

# Food Justice for All: Tailoring Urban Agriculture Law to Aid Disadvantaged Communities

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## INTRODUCTION

Urban agriculture is gaining steady traction across the United States, both in practice and in the academic literature.<sup>1</sup> The practice is growing within the larger movement towards local production and consumption of food.<sup>2</sup> Congress has kept abreast of these developments, incorporating more provisions in its 2018 omnibus farm bill for local and regional food systems generally, and for urban agriculture in particular.<sup>3</sup> However, a question remains unanswered by these new laws: to whom do the benefits of urban agriculture accrue?

A recent influx of research suggests urban agriculture can benefit communities through social, environmental, and economic means. These include the creation of safe spaces (and thus reduction of blight), new jobs and businesses, reduced urban heat island effect, and increased home values.<sup>4</sup> These benefits are welcome and encouraged. However, policymakers at all levels of government should be careful to address urban agriculture through an equitable lens, striving to ensure benefits, as well as food security, for disadvantaged communities.

The United States Department of Agriculture, in its 2019 report on US Food Security, found that 10.5 percent of American

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<sup>1</sup> Alana Siegner et al., *Does Urban Agriculture Improve Food Security? Examining the Nexus of Food Access and Distribution of Urban Produced Foods in the United States: A Systematic Review*, 10 SUSTAINABILITY 2988, 1 (2018).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> JOHNSON & COWAN, CONG. RSCH. SERV., 2018 FARM BILL PRIMER: SUPPORT FOR URBAN AGRICULTURE 1 (2019).

<sup>4</sup> SHEILA GOLDEN, URBAN AGRICULTURE IMPACTS: SOCIAL, HEALTH, AND ECONOMIC: A LITERATURE REVIEW 8, 12–15 (2013); *see also* Siegner, *supra* note 1.

households are food insecure.<sup>5</sup> Of that percentage, 4.1 percent had *very low* food security.<sup>6</sup> While marking a continued improvement since the 2008 recession, these numbers remain at or higher than the levels reported in 1998 when recording began.<sup>7</sup> Further, the COVID-19 pandemic will undoubtedly send these numbers soaring back upwards. Food insecurity has negative consequences for physical and mental health, leading to indirect costs in lost productivity and increased health problems.<sup>8</sup> Food insecurity is a persistent national problem requiring innovative solutions. Urban agriculture could be one of them.

Urban agriculture is steadily expanding its presence in the agriculture sector, with potential for future growth.<sup>9</sup> It currently accounts for less than 1 percent of all vegetable production in the United States, but has the ability to reach up to 20 percent via “community gardens, greenhouses, warehouses, shipping containers, on the rooftops of city buildings, and elsewhere.”<sup>10</sup> The industry thrives on creative, entrepreneurial work.<sup>11</sup> Vertical and hydroponic farming exemplify urban farmers making efficient use of space in urban areas where land is at a premium.<sup>12</sup> With increasing interest, government facilitation, and innovative methods, urban agriculture could play a unique role in combatting hunger.

Urban agriculture, by its nature, affords opportunities to improve food insecurity in the United States. It can provide food access to insecure areas through donations. For example, one project donated 726 thousand pounds of food for community consumption, and other community gardens have given excess fruits and vegetables to local food banks.<sup>13</sup> These donations promote healthy eating in disadvantaged communities, a primary concern of food justice advocates.<sup>14</sup> Further, urban agriculture

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<sup>5</sup> ALISHA COLEMAN-JENSEN ET AL., USDA ECON. RSCH. SERV., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2019 at v (2020).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 8.

<sup>8</sup> John Cook & Karen Jeng, Feeding Am., Child Food InsNSecurity: The Economic Impact on our Nation 242–25 (2009).

<sup>9</sup> Fran Howard, *Farm Bill's Urban Farming Programs Fuel Growing Sector*, AGRIPULSE at 3 (Mar. 13, 2019, 6:19 AM), <https://www.agri-pulse.com/articles/11991-farm-bills-urban-farming-programs-fuel-growing-sector> [<https://perma.cc/3AFY-DARS>].

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 2.

<sup>13</sup> GOLDEN, *supra* note 4, at 11.

<sup>14</sup> Rebecca L. Goldberg, *No Such Thing as a Free Lunch: Paternalism, Poverty, and Food Justice*, 24 STAN. L. & POL'Y REV. 35, 38 (2013).

can generate income for those involved in farming, which may lower food insecurity by providing means to buy food.<sup>15</sup> Urban farmers can also save money by taking home the food they grow: participants in Seattle satisfied 30 to 40 percent of their produce needs this way.<sup>16</sup>

While some analyses claim urban agriculture combats food insecurity, the evidence is often anecdotal.<sup>17</sup> Its exact impact on food security “remains poorly understood.”<sup>18</sup> Additionally, critics note urban agriculture has unintended consequences on disadvantaged communities. It may bolster eco-gentrification and could grant space for community gardens at the expense of more necessary alternatives like affordable housing.<sup>19</sup> From a political-philosophical standpoint, urban agriculture may further create a neoliberal policy of austerity, leaving low-income families to succeed or fail without ancillary state service protection.<sup>20</sup> As Congress continues to fund urban agriculture in its farm bill, it must pay careful attention to these pitfalls in crafting its programs.

