

2023

Agriculture on the Move: Proposed Actions to Bolster Local Food Systems

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Recommended Citation

Kathrynn D. Johnston, *Agriculture on the Move: Proposed Actions to Bolster Local Food Systems*, 46 CAMPBELL L. REV. 137 (2023).

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Agriculture on the Move: Proposed Actions to Bolster Local Food Systems

ABSTRACT

A movement to consume fewer processed goods and obtain food from local and regional sources has gained popularity in the last two decades. Local food systems offer several benefits; however, they are not well-supported by the federal government. The USDA has administered a system of federal agricultural subsidies for nearly a century, but that system powerfully supports a limited group, usually the largest industrial farms growing a small number of crops—none of which include fruits and vegetables. Correspondingly, consumers have gradually shifted their diets to incorporate increasing amounts of subsidized crops and those crops' byproducts to the detriment of overall national health. One must wonder, could federal agricultural subsidies be employed in a way that better promotes citizens' best interests by supporting local food systems? This Comment explores the food system structures currently in place, the origin of federal agricultural subsidies, and the USDA's stated goals for its own direction as an agency. This Comment goes on to propose a reallocation of subsidy resources and other actions that could both accomplish the USDA's organizational aims and promote national health by bolstering local food systems.

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INTRODUCTION

You have probably heard the phrase “eat local” sometime since it was popularized in the early twenty-first century.¹ This movement challenges people to consume fewer processed foods and obtain goods from local options such as farms, farmers markets, produce stands, and cooperatives, rather than from traditional chain grocery stores.² The original concept has expanded into phrases like “shop local” to a general call to “think local” in recent years, placing a positive emphasis on small businesses and investing in one’s own geographic area.³ The sentiments behind these concepts, such as togetherness, support, and community improvement, are endearing, but do citizens truly benefit from obtaining their food from local and small-scale sources? If so, should the federal government promote citizens’ best interests by directing financial resources toward local production, processing, distribution, and market operations?

In Part I, this Comment provides an overview of the food systems that are currently in place. First, this Comment briefly explains the United States Department of Agriculture (USDA), its role as a government agency, and its established programs. Those programs are either designed to facilitate access to food—such as the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; and the Farmers’ Market Nutrition Program⁴—or to increase the production of food. Next, this Comment discusses the federal practice of subsidizing large-scale industrial food production. At the conclusion of Part I, this Comment reviews the USDA’s vision for improvements and new

1. Ystrdaysamerica, *Eating Local: The Pros and Cons of a Divisive Food Movement*, YESTERDAY’S AMERICA, <https://yesterdaysamerica.com/eating-local-the-pros-and-cons-of-a-divisive-food-movement/> [https://perma.cc/M3NS-FUYB]. Although the origin of the farm-to-table concept is attributed to activists in the 1960s and 1970s, the popularization of the movement is connected to the early 2000s. *Id.*

2. *See, e.g., Eat Local*, PITT COUNTY N.C., <https://www.pittcountync.gov/354/Eat-Local> [https://perma.cc/9U4Q-6PNH] (encouraging residents to “eat local” and inviting them to the Farmers Market Nutrition Education Program).

3. *See, e.g., Think Local. Go Local.*, HEART OF BREVARD, <https://brevardnc.org/community/localheart/> [https://perma.cc/Y7NX-M2RT] (using phrases to encourage support of small business when shopping or dining); *What is Think Local Transylvania?*, THINK LOC. TRANSYLVANIA, <https://www.thinktransylvania.com/aboutus> [https://perma.cc/K2WR-3PFC] (calling residents to think local).

4. *FNS Nutrition Programs*, FNS, U.S. DEP’T OF AGRIC., <https://www.fns.usda.gov/programs> [https://perma.cc/3GU5-YHST] (providing a complete list of current programs administered by the USDA under the Food and Nutrition Services umbrella).

programming. In Part II, this Comment suggests additional measures the federal government could implement to continue strengthening local food systems—primarily by subsidizing local food producers, but also through incentivizing nutrient-dense food choices and encouraging community hobby-farming.

