutes if they have obtained a special permit.

In addition, farms must provide workers at least one day (consecutive 24 hrs) of rest in every calendar week. The farm must designate, and notify the worker in advance of, their day of rest and, whenever possible, ensure that the day off coincides with a traditional day for religious worship. Farmworkers are permitted to voluntarily work on the day of rest, provided the employer pays them at the overtime rate. Employers must keep a weekly record of hours and days worked.

Workers' compensation: New York farm and ranch businesses are obligated to secure workers' compensation for agricultural workers just as for other workers.

Unemployment Insurance: Farms and ranches in New York must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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Basics in Farm Employment Law: Pennsylvania

Minimum Wage: Pennsylvania farm and ranch businesses are obligated to pay at least the minimum wage of $7.25/hr. to all temporary and seasonal workers. These are workers who are hired for a season or other defined time.

Pennsylvania farm and ranch businesses are not obligated to pay at least the minimum wage to permanent workers so long as: 1) the permanent workers are performing agricultural labor AND 2) the business did not employ more than 500-man days in any calendar quarter of the previous year.

By contrast, if the business assigns a permanent worker non-agricultural labor, the business must pay that worker at least the minimum wage for all hours worked in that week, even if the farm is below the 500-man-day threshold. If the farm business employed more than 500-man days in any calendar quarter of the previous year, the business must pay at least the minimum wage for all hours worked in the current year, regardless of whether the work assigned is agricultural or not.

A “man day” is any day during which an employee performs agricultural work for at least one hour (e.g., If two workers perform at least one hour of agricultural work in a day, the employer has two-man days).

Overtime: Pennsylvania farms are not obligated to pay overtime to permanent farm workers so long as the worker performs exclusively agricultural labor. However, just as with minimum wage, the exemption only applies to farm labor. If the permanent worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority. As for seasonal and temporary employees, no overtime pay is required. However, the Pennsylvania Seasonal Farm Labor Act prohibits farm employers from requiring seasonal and temporary employees from working more than six days in one week, more than 48 hours per week, or more than 10 hours in one day.

Meal and Rest Breaks: Farm businesses employing seasonal farm workers in Pennsylvania are required by law to offer a meal or rest break of at least 30 minutes after 5 consecutive hours of work. Any break less than 30 minutes does not interrupt a continuous period of work, but the 30-minute plus required break is unpaid. Pennsylvania farms employing permanent farm workers are not required to provide meal and rest breaks at specific intervals or of specific lengths to employees performing agricultural work. Meal and rest breaks may be required when an employee performs non-agricultural work for these, permanent farm workers.

Workers’ compensation: Pennsylvania farm and ranch businesses are obligated to secure workers’ compensation for agricultural workers unless they: (1) pay that worker less than $1,200 per year in wages for farm labor AND (2) do not employ any farm workers who worked 30 or more days in a calendar year.

Unemployment Insurance: Farms and ranches in Pennsylvania must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

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FARM COMMONS

Basics in Farm Employment Law: Rhode Island

Minimum Wage: Rhode Island farm and ranch businesses are obligated to pay at least the minimum wage to workers. As of 2022, the Rhode Island minimum wage is $12.25/hr.

Overtime: Rhode Island farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Rhode Island that have three or more employees are required to provide one twenty-minute unpaid mealtime during a six-hour shift or one thirty-minute unpaid meal period during an eight hour shift.

Workers' compensation: Rhode Island farm and ranch businesses are not obligated to secure workers' compensation unless they employ 25 or more farm laborers for 13 consecutive weeks. Even farms that meet these numbers are exempt from the state's workers' compensation laws so long as they maintain health and disability insurance for all their employees at premiums that exceed the workers' compensation insurance premiums.

Unemployment Insurance: Farms and ranches in Rhode Island must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year, the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

In addition, nearly all employees in Rhode Island are covered by state Unemployment Insurance, which is funded by their employers paying an Employment Security Tax. However, farms that paid less than $1,000 in total cash wages in any calendar quarter are exempt from paying the Employment Security Tax. Sole proprietors, partners, and parents working for their child who is the sole proprietor of a business are also exempt.