The 2018 Farm Bill was not Congress’s first effort to acknowledge urban farming, but it is by far its most significant. The bill establishes a newly minted Office of Urban Agriculture, helmed by the Secretary of Agriculture, under the USDA.<sup>21</sup> It grants the USDA authority to provide federal grant funding to urban agricultural operations.<sup>22</sup> It encourages pilot projects in urban and suburban areas, a particularly useful provision considering the entrepreneurial nature of the practice.<sup>23</sup> Outside of these new federal projects, the bill also spawns a research initiative aimed at developing a more efficient and informed practice of urban agriculture.<sup>24</sup> This is not an exhaustive list, but it exemplifies some provisions considered by this Note.

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<sup>15</sup> Megan Horst et al., *The Intersection of Planning, Urban Agriculture, and Food Justice: A Review of the Literature*, 83 J. AM. PLAN. ASSN. 277, 281 (2017).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*; Siegner, *supra* note 1.

<sup>18</sup> Siegner, *supra* note 1, at 2.

<sup>19</sup> Nathan McClintock, *Cultivating (a) Sustainability Capital: Urban Agriculture, EcoGentrification, and the Uneven Valorization of Social Reproduction*, 108 ANNALS AM. ASS’N. GEOGRAPHERS 579, 5790 (2017).

<sup>20</sup> Kate Meals, *Nurturing the Seeds of Food Justice: Unearthing the Impact of Institutionalized Racism on Access to Healthy Food in Urban African-American Communities*, 15 SCHOLAR 97, 128 (2012).

<sup>21</sup> Howard, *supra* note 9, at 2.

<sup>22</sup> JOHNSON & COWAN, *supra* note 3.

<sup>23</sup> *Id.* at 2.

<sup>24</sup> *Id.* at 1.

This Note will first establish a brief legal and historical background of the food justice movement—including the complications that developed between itself and other movements—and explain how urban agriculture may be uniquely suited to promote food justice. It will then carefully investigate each of Congress’s new urban agriculture provisions through an equitable lens, asking how they affect disadvantaged communities. Finally, this Note will suggest revisions to Congress’s provisions to ensure they help, rather than harm, these communities.

It is important to acknowledge that urban agriculture is not a panacea. It cannot completely resolve food justice issues, let alone the larger associated problems of poverty or racism. It can, however, be a potent tool in realizing change, in making America more food-secure, and in grounding that food security with good nutrition, but only if policymakers distribute the benefits of agriculture evenly to all.

#### I. A RECENT HISTORY OF FOOD JUSTICE AND URBAN AGRICULTURE

The food justice movement has grown among a cacophony of voices in the arena for solving hunger in the United States.<sup>25</sup> Two other movements—anti-hunger and anti-obesity—work with different identities and priorities.<sup>26</sup> The anti-hunger movement focuses exclusively on reducing food insecurity. It pays little attention to the food’s nutritional quality so long as disadvantaged communities are fed.<sup>27</sup> This movement works through both direct action and at the policy level, particularly supporting subsidy programs like the Supplemental Nutrition Assistance Program (“SNAP”).<sup>28</sup> Notably, the anti-hunger movement has opposed an anti-obesity policy which would have set restrictions on soda purchases with SNAP funds.<sup>29</sup> The anti-hunger movement’s paramount goal is thus reducing food insecurity, even if obesity and poor nutrition are the consequence.<sup>30</sup>

The anti-obesity movement operates at the opposite end of the spectrum. Proponents highlight that the common

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<sup>25</sup> Goldberg, *supra* note 14, at 36.

<sup>26</sup> *Id.* at 40.

<sup>27</sup> *Id.* at 41.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 42.

<sup>30</sup> *Id.* at 42–43.

denominator in both hunger and obesity rates are low-income Americans.<sup>31</sup> Indeed, hunger and obesity can coexist, and they do so at a higher rate among the poor.<sup>32</sup> Low-income Americans are slightly more likely on average to be obese than Americans at other income levels.<sup>33</sup> This occurs for diverse reasons, with lack of access to healthy foods and more consumption of cheaper, calorie dense foods among them.<sup>34</sup> Anti-obesity advocates have garnered significant policy support from the likes of popular figures such as Michelle Obama. In addition, legislation has passed with the anti-obesity ethos, such as requiring fast food restaurants to display calorie information on their menus.<sup>35</sup> Two recent policies in New York City reflect the anti-obesity connection to urban agriculture: One sponsored fruit carts in poor neighborhoods, and the other gave consumers a financial incentive to purchase from farmers' markets.<sup>36</sup> The anti-obesity ethos naturally aligns with urban agriculture, and its nutritious bounty, as a means to combat obesity in low-income Americans.

The food justice movement is newer to the debate on hunger, and less clearly defined in its goals. The movement strikes a middle ground between the anti-hunger and anti-obesity movements, because it aims both to guarantee enough food for the poor, and to ensure the food is healthy.<sup>37</sup> The Food Justice movement is rooted in a larger "food movement" rejecting large-scale industrial farming in favor of local and regional alternatives like urban agriculture.<sup>38</sup> Instead of an explicit emphasis on lowering obesity or hunger, however, there is a focus on "rights, equality... and, of course, justice."<sup>39</sup>

Rebecca Goldberg, former Assistant Chief Counsel at the Food and Drug Administration, notes there is a tension in the work of food justice advocates. There are the aspirations to achieve affordable healthy eating in disadvantaged communities, and there are the aspirations for equitable treatment for all players in the system, from producers, to consumers, to the environment.<sup>40</sup> Cheaper prices often require cheaper labor, and

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<sup>31</sup> Goldberg, *supra* note 14, at 43.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 47.