I. EXISTING FOOD SYSTEMS

There is a commonly acknowledged nutritional crisis in the United States.⁵ On one end of the spectrum, food may be difficult to obtain reliably. For example, in 2021, the USDA Economic Research Service found that more than 13.5 million United States households were food-insecure, meaning that the households lacked sufficient financial or other resources to reliably acquire enough food for their household members.⁶ At the other end of the spectrum, the available food may not be nutritionally balanced or may be consumed in excess amounts that negatively impact health. The Center for Disease Control and Prevention reports that obesity-related conditions are among the leading causes of “preventable, premature death” in United States adults.⁷ One such obesity-related condition is cardiovascular disease,⁸ which has been the consistent leading cause of death in the United States for the last five years.⁹ Good health and a proper nutritional balance are elusive for many of our nation’s citizens.

5. See, e.g., Allison Aubrey, *The U.S. Diet is Deadly. Here are 7 Ideas to Get Americans Eating Healthier*, NPR (Aug. 31, 2022, 12:28 PM), <https://www.npr.org/sections/health-shots/2022/08/31/1120004717/the-u-s-diet-is-deadly-here-are-7-ideas-to-get-americans-eating-healthier> [https://perma.cc/Q4DP-SDBG].

6. *Key Statistics & Graphics*, ERS, U.S. DEP’T OF AGRIC., <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/key-statistics-graphics/> [https://perma.cc/HW38-SKRJ] (last updated June 20, 2023).

7. *Adult Obesity Facts*, OVERWEIGHT AND OBESITY, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/obesity/data/adult.html> [https://perma.cc/JF7A-G8WM] (last updated May 17, 2022).

8. *Id.*

9. See JIAQUAN XU ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF NO. 456, MORTALITY IN THE UNITED STATES, 2021, at 4 (2022), <https://www.cdc.gov/nchs/data/databriefs/db456.pdf> [https://perma.cc/6N4X-SX4S]; SHERRY L. MURPHY ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF NO. 427, MORTALITY IN THE UNITED STATES, 2020, at 4 (2021), <https://www.cdc.gov/nchs/data/databriefs/db427.pdf> [https://perma.cc/PU95-HLXL]; KENNETH D. KOCHANEK ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF NO. 395, MORTALITY IN THE UNITED STATES, 2019, at 4 (2020), <https://www.cdc.gov/nchs/data/databriefs/db395-H.pdf> [https://perma.cc/4G8T-MFGA]; JIAQUAN XU ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF NO. 355, MORTALITY IN THE UNITED STATES, 2018, at 2 (2020),

Furthermore, the impact of poor health is not limited to those who experience its immediate, physical burden. A larger social burden reaches healthy and unhealthy citizens alike, including problems like fewer people qualified for military service, fewer people contributing to national productivity, and “skyrocketing health care costs.”¹⁰ The USDA reported that around “85 percent of current health care spending is related to management of diet-related chronic disease.”¹¹ Because there exists a widespread problem with accessing food and proper nutrition, which in turn impacts an even wider portion of the nation, it seems the federal government would serve its citizens well by promoting positive change related to nutrition and food sources.

A. *Relevant Government Agencies*

There are two big players in food at the federal level: the USDA and the Food and Drug Administration (FDA). The USDA is an expansive agency created in 1862 to serve the American people by “provid[ing] leadership on food, agriculture, natural resources, rural development, nutrition, and related issues.”¹² The USDA is responsible for administering the federal agricultural subsidy regime according to legislation approved by Congress.¹³ The other major entity, the FDA, functionally began in 1906 and received its current name in 1930.¹⁴ The FDA is responsible for

<https://www.usda.gov/sites/default/files/documents/usda-actions-nutrition-security.pdf> [<https://perma.cc/433V-UGMG>]; SHERRY L. MURPHY ET AL., CTRES. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF NO. 328, MORTALITY IN THE UNITED STATES, 2017, at 4 (2018), <https://www.cdc.gov/nchs/data/databriefs/db328-h.pdf> [<https://perma.cc/UF3J-8SZ7>].