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Basics in Farm Employment Law: Vermont

Minimum Wage: Vermont farm and ranch businesses are obligated to pay a minimum wage for all hours worked in a workweek IF the farm assigns non-agricultural labor at any time during the week. Precisely what minimum wage applies depends on the size of the business. If the business employs 2 or more people in that week, the farm must pay at least the state minimum wage of $12.55/hour for all hours worked that week. If the business employs only one person, the farm must pay at least the federal minimum wage of $7.25/hour for all hours worked that week.

Vermont farm and ranch businesses that assign exclusively agricultural labor in a workweek might still be obligated to pay at least the minimum wage rate, depending on the size of the business. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, the business must pay at least the state minimum wage of $12.55/hour for all hours worked that entire year (regardless of whether the work assigned is agricultural or not). If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, then the farm business is not obligated to pay a minimum wage (except for a week in which non-agricultural labor was assigned as described above).

A “man day” is any day during which an employee performs agricultural work for at least one hour (e.g., If two workers perform at least one hour of agricultural work in a day, the employer has two-man days).

Overtime: Vermont farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in Vermont are required by law to offer employees “reasonable opportunities” to eat and use the toilet during work periods. However, there are no specified intervals or length for such breaks.

Workers’ compensation: Vermont farm and ranch businesses are not obligated to secure workers’ compensation for agricultural workers unless they have a payroll of $10,000 or more in a calendar year. Farms may still elect to choose coverage.

Unemployment Insurance: Farms and ranches in Vermont must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

Disclaimer: This is a highly-abbreviated selection of specific agricultural employment laws and is not an encompassing list of obligations or detailed description of rules. It is intended for educational use only and is not to be construed as legal advice. Other obligations and rules may apply, particularly when a worker performs non-agricultural labor or is a sole proprietor, owner, manager, or family member of the farm business. For information, specific to an individual situation, a person must consult a qualified attorney licensed to practice in their state.

Basics in Farm Employment Law: West Virginia

Minimum Wage: West Virginia farm and ranch businesses that assign non-agricultural labor in any week must pay at least the minimum wage to employees for all hours worked in that week . Exactly what that minimum wage depends on the size of the business. If the business employs 6 or more people in that week, the farm must pay at least the state minimum wage of $8.75 an hour. If the business employs 5 or fewer people in that week, the farm must pay at least the federal minimum wage of $7.25 per hour.

West Virginia farm and ranch businesses that assign exclusively agricultural labor in a workweek may still be obligated to pay at least the minimum wage for that week. It depends on the size of the operation, again. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, the business must pay at least the federal minimum wage of $7.25 per hour for all hours worked in the current year. If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, the farm business is not obligated to pay at least the minimum wage, state or federal.

A "man day" is any day during which an employee performs agricultural work for at least one hour (e.g., If two workers perform at least one hour of agricultural work in a day, the employer has two-man days).

Overtime: West Virginia farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least $684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in West Virginia are required to offer employees who work six or more hours a day a meal break of at least twenty minutes unless the employee is permitted to eat lunch while working.

Workers' compensation: West Virginia farm and ranch businesses are not obligated to secure workers' compensation so long as they have 5 or fewer full-time employees. Farms may still choose to secure coverage.

Unemployment Insurance: Farms and ranches in West Virginia must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

FARM COMMONS

Basics in Farm Employment Law: District of Columbia

Minimum Wage: DC farm and ranch businesses are obligated to pay at least the minimum wage to workers. As of July 1, 2022, the minimum wage is $16.10/hr.

Overtime: Farm and ranch businesses in DC are obligated to pay overtime wages to workers who work more than 40 hours a week. The overtime rate must be at least one and one-half times the regular hourly rate that worker receives.

Meal and Rest Breaks: Farm businesses in DC are not required by law to offer meal and rest breaks at specific intervals or of specific length to employees performing agricultural work. Meal and rest breaks may be required when an employee performs non-agricultural work.

Workers' compensation: DC farm and ranch businesses are obligated to secure workers' compensation for agricultural workers just as for other workers.

Unemployment Insurance: Farms and ranches in DC must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year, the farm paid wages of $20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

All DC farms are also required to pay Unemployment Tax for all employees through the DC unemployment compensation program. DC's unemployment compensation law does not have a minimum amount of wages that must be paid before an employer is liable for UI tax and there is no exemption for agricultural workers.

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