<sup>36</sup> *Id.* at 48.

<sup>37</sup> Goldberg, *supra* note 14 at 36–37.

<sup>38</sup> *Id.* at 50.

<sup>39</sup> *Id.* at 51.

<sup>40</sup> *Id.* at 38.

healthy foods may be more expensive to produce. This creates a double bind which is difficult to reconcile. Further, Goldberg warns the food justice movement may be paternalistic and culturally presumptive in its assertion that low-income communities should be shopping at Trader Joes with environmentally responsible tote bags.

With this critique in mind, urban agriculture is situated to support all three movements. It has the potential to increase food security via foods that are nutritionally sound, and it could support equal access to high-quality food regardless of income level. Urban agriculture does not involve paternalistic restrictions on liberty to encourage specific behavior, as did the attempted blocking of SNAP fund use on soda purchases.<sup>41</sup> The practice can be tailored to mitigate the paternalistic problems within the food justice movement by consulting with communities on the issue and giving low-income groups the opportunity to explore solutions themselves. Given urban agriculture's creative, flexible nature, it is more than capable of this tailoring.

While urban agriculture has an extensive history in the United States—particularly involving “victory gardens” in World Wars I and II—this Note focuses on its resurgence. Interest in urban agriculture is closely linked to the larger interest in local and regional food production.<sup>42</sup> From 2007 to 2014, farmers' markets and regional food hub channels increased at or more than 150 percent.<sup>43</sup> State legislation focusing on urban agriculture has increased steadily since 2007 as well, with many states working to improve land access.<sup>44</sup> States have also developed tax incentives to encourage the practice and set up committees to help expand local food production.<sup>45</sup>

Congress has followed this lead, and in 2018 built urban agriculture into its omnibus Farm Bill for the first time.<sup>46</sup> The provisions in the 2018 Farm Bill include a new Office of Urban Agriculture, an advisory committee, USDA grant authority, and pilot projects.<sup>47</sup> This Note argues from a food justice perspective

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<sup>41</sup> *Id.* at 42–43.

<sup>42</sup> Neil D. Hamilton, *Farms, Food, and the Future: Legal Issues and Fifteen Years of the "New Agriculture,"* 26 J. ENV'TL. L. & LITIG. 1, 2 (2011).

<sup>43</sup> USDA ECON. RSCH. SERV., TRENDS IN U.S. LOCAL AND REGIONAL FOOD SYSTEMS 3 (2015).

<sup>44</sup> *Id.* at 59.

<sup>45</sup> *Id.*

<sup>46</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4958.

<sup>47</sup> JOHNSON & COWAN, *supra* note 3, at 2.

that Congress must carefully tailor its urban agriculture provisions to ensure they help, not harm, disadvantaged communities. It will analyze the Farm Bill's new provisions and suggest solutions for each provision to achieve this goal.

## II. URBAN AGRICULTURE IN THE 2018 FARM BILL

The 2018 Farm Bill dedicates an entire section in Title XII to urban agriculture under Subtitle C: Historically Underserved Producers.<sup>48</sup> While a new iteration of the omnibus bill passes approximately every five years, 2018 was the first Farm Bill to include a specific section on urban agriculture.<sup>49</sup> It operates by amending subtitle A of the Department of Agriculture Reorganization Act of 1994, incorporating new provisions into already existing law.<sup>50</sup> The first amendment creates the Office of Urban Agriculture and Innovative Production.<sup>51</sup>

### A. *The Mission Statement*

The newly minted Office of Urban Agriculture (“Office”) lays out its mission explicitly in 7 U.S.C. 6923 § 222(a)(3).<sup>52</sup> It must “encourage and promote” community gardens in urban areas, rooftop farms, and indoor farms, among “other innovations in agricultural production.”<sup>53</sup> This mission statement focuses mostly on different categories of urban agriculture. It underscores the versatility of urban agriculture as a practice and its potential for innovation. It also reflects the concern for utilizing space as efficiently as possible, with mechanisms for production in smaller spaces like rooftops, or vertical farming. Notably lacking from the Office’s mission statement, however, is any language concerning *who* will engage in these practices, either as a consumer, producer, or any other player in the urban agriculture system.<sup>54</sup>

The silence in the Office’s mission statement regarding disadvantaged communities is palpable. While Congress placed urban agriculture within the “Historically Underserved

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<sup>48</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4958.

<sup>49</sup> RENÉE JOHNSON & JIM MONKE, CONG. RSCH. SERV., 2018 FARM BILL PRIMER: WHAT IS THE FARM BILL? 1 (2019).

<sup>50</sup> JOHNSON & COWAN, *supra* note 3, at 2.