10. *Food and Nutrition Security*, U.S. DEP’T OF AGRIC., <https://www.usda.gov/nutrition-security> [<https://perma.cc/LC6N-XEDR>]; see also FNS, U.S. DEP’T OF AGRIC., USDA ACTIONS ON NUTRITION SECURITY 1 (2022), <https://www.usda.gov/sites/default/files/documents/usda-actions-nutrition-security.pdf> [<https://perma.cc/433V-UGMG>].

11. *Food and Nutrition Security*, *supra* note 10 (citing *Health and Economic Costs of Chronic Diseases*, CTRES. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/chronicdisease/about/costs/index.htm> [<https://perma.cc/DQA8-9ZR2>]).

12. *About the U.S. Department of Agriculture*, U.S. DEP’T OF AGRIC., <https://www.usda.gov/our-agency/about-usda> [<https://perma.cc/UK65-K4RF>].

13. See generally *Agricultural Subsidies*, NAL, U.S. DEP’T OF AGRIC., <https://www.nal.usda.gov/economics-business-and-trade/agricultural-subsidies> [<https://perma.cc/DY2W-5UZ6>] (providing resources to learn about subsidization).

14. *FDA History*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/fda-history> [<https://perma.cc/7CHZ-NBNJ>] (last updated June 29, 2018) (explaining that the passage of the Pure Food and Drugs Act in 1906 began the FDA’s regulatory function).

ensuring that food is packaged safely with accurate labelling¹⁵ and maintaining the safety of the nation's food supply.¹⁶ The FDA also works with food and nutrition through its subagency, the Department of Health and Human Services.¹⁷

The delineation of roles between the USDA and FDA is frequently difficult for citizens to discern,¹⁸ so one may wonder which organization is better poised to take action to bolster local food systems. While there may be steps the FDA could take that are relevant to promoting local food systems, the USDA is the agency best poised to implement this Comment's proposals as the administrator of the federal agricultural subsidy program. Accordingly, the USDA will be the agency of focus throughout this Comment.

B. Current Programs and Practices

The USDA has a litany of ongoing programs to facilitate access to consumable foods and stimulate food production. The organization also has hopeful goals for establishing new programs to continue making improvements. Understanding the USDA's tools and goals provides a framework to detect any defects in these solutions.

1. Access

Access to nutritious food is not ubiquitous in the United States.¹⁹ For example, one in four Americans receives assistance from one of more than a dozen USDA nutrition assistance programs at some point during the year.²⁰ These federal programs are generally administered through state

15. *What Does FDA Do?*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/fda-basics/what-does-fda-do> [<https://perma.cc/7LDG-BKQP>] (last updated June 28, 2021).

16. *Food Defense Initiatives*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/food/food-defense/food-defense-initiatives> [<https://perma.cc/3XWW-M933>] (last updated Nov. 10, 2022).

17. *FDA Organization*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/fda-organization> [<https://perma.cc/Q3DN-WZGR>] (last updated Jan. 17, 2020).

18. The FDA itself notes that it is "frustrating and confusing" for consumers to determine the appropriate regulatory agency. *See What Does FDA Regulate?*, U.S. FOOD & DRUG ADMIN., <https://www.fda.gov/about-fda/fda-basics/what-does-fda-regulate> [<https://perma.cc/C73C-ZDAE>] (last updated Jan. 18, 2022).

19. *See supra* Part I.