<sup>51</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4958.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

Producers”<sup>55</sup> subtitle, it failed to communicate that the Office would aim to assist said producers.<sup>56</sup> While a mission statement does not itself allocate funds or prescribe action, it sets the tone for the legislation as written, as well as for future iterations. The Office’s current mission statement signals to lawmakers—and to those working within the department—that its purpose is merely to foster urban agriculture in American cities. With the current mission statement in place, urban agriculture practitioners may increasingly become people who are whiter, wealthier, and have the leisure time to engage in the activity.<sup>57</sup>

Congress should revise the Office’s mission statement to give it a purpose worthy of its placement in the “Historically Underserved Producers” subtitle. Namely, the mission should announce the Office’s intention to serve disadvantaged urban communities. The revision might communicate specific goals which the Office hopes to accomplish, such as reducing blight, increasing home values in low-income areas, or creating new jobs preferring low-income applicants.<sup>58</sup> Most importantly, the mission statement should articulate that it aims to reduce food insecurity. With a clear mission statement in place, Congress could enact policies for the Office of Urban Agriculture flowing from its defined goals, with an ultimate aim towards reducing food insecurity in the United States. These improvements have positive byproducts, including better physical and mental health, resulting in a more productive citizenry and lower healthcare costs.<sup>59</sup> A carefully revised mission statement sets the foundation for positive changes in the urban agriculture legislation.

### *B. Responsibilities & Public-Private Partnerships*

7 U.S.C. 6923 § 222(a)(4) outlines the Director’s responsibilities as senior officer.<sup>60</sup> The subsection begins by stating “The Director shall .... carry out the mission described in paragraph (3).”<sup>61</sup> This opening declaration reinforces the

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<sup>55</sup> *Id.*

<sup>56</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4499.

<sup>57</sup> See Siegner, *supra* note 1.

<sup>58</sup> *Id.* at 1.

<sup>59</sup> JOHN COOK & KAREN JENG, CHILD FOOD INSECURITY: THE ECONOMIC IMPACT ON OUR NATION, FEEDING AM. at 22–25 (2009).

<sup>60</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4958–59.

<sup>61</sup> *Id.*

argument that a properly defined mission statement is essential. The responsibilities then follow as listed: (1) Managing programs for community gardens, urban farms, rooftop agriculture, and indoor vertical production; (2) advising the Secretary; (3) updating programs through effective communication in the Department of Agriculture; (4) developing stakeholder relations and potential public-private partnerships; (5) identifying local best practices; (6) coordinating relationships between community gardens and local food banks; and (7) collaborating with other federal agencies.<sup>62</sup> While the aforementioned duties are an adequate starting point from a food justice perspective, Congress can certainly improve on them.

The responsibilities subsection contains several promising elements. The Director plays the primary role in managing community gardens and directly oversees them.<sup>63</sup> Additionally, stakeholder relations and public-private partnerships (“PPPs”) have the potential to generate equitable programs.<sup>64</sup> The most prominent example for the Office to study is the Supplemental Nutrition Assistance Program (“SNAP”), which utilizes PPPs to augment its own projects.<sup>65</sup> The Office could model its extra-governmental outreach on SNAP’s successes and learn from its failures.

Additionally, there are many smaller existing PPPs which focus on reducing food insecurity in a healthy manner.<sup>66</sup> These smaller programs may be a better proximate model for the Office than SNAP, considering SNAP’s tremendous size, as well as the agricultural implications here, which are not present in SNAP.<sup>67</sup> The National Conference of State Legislatures showcases four such PPPs the Office could look to for inspiration: The New Hampshire Food Bank, Hunger Free Vermont, Pennsylvania and New Jersey’s Food Trust, and Greater Twin Cities United Way in

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 4958.

<sup>64</sup> See Chesterfield Polkey, *Bringing Legislators to the Table: Addressing Hunger Through Public-Private Partnerships*, NAT’L CONF. OF STATE LEGIS. (Nov. 12, 2019), <https://www.ncsl.org/research/human-services/bringing-legislators-to-the-table.aspx> [<https://perma.cc/E8QL-YVQ3>].

<sup>65</sup> See *id.*

<sup>66</sup> See *id.*

<sup>67</sup> Tara Watson, *SNAP Benefits and the Government Shutdown*, ECONOFACT (Jan. 23, 2019), <https://econofact.org/snap-benefits-and-the-government-shutdown> [<https://perma.cc/5NAD-JSBH>] (“Approximately 20 million households with 40 million individuals used the SNAP program in Fiscal Year 2018, according to data from the U.S. Department of Agriculture.”).

Minnesota.<sup>68</sup> For example, The New Hampshire Food Bank created a culinary job training program and a production garden. The programs work jointly to employ “refugees, drug and alcohol rehabilitation program graduates, seniors who were forced to retire early,” and other struggling populations to help them gain certification in the culinary industry.<sup>69</sup> These employees then “provide 2,500 to 3,000 meals a week to homeless shelters and afterschool programs.”<sup>70</sup> The Office could fund or establish regional programs like The New Hampshire Food Bank, which work in conjunction with private-sector partners, to aid disadvantaged communities in both employment opportunities and food donations.<sup>71</sup>

The most promising responsibility listed in the legislation is the sixth: coordinating relationships between community gardens and local food banks.<sup>72</sup> With this, Congress indicates at least *some* urban farming benefits should flow to disadvantaged communities.<sup>73</sup> Urban agriculture can produce enough surplus to fill the shelves at local food banks.<sup>74</sup> Food bank patrons are quite likely to be food insecure. By tackling hunger at its source—and with nutritious food no less—community gardens and local food banks form a potent combination. That Congress made these relationships among the Director’s chief duties is encouraging.