20. U.S. DEP'T OF AGRIC., FISCAL YEAR 2022 BUDGET SUMMARY 70 (2021). *See generally FNS Nutrition Programs*, *supra* note 4 (providing a complete list of current programs administered by the USDA under the Food and Nutrition Services umbrella).

agencies,²¹ and qualification is income-based or asset-based and may also depend upon factors such as age or the number of persons living in a household.²² Most programs that provide financial support for food purchases do not have strict nutritional restrictions. For example, under Supplemental Nutrition Assistance Program (SNAP)—the most widely-utilized USDA assistance program²³—Electronic Benefit Transfer cards will purchase a box of Little Debbie snack cakes just as well as a bag of fresh oranges.²⁴

This is important because processed snack foods are often made from subsidized commodities like corn and their derivative products like corn syrup and vegetable shortening, which makes their final sales price lower than fresh foods.²⁵ Fresh food can often cost more per serving than

21. For example, fifteen federal programs are administered in North Carolina. *FNS Contacts*, FNS, U.S. DEP'T OF AGRIC., https://www.fns.usda.gov/fns-contacts?f%5B0%5D=fns_contact_state%3A260 [<https://perma.cc/P7ZK-Q469>]. Two are administered by the Eastern Band of Cherokee Indians Public Health and Human Services. *Id.* Five are administered by the NC Department of Health and Human Services: Farmers Market Nutrition Program, Farm to School Program, Seniors Farmers' Market Nutrition Program, WIC, and Child and Adult Care Food Program. *Id.* Three are administered by the NC Department of Agriculture and Consumer Services: Commodity Supplemental Food Program, Emergency Food Assistance Program, and USDA Foods in Schools. *Id.* Five are administered by the NC Department of Public Instruction: Summer Food Service Program, National School Lunch Program, Special Milk Program, School Breakfast Program, and Fresh Fruit and Vegetable Program. *Id.*

22. See, e.g., *Food and Nutrition Services (Food Stamps)*, N.C. DEPT OF HEALTH & HUM. SERV., <https://www.ncdhhs.gov/divisions/child-and-family-well-being/food-and-nutrition-services-food-stamps> [<https://perma.cc/TKV7-AHK5>] (enumerating eligibility qualifications for food stamps, also called SNAP benefits).

23. See *Supplemental Nutrition Assistance Program (SNAP): Overview*, ERS, U.S. DEP'T OF AGRIC., <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/#:~:text=The%20Supplemental%20Nutrition%20Assistance%20Program,program%20for%20low%2Dincome%20Americans> [<https://perma.cc/7XC7-A5RF>] (last updated Mar. 8, 2023).

24. See *Supplemental Nutrition Assistance Program (SNAP): What Can SNAP Buy?*, FNS, U.S. DEP'T OF AGRIC. (Apr. 14, 2021), <https://www.fns.usda.gov/snap/eligible-food-items> [<https://perma.cc/7FED-M9JT>] (listing both fruits and snack foods as permissible purchases).

25. MIKE RUSSO, U.S. PIRG EDUCATION FUND, *APPLES TO TWINKIES: COMPARING FEDERAL SUBSIDIES OF FRESH PRODUCE AND JUNK FOOD* (2011), <https://publicinterestnetwork.org/wp-content/uploads/2011/12/Apples-to-Twinkies-web-vUS.pdf> [<https://perma.cc/5UY7-CFN4>]; see Michael Pollan, *The Way We Live Now: 10-12-03, The (Agri)Cultural Contradictions of Obesity*, N.Y. TIMES MAG. (Oct. 12, 2003), <https://www.nytimes.com/2003/10/12/magazine/the-way-we-live-now-10-12-03-the-agri-cultural-contradictions-of-obesity.html> [<https://perma.cc/7Y96>] (“[T]he easiest thing to do

processed food counterparts because the fresh food receives significantly less federal funding through subsidies.²⁶ The USDA's unweighted approach toward financial assistance places foods of dramatically different nutritional quality on the same playing field, leaving cost and taste to play a large role in purchases. Because foods with poorer nutritional quality are often cheaper, and because many people are predisposed to choose less healthy snacks (demonstrated by the debilitating national health trends discussed *supra*), beneficiaries of nutritional assistance programs are poised to continue the cycle of poor health. In this respect, the USDA does nothing to favor healthier foods or choices with stronger nutritional benefits.