The seventh responsibility: “(G) collaborating with other Federal agencies”, brings an opportunity for communication with Housing and Urban Development (“HUD”).<sup>75</sup> HUD is an opportune Agency to collaborate with on food justice issues.<sup>76</sup> It originates from Lyndon Johnson’s War on Poverty and describes its mission to “improve and develop the Nation’s communities” and “create a decent home and suitable living environment for all Americans.”<sup>77</sup> HUD provides funding to “develop viable urban communities” through its Community Development Block Grants

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<sup>68</sup> See Polkey, *supra* note 64, at 11–14.

<sup>69</sup> *Id.* at 11.

<sup>70</sup> *Id.* at 12.

<sup>71</sup> See Polkey, *supra* note 64.

<sup>72</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4958-59.

<sup>73</sup> See generally *id.*

<sup>74</sup> See Golden, *supra* note 4, at 11.

<sup>75</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4959.

<sup>76</sup> DEP’T OF HOUS. AND URB. DEV., *Questions and Answers about HUD*, <https://www.hud.gov/about/qaintro> [<https://perma.cc/6LQX-T5SR>].

<sup>77</sup> *Id.*

Program (“CDBG”).<sup>78</sup> Food justice advocates contend the Office of Urban Agriculture and HUD share similar goals such that collaboration is necessary. The USDA and HUD, working together, could allocate more funds and devote more resources to combat hunger than either could individually. HUD collaboration is one of many promising ideas the Director should consider when collaborating with other Federal Agencies. Overall, the Responsibilities subsection is the most encouraging in the Urban Agriculture legislation from the food justice perspective.

However, the Responsibilities subsection stands to benefit from a key addition. The Director’s primary function is communicating, and specifically involves advising the secretary, fostering relationships, and ensuring the Department of Agriculture is on the same page.<sup>79</sup> Congress should amend the urban agriculture legislation to include a system of correspondence between local agency heads and disadvantaged community members. The system might include a small group of specifically assigned residents conversing with agency members by video call on a monthly basis. This low-cost system would create a ground-up information source relaying the community’s needs to the department at the local level. Eventually, this information rises to the Director as a cluster of generalized issues which he can address. Much like the way capillary action drives water up from the roots and through the stem of a healthy plant, this process would result in a vibrant and adaptable organization.

Without a direct communication source in place between the Office and the community, the risks of paternalism are high. The advisory committee—addressed in the next section—is mostly comprised of farmers and businessmen. At best, these members will strive to develop policy aiding low-income communities without the community’s perspective. They will miss difficulties which would be obvious to a community resident. At worst, they will disregard the low-income community altogether in pursuit of objectives within their expertise.<sup>80</sup> These risks, left unchecked, will result in the gentrification which

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<sup>78</sup> See DEPT OF HOUS. AND URB. DEV., *CDBG: Community Development Block Grant Programs*, <https://www.hudexchange.info/programs/cdbg/> [<https://perma.cc/BE73-QEJK>].

<sup>79</sup> *Id.*

<sup>80</sup> See Alana Siegner et al., *Does Urban Agriculture Improve Food Security? Examining the Nexus of Food Access and Distribution of Urban Produced Foods in the United States: A Systematic Review*, 10 SUSTAINABILITY 2988, 2 (2018).

continues to spread in America's cities.<sup>81</sup> Urbanites with capital will invest in the urban agricultural market, and they will prosper to the exclusion of most everyone else.<sup>82</sup> The aforementioned dangers are real, and they necessitate a communication system that nips them in the bud.

*C. The Advisory Committee*

Part (b) of the amended statute establishes an advisory committee which will assist the Secretary on policy development, review ongoing research projects, and identify barriers to successful urban agricultural practice.<sup>83</sup> The committee will consist of four agricultural producers, two representatives from a higher education institution, one representative from a nonprofit, public health, environmental or community organization, one business representative, one food distribution representative, one financial representative, and two representatives with experience in urban agriculture.<sup>84</sup> While balance is key to an effective team, the committee needs more input on equitable matters.

Only one of twelve committee members represents the community's needs, and even then, it does so secondhand. Congress prescribes this one representative will have a background in a nonprofit, public health, environmental or community organization.<sup>85</sup> While closer to the issues than other members, there is no guarantee this individual will be in direct contact with the people who need the most help. Especially considering its prestigious nature as a seat on a federal agency committee, it is unlikely the selected member will be able to speak for these people. Thus, Congress should allocate one advisory seat to an exemplary food bank worker and one seat to a food bank manager/director.

This expansion would surely further one of the Director's main responsibilities—coordinating relationships between community gardens and food banks.<sup>86</sup> It would also ground the conversation in empirical fact, with the worker's experience checking other members' advice when it is based on a faulty premise. The additions are financially feasible for the food bank

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<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4960.