Equivalent purchasing power, however, should not be interpreted to mean the USDA does not support balanced nutrition in other ways. The USDA makes available an impressive number of tools and resources for those who want to learn more about nutrition, foods, and health for children and adults. For example, SNAP-Ed Connection helps recipients learn to make the most of the benefits they receive,²⁷ and the Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC") provides nutritional education and medical support in addition to monetary benefits.²⁸ WIC is even making strides in encouraging fresh, unprocessed foods and supporting local food systems through special programs allowing women, children, and seniors to shop at farmers markets and food stands with their credits.²⁹ The Commodity Supplemental Food Program serves senior citizens by distributing foods that are high in the "nutrients typically lacking" in seniors' diets.³⁰ Some programs take a different approach, partnering with schools and childcare providers directly, such as the Fresh

with the surplus [agricultural commodity] is to turn it into more compact and portable value-added commodities . . . highly processed foods of every description.").

26. RUSSO, *supra* note 25, at 8. See generally Pollan, *supra* note 25 (comparing the overproduction of corn in the 1800s, which produced abundant and cheap whiskey and led to a national drinking problem, with the modern overproduction of subsidized commodities, which is producing abundant and cheap junk foods and leading to a national obesity problem).

27. *SNAP-Ed Connection*, SNAP-ED CONNECTION, U.S. DEP'T OF AGRIC., <https://snaped.fns.usda.gov/> [<https://perma.cc/R8T9-4A8H>].

28. U.S. DEP'T OF AGRIC., WIC FARMERS' MARKET NUTRITION PROGRAM 1 (2021) <https://www.fns.usda.gov/fmnp/fact-sheet> [<https://perma.cc/W2MW-CFDT>].

29. See *id.* (offering farmers market access to people qualifying for WIC benefits); see also U.S. DEP'T OF AGRIC., SENIORS FARMERS' MARKET NUTRITION PROGRAM 1 (2023), <https://www.fns.usda.gov/sfmnp/fact-sheet> [<https://perma.cc/LSN8-XKZ3>] (offering farmers market access to low-income senior citizens).

30. *CSFP Fact Sheet: What is CSFP?*, FNS, U.S. DEP'T OF AGRIC., <https://www.fns.usda.gov/csfp/csfp-fact-sheet> [<https://perma.cc/PKS2-2P9A>] (last updated July 1, 2019).

Fruit and Vegetable Program that encourages elementary children to experiment with new foods and enjoy vegetables “as they are.”³¹

Each of these programs take steps toward providing good nutrition rather than merely consumable food to the populations they serve, and the USDA makes a wealth of educational resources about nutrition publicly available,³² including: the MyPlate program,³³ new dietary guidelines published every five years,³⁴ and healthy eating patterns broken down by type of food and serving size for various caloric intake levels and an American-, vegetarian-, or Mediterranean-style diet.³⁵

2. Production

The production of food is an essential part of any conversation about nutritional security and local food systems, because growing plants and raising animals is foundational to the food supply. Unfortunately, farming is a risky business. Farmers typically rely on loans—borrowing to sow and repaying after reaping and selling the harvest.³⁶ Their production’s quality and quantity depends on environmental factors outside their control, such as rainfall and seasonal temperatures.³⁷ Additionally, farmers’ sale prices are impacted by shifting economies and military conflicts.³⁸ These risks are particularly difficult to bear for family-owned farming operations with

31. U.S. DEP’T OF AGRIC., *The Fresh Fruit and Vegetable Program 2* (2017), <https://fns-prod.azureedge.us/sites/default/files/resource-files/FFVFactSheet.pdf> [<https://perma.cc/DUX8-NEN4>].

32. See generally *Researcher: Center for Nutrition Policy and Promotion (CNPP)*, FNS, U.S. DEP’T OF AGRIC. (Jan. 06, 2021), <https://www.fns.usda.gov/cnpp/researcher> [<https://perma.cc/QLT3-6RDS>] (listing numerous fact sheets and informational documents related to the Food and Nutrition Service).

33. *My Plate*, U.S. DEP’T OF AGRIC., <https://www.myplate.gov/> [<https://perma.cc/4QYU-XVND>] (providing a bank of resources for nutritional education).