<sup>84</sup> *Id.* at 4959.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

worked and director, as each would be compensated for their travel per subsection (6)(B).<sup>87</sup> These additions, along with the community member mentioned in the previous section, would not be so extensive as to disrupt the Advisory Commission's complexion. Instead, they would assist the Commission in its chief goals while rooting the project in equitable soil.

Next, the legislation requires the advisory committee to create a biennial report "describing the recommendations developed under subparagraph A."<sup>88</sup> The statute gives no further direction with respect to the report's contents. Congress should amend this subsection to set general parameters on the report and the topics it will contain. One such required topic should address food insecurity and health in disadvantaged communities. It should then discuss how urban agriculture can meet these challenges. This framework will sharpen the committee's goals as they develop recommendations for all aspects of the office. It also guarantees that the committee will dedicate itself to equitable issues—and solutions—in each report.

Further, the report should closely follow any projects, experiments, or programs initiated under the urban agriculture umbrella, and track their results in real time. Since urban agriculture is a fledgling field, and entrepreneurial in nature, it needs rigorous tracing to arrive at solutions. This scientific, data-analysis centered approach will inevitably lead to self-improvement both in the food-insecurity arena and in the Office's general goals.

#### *D. Grants*

Part (c), grants, is the shortest in the urban agriculture section. It allows the Director to award competitive grants for projects furthering urban agriculture development to any of four recipient classes: "(1) a nonprofit organization, (2) a unit of local government, (3) a Tribal government, and (4) any school that serves any of grades kindergarten through grade 12."<sup>89</sup> This subsection's only fault is its brevity. Congress should clarify its goals in doling out competitive grants beyond "the development of

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<sup>87</sup> *Id.* at 4960.

<sup>88</sup> *Id.*

<sup>89</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4961.

urban agriculture.”<sup>90</sup> Instead, the legislation might specify its goals: making urban agriculture more feasible, engineering new methods, directing urban agricultural output to local food banks, etc.

Finally, Congress should make a small-but-crucial revision to this subsection’s scope. Instead of merely supporting urban agriculture and innovative production, the grants should also support innovative *distribution*. As the COVID-19 testing and vaccine rollouts have made self-evident, logistics are half the battle to effective community problem solving.<sup>91</sup> Dedicating grant money to distribution efforts could improve supply-chain systems; indeed, the Advisory Committee includes an individual with supply chain experience who could vet such grant applications.<sup>92</sup> Most important to the food justice advocate, these grants could forge networks between urban agriculture producers and food charities.

### *E. Pilot Projects*

The final provision in Congress’s Urban Agriculture legislation concerns pilot projects. This lengthy subsection concerns local county committee programs and reducing food waste in municipal governments.<sup>93</sup>

The first subsection requires the Secretary to establish a 5-year pilot program comprised of ten County Committees with a high concentration of urban or suburban farms.<sup>94</sup> The subsection is notable for its silence and thus its malleability. Since the County Committees subsection provides little language detailing the projects’ substance, the Secretary and the Committees each have broad autonomy to effectuate them. This flexibility allows the Committees to adapt the project’s purpose to their geographical and cultural environments. Once again, the statute’s *carte blanche* grant of authority complements urban agriculture’s innovative spirit. While flexibility is advantageous,

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<sup>90</sup> *Id.*

<sup>91</sup> See New GAO Report Points to Need to Address On-going Testing Challenges, AM. SOC’Y FOR MICROBIOLOGY (Feb. 1, 2021), <https://asm.org/Articles/Policy/2021/Feb-21/ASM-Emphasizes-Need-for-COVID-Testing-in-Response> [<https://perma.cc/SMC2-A67K>].

<sup>92</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4959.

<sup>93</sup> *Id.* at 4961.

<sup>94</sup> *Id.*

Congress should guarantee at least one of these projects experiments with solutions for disadvantaged communities.

Congress can designate one or two projects for low-income communities without jeopardizing the statute's adaptability. First, this designation for low-income communities still leaves most of the pilot projects untouched, allowing most County Committees to pursue their own priorities. Second, said designation can be minimally restrictive with proper drafting. For example, the first section establishing County Committees might include a revision as follows: The committees will "operate in counties located in urban or suburban areas, with a high concentration of urban or suburban farms. *At minimum, one Pilot Project should address the needs of an underserved urban community*" (words in italics added).<sup>95</sup> With one additional sentence, Congress could ensure the pilot projects address in part the needs of underserved populations. The addition does not otherwise restrict the means to such end; it still gives the committee full autonomy in their approach to urban agriculture and the struggling community. With this simple revision, Congress can plant the seeds for larger programs down the line.

The following and final subsection on County Committees require the Secretary to submit a report to the Committee on Agriculture in the House, and the Committee on Agriculture, Nutrition, and Forestry in the Senate.<sup>96</sup> The report will contain updates on each pilot program, summarize each committee's meetings, and disclose the services each committee provided in the previous year.<sup>97</sup> Communication between the legislative branch and the Office is likely positive as it places urban agriculture on the legislative radar. However, this prescribed action stands to benefit from additional legislative involvement.

Congress should amend this subsection to require submitted reports to the new Select Committee on Economic Disparity and Fairness in Growth. House Speaker Nancy Pelosi announced the Committee in December 2020 to "combat the income and wealth disparity in America."<sup>98</sup> The report could be truncated to include only those which address underserved community needs, as they most closely relate to issues of

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<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> Press Release, Speaker of the House, Pelosi Announces Creation of Select Committee on Economic Disparity & Fairness in Growth, (Dec. 30, 2020), <https://www.speaker.gov/newsroom/123020> [<https://perma.cc/L9D6-JUQC>].

inequality. This addition would significantly impact the food justice perspective: It would showcase urban agriculture’s potential to firebrand Congressional Democrats who are serious about inequality.<sup>99</sup> With new eyes on the USDA’s project, the Select Committee would have an opportunity to monitor the Office’s progress on equitable matters and suggest improvements in the following Farm Bill. Considering Urban Agriculture’s placement in the Farm Bill’s “Historically Underserved Producers” subtitle, the projects springing from it warrant examination by the Select Committee on Economic Disparity and Fairness in Growth.<sup>100</sup>

The final subsection in the Pilot Projects provision, and the final subsection in the Urban Agriculture section *en summa*, instructs the Secretary to carry out an additional ten pilot projects.<sup>101</sup> These projects’ purposes are much more defined than in the previous section.<sup>102</sup> They aim to increase community composting and reduce food waste at the municipality level.<sup>103</sup> Most of this subsection is not relevant to the food justice perspective. However, one sliver of language—in section 222(d)(2)(c)(iii)(III)—prompts the Secretary to prioritize projects which integrate “food waste strategies, including food recovery efforts.”<sup>104</sup> Considering 72 billion pounds of perfectly good food goes uneaten each year, there is significant room for improvement on this front.<sup>105</sup> Organizations like Feeding America have already begun work on the issue.<sup>106</sup> While Feeding America operates at the national level, there is potential for collaboration which aligns the USDA’s and Feeding America’s goals.<sup>107</sup> No revisions to the legislation are necessary here, but Office members should consider the future benefits of partnering with organizations like Feeding America.

### *F. Research Initiatives*

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<sup>99</sup> While Pelosi has yet to appoint Congressional members to the panel, this is likely to change in the coming months.

<sup>100</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4950.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* at 4962.

<sup>105</sup> *How We Fight Food Waste in the US*, FEEDING AMERICA, <https://www.feedingamerica.org/our-work/our-approach/reduce-food> [<https://perma.cc/7SM9-X8W2>] (last viewed Feb. 24, 2021).

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

An entirely separate section in the 2018 Farm Bill, Section 7212, founds a research and grant initiative focused on urban agriculture.<sup>108</sup> The legislation operates by amending a 1990 statute authorizing the Secretary to make competitive research grants.<sup>109</sup> Congress enumerates specific research topics for investigation, including contaminated site remediation, exploring energy-minimizing technologies, and developing new crop varieties.<sup>110</sup> Most intriguing to the food justice advocate is suggestion (3): “identifying and promoting the horticultural, social, and economic factors that contribute to successful urban, indoor, and other emerging agricultural production.”<sup>111</sup> This inquiry would benefit from interdisciplinary participation. Sociologists, food scientists, economists, urban planners—each could have a seat at the table in shaping urban agriculture’s future. The research undertaken pursuant to suggestion (3) should also include social scientists who study inequality and economic systems. Such research would provide evidence-based guidance to facilitate urban agriculture’s benefits to low-income populations.

Congress has taken strong first steps by introducing urban agriculture to the Farm Bill legislation.<sup>112</sup> There are many encouraging signs in the statutory language for the food justice movement. The Office of Urban Agriculture is situated in the “Historically Underserved Producers” section.<sup>113</sup> There will be a nonprofit member on the Advisory Committee.<sup>114</sup> The Director’s main responsibilities include coordinating relationships between community gardens and local food banks.<sup>115</sup> The next iteration of the Farm Bill can make incremental improvements in each subsection to establish the Office’s goals more firmly. Those goals should be to combat hunger with nutritious food and combat inequality with employment opportunities for the disadvantaged.

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<sup>108</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4812.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *See* Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4812 (2018).

<sup>113</sup> *Id.* at 4958.

<sup>114</sup> *Id.* at 4959.

<sup>115</sup> *Id.* at 4958–59.

### III. THE FUTURE OF URBAN AGRICULTURE—FOOD JUSTICE FOR WHOM?

Urban Agriculture’s future is as variable as its practice is innovative. This fledgling modality will likely expand to address national and global needs as urbanization continues to spread.<sup>116</sup> Arup Foresight (“Arup”), a firm devoted to “examin[ing] the many forces shaping the future of the built environment,” has conducted an in-depth report documenting a conference on urban agriculture.<sup>117</sup> While Arup’s report focuses on Singapore, it is a strong place to begin contemplating urban agriculture’s role in the coming decades, and how such a role might include food justice.<sup>118</sup>

The Arup Report predicts global food production will need to increase 25 percent by 2050.<sup>119</sup> Both the climate crisis and urbanization will continue to escalate throughout the 21<sup>st</sup> century, and these trends are sure to complicate traditional methods of food production.<sup>120</sup> Enter urban agriculture: “Recent studies project potential urban agriculture food production of 100-180 million tons annually.”<sup>121</sup> Thus, it is very likely urban agriculture will become a key player in the agricultural sector in the next twenty to thirty years. With an increasing presence comes an increasing opportunity to uplift disadvantaged communities.