34. See, e.g., U.S. DEP’T OF AGRIC., *Dietary Guidelines for Americans 2020–2025* (9th ed. 2020), https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf [<https://perma.cc/V8V6-K4RJ>].

35. See *USDA Dietary Patterns*, FNS, U.S. DEP’T OF AGRIC., <https://www.fns.usda.gov/cnpp/usda-dietary-patterns> [<https://perma.cc/7DZF-A3FH>] (last updated Aug. 17, 2023) (providing links to guidelines for all three diet styles).

36. Kimberly Amadeo, *How Farm Subsidies Affect the U.S. Economy*, THE BALANCE, <https://www.thebalancemoney.com/farm-subsidies-4173885> [<https://perma.cc/7FFV-W5LY>] (last updated Apr. 18, 2022).

37. See *id.*

38. See *id.*

fewer financial resources, like the 97% of farms that make less than \$1 million annually.³⁹

Because farming is an uncertain endeavor and yet unmistakably vital to a functioning society, the USDA administers a variety of programs and initiatives to assist farmers.⁴⁰ Options for small and mid-size farmers include microloans, cost-sharing for certain certifications, participation in a farmers market directory, assistance with land and water management plans, and a wealth of educational resources.⁴¹ There is a tailored application for small and very small producers of grass-fed beef and special grants are available for those new to the industry,⁴² those starting rural cooperatives, and those from socially disadvantaged groups.⁴³

The USDA's Farm Service Agency also offers programs to a wider range of producers through various kinds of insurance. Crop insurance was historically limited to commodity crops—wheat, corn, soybeans, rice, and cotton—but modern insurance also covers some fruits, vegetables, and other specialty crops.⁴⁴ Other kinds of insurance protect farmers against fluctuations in crop value, while disaster aid programs and conservation programs anticipate what the future could hold.⁴⁵

One of the USDA's primary tools in regulating the market is subsidization.⁴⁶ The federal government began subsidizing agriculture in 1933⁴⁷ when the Agricultural Adjustment Act (AAA) arose out of economic

39. *See id.*

40. *See generally Farmers.gov Tools*, FARMERS.GOV, U.S. DEP'T OF AGRIC., <https://www.farmers.gov/> [<https://perma.cc/TVE9-ZN2P>] (providing access to a variety of tools and resources for farmers).

41. *Small and Mid-Sized Farmer Resources*, U.S. DEP'T OF AGRIC., <https://www.usda.gov/topics/farming/resources-small-and-mid-sized-farmers> [<https://perma.cc/35RK-4YA8>].

42. *Grass Fed Small and Very Small Producer Program*, AMS, U.S. DEP'T OF AGRIC., <https://www.ams.usda.gov/services/auditing/grass-fed-SVS> [<https://perma.cc/SC2G-8QFT>].

43. *Small and Mid-Sized Farmer Resources*, *supra* note 41.

44. *Challenges and Opportunities Surrounding US Agricultural Subsidies*, STRAY DOG INST. (JUNE 2, 2022), <https://straydoginstitute.org/agricultural-subsidies/#> [<https://perma.cc/JF2H-KYAM>].

45. *Id.*

46. *See generally Agricultural Subsidies*, NAL, U.S. DEP'T OF AGRIC., <https://www.nal.usda.gov/economics-business-and-trade/agricultural-subsidies> [<https://perma.cc/DY2W-5UZ6>] (providing resources to learn about subsidization).

47. *Challenges and Opportunities Surrounding US Agricultural Subsidies*, *supra* note 44.

devastation in the United States.⁴⁸ The AAA was designed, in part, to stem the overproduction of certain commodities in order to raise their prices and restabilize farmers' income.⁴⁹ Though aspects of the AAA were later declared unconstitutional,⁵⁰ Congress revised the system in order to continue subsidized farming. A new AAA was passed in 1938, and additional legislation has been layered on top of it periodically for nearly a century.⁵¹ With each version, Congress responded to the changing needs of the nation, such as growing international trade or special wartime demands.⁵² The result is a complex, layered system that proves difficult to understand. Strikingly, despite the origin of subsidies as a strategy to *limit* production, subsidies became an encouragement toward *maximizing* production in the 1970s and have remained that way.⁵³