Since urban agriculture relies on smaller, easily accessible spaces (often inside or directly outside of one’s home), it is a much more accessible practice than the large-scale agribusinesses currently in operation. Its lower barriers to entry could allow those with little capital to start and nurture their own urban agricultural enterprises. The only thing these potential small business owners need is the skills to begin.

This is where the Office of Urban Agriculture could step in. As the demand for urban agriculture rises in the coming decades, the Office should establish training programs to give low-income Americans the skills to succeed in the field. The

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<sup>116</sup> ANNE KOVACHEVICH, ARUP EXPLORES URBAN AGRICULTURE 3 (2019).

<sup>117</sup> *Foresight Advisory*, ARUP, <https://www.arup.com/perspectives/publications/promotional-materials/section/foresight-advisory> [<https://perma.cc/CFK5-TXDT>] (last viewed Feb. 24, 2021).

<sup>118</sup> ANNE KOVACHEVICH, *supra* note 116.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 8.

Office could achieve this in numerous ways. It could create PPPs with private organizations specializing in employee training or business practices, utilizing the USDA's research and knowledge on the subject. Alternatively, the Office could lobby for urban agriculture's inclusion in a Green New Deal, with training in its own statutory provisions. These are just two routes the Office could take in spearheading training programs for the disadvantaged. Such programs could create new jobs, reduce inequality, and move healthy foods closer to the forefront of the national diet. They are advantageous because they fight hunger on two fronts: by supplying nutritious food and by giving gainful employment to those who need it. This dual-reduction approach has enormous potential as the industry continues to grow.

Urban Agriculture will require an interdisciplinary effort to blossom properly, and the Arup Report features a diverse ensemble to support it. From food scientists endeavoring to reduce food waste, to structural designers creating the next generation of adaptable greenhouses, to companies integrating food gardens into already-existing environments, the work of urban agriculture is only just beginning.<sup>122</sup> Its scope is already expanding beyond traditional agricultural industries to include new technologies and methods.<sup>123</sup> As new technologies lead to new jobs, the food justice advocate's paramount question is who gets those jobs, and policymakers must answer this question as inequality in America continues to rise.<sup>124</sup>

Once again, as the Office can provide training for urban farming, it can provide training for peripheral industries as well. Much like the Office plans to solidify networks between community gardens and local food banks now, the Office could coordinate with food scientists, downtown real estate developers, non-profit organizations, and city planners to bring urban agriculture to its full potential.<sup>125</sup> As these connections are forged, new and related job opportunities will spring up. A specialized construction worker might build urban farming into new city structures. Lighting and other energy technologies will require the proper technicians. While some peripheral industries will

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<sup>122</sup> *Id.* at 12, 15, 16.

<sup>123</sup> *Id.*

<sup>124</sup> Karen Petrou, *Only the Rich could Love this Economic Recovery*, N.Y. TIMES (July 12, 2021), <https://www.nytimes.com/interactive/2021/07/12/opinion/covid-fed-qe-inequality.html> [<https://perma.cc/PT64-LEYK>].

<sup>125</sup> Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490, 4959 (2018).

need high levels of education to enter—like food scientists and architects—many jobs will be available to those with a lower education background. It is the Office’s duty to ensure disadvantaged community members have both food on the table and opportunities on the jobsite.

### CONCLUSION

*The big doors of the country-barn stand open and ready,  
The dried grass of the harvest-time loads the slow-drawn wagon,  
The clear light plays on the brown gray and green intertinged,  
The armfuls are packed to the sagging mow.”*

- Walt Whitman, *Leaves of Grass*<sup>126</sup>

Walt Whitman was equally at home among the farmer’s hay-boughs and the city’s cluttered streets.<sup>127</sup> He would be overjoyed to discover, much like his own New York City in the 1850’s, agriculture has entered the urban sphere once again.<sup>128</sup> He would also likely share the concern that the downtrodden be given an opportunity to nurture the soil and make a living from it.<sup>129</sup> Congress has myriad opportunities to achieve such a purpose: it may establish communication networks between the poor and the decisionmakers; it may mandate research into questions of inequality as they pertain to urban agriculture; it may amend the Office’s mission statement to make its anti-hunger goals clear. With these suggestions in place, Congress should strive to make our future urban gardens accessible to all.

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<sup>126</sup> WALT WHITMAN, *LEAVES OF GRASS* 30 (Lowe & B. Hould 1855) (1998).

<sup>127</sup> *Id.* at 49 (“I hear all sounds as they are tuned to their uses. . . Sounds of the city and / sounds out of the city. . .”).

<sup>128</sup> JOHN W. COOKE, *GENERATIONS OF STYLE: IT’S ALL ABOUT THE CLOTHING* 17 (Brooks Brothers, 6th ed. 2013) (“ . . . a proposal before the [New York] City Council to outlaw ‘swine running in the streets.’”).

<sup>129</sup> WALT WHITMAN, *LEAVES OF GRASS* 30 (Lowe & B. Hould 1855) (1998); (“The infected in the immigrant hospital are not nothing. . . The murderer / or mean person is not nothing”).