According to the 2017 agricultural census,⁵⁴ there were more than 2 million farms in the United States that sell at least \$1,000 in agricultural products annually,⁵⁵ and the government made \$8.9 billion in payments to U.S. farms that year.⁵⁶ Surprisingly, however, the majority of that money reached very few farms. One writer observed that “[s]ubsidies are concentrated geographically, they are concentrated on relatively few crops, and they are concentrated on relatively few producers.”⁵⁷ The quantity of

48. WAYNE D. RASMUSSEN ET AL., U.S. DEP'T OF AGRIC., AGRIC. INFO. BULL. No. 391, A SHORT HISTORY OF AGRICULTURAL ADJUSTMENT, 1933–75, at 1–2 (1976).

49. *Id.* at 2.

50. *United States v. Butler*, 297 U.S. 1, 78 (1936).

51. See RASMUSSEN ET AL., *supra* note 48, at 6 (explaining the 1938 Agricultural Adjustment Act and subsequent, related legislation through 1975); *Challenges and Opportunities Surrounding US Agricultural Subsidies*, *supra* note 44 (“The AAA is updated by the US Farm Bill every five years . . .”).

52. RASMUSSEN ET AL., *supra* note 48.

53. Pollan, *supra* note 25 (attributing this policy change to the Nixon administration's solution to soaring food prices in the early 1970s).

54. A new agricultural census is conducted every five years. The 2022 census is still accepting responses and will not release information until sometime in 2024, so the 2017 census information is the most current data available. *Census of Agriculture*, NASS, U.S. DEP'T OF AGRIC., <https://www.nass.usda.gov/AgCensus/> [<https://perma.cc/X6U8-PGSZ>] (last updated Aug. 7, 2023).

55. NASS, U.S. DEP'T AGRIC., 2017 CENSUS OF AGRIC. DATA RELEASE 6–7 (2019) https://www.nass.usda.gov/Newsroom/Executive_Briefings/2019/04-11-2019.pdf [<https://perma.cc/8U8S-4AU9>].

56. NASS, U.S. DEP'T AGRIC., No. ACH17-1, 2017 CENSUS OF AGRICULTURE HIGHLIGHTS: FARM ECONOMICS 2 (2019) [hereinafter FARM ECONOMICS], https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Farm_Economics.pdf [<https://perma.cc/8Z64-K9PQ>].

57. Bruce A. Babcock, *The Concentration of U.S. Agricultural Subsidies*, 7 IOWA AG REV., no. 4, Fall 2001, at 1, 8.

qualifying crops a farm produces determines the amount of money farms receive, so subsidy distribution is logically concentrated among the largest farms nationwide.⁵⁸

For example, in 2020, when the COVID-19 pandemic prompted the federal government to make an unprecedented \$45.7 billion in assistance payments to farmers, two-thirds of those subsidy payments went to the largest 10% of farms.⁵⁹ Very large, industrial-scale farms support a national food system but also foster systemic weaknesses: interruptions and delays in production, processing, distribution, and sale of food.⁶⁰ Meanwhile, smaller farms focusing on local and regional distribution are left to shoulder agricultural risks with much less government assistance than their industrial counterparts, even though small farm prosperity would contribute toward the USDA's priorities for systemic improvement.⁶¹

It is also worth noting that the most heavily subsidized crops—those being produced by industrial farms in high volume—are corn, soybeans, wheat, cotton, and rice.⁶² Subsidized grains and their derivative products are cheaper for consumers than other foods.⁶³ Consequently, grains have come to constitute one-fourth of the American diet while fruits and vegetables constitute only one-tenth.⁶⁴ Supporting smaller producers, especially of nutritious fruits and vegetable that are being sold locally, could contribute to reliable food access and better-rounded dietary patterns for many Americans.⁶⁵

58. *See id.* at 9.

59. *Challenges and Opportunities Surrounding US Agricultural Subsidies*, *supra* note 44.

60. *See infra* Part II.

61. *Id.*

62. Amadeo, *supra* note 36.

63. *See supra* Part I.B.1.

64. Drew Desilver, *What's on Your Table? How America's Diet has Changed Over the Decades*, PEW RSCH. CTR. (Dec. 13, 2016), <https://www.pewresearch.org/fact-tank/2016/12/13/whats-on-your-table-how-americas-diet-has-changed-over-the-decades/> [<https://perma.cc/UMT4-MRZG>].

65. *See generally* Clara Malley, *Samin Nosrat and José Andrés Get to the Root of the Food Industry's Malnourishment*, DOCUMENT J. (May 14, 2019), <https://www.documentjournal.com/2019/05/samin-nosrat-and-jose-andres-on-future-of-food/> [<https://perma.cc/M8PM-JRYL>] (“Until there’s economic incentives for farmers to grow healthy crops—more than just corn, soy, and wheat—there is going to be this constant pressure on everyone along the food chain to give more for less.”).

3. *USDA Priorities: Toward a Brighter Future?*

The USDA is a dynamic organization, and it currently identifies four priorities for systemic improvement—two of which relate specifically to food systems.⁶⁶ One of the priorities is food and nutrition security, emphasizing the nutritional quality of accessible foods partnered with an active lifestyle.⁶⁷ Another priority is for “more, better, and new market opportunities,” including strengthening local and regional food systems and expanding purchasing options for consumers.⁶⁸ These two priorities each facilitate better access to better food, pairing beautifully with the concept of bolstering local foods systems to increase reliable access to nutritional foods through an increasing number of flexible, locally-sourced markets. Unfortunately, under their current system, the USDA’s priorities fall short in several ways.

First, the current priorities are constantly subject to change. As a department of the federal government, the USDA’s particular emphasis can and does shift under each new Presidential administration.⁶⁹ For example, President Obama chose to emphasize childhood nutrition, President Trump made payments to farmers during the pandemic, and President Biden increased federal food assistance.⁷⁰ Although these policies are not inherently at odds with one another, any organization can only sustain a limited number of priorities; some items must fall by the wayside to make room for the current focus.

Second, the impact of the USDA’s current priorities is limited by their tools. Nutrition security fostered by assistance programs is certainly an important step toward a healthier population, but most USDA programs facilitate access to foods in a neutral way—without preference toward healthier choices.⁷¹ Once nutrition is secured, it must become balanced, and the USDA’s programs do not provide as much assistance in this area. Of the programs that provide an extra layer of nutritional education and guidance, they are generally restricted to qualifying persons based on

66. *Priorities*, U.S. DEP’T OF AGRIC., <https://www.usda.gov/priorities> [<https://perma.cc/93UM-TAD8>].

67. *Food and Nutrition Security*, *supra* note 10.

68. *More, Better, and New Market Opportunities*, U.S. DEP’T OF AGRIC., <https://www.usda.gov/markets> [<https://perma.cc/43HV-9Z7H>].

69. See Kim Severson, *How America’s Food System Could Change Under Biden*, N.Y. TIMES (Jan. 26, 2021), <https://www.nytimes.com/2021/01/26/dining/usda-food-policy-biden.html> [<https://perma.cc/58FZ-C8MY>] (overviewing assorted contrasting stances through the Obama, Trump, and Biden administrations).

70. *Id.*

71. See *supra* Part I.B.1.

income, age, or other factors, such that the most direct and supportive services are inherently limited in how many people they serve. Thus, those educational tools do not reach most of the American people.

The USDA tries to bridge the gap by publishing a large volume of publicly available educational materials. However, utilizing those resources requires that people overcome the barrier of independent learning. They must take initiative, sift through material, identify relevant information, and decipher its application to their lives. Public health trends tend to indicate that many households have not managed this burden with success and that the potential benefits of the USDA's public materials are not often realized.⁷²

The priorities identified by the USDA are laudable but insufficient because of their transience and limitations. Approaching the priorities with new tools could provide a solution.

II. ADDITIONAL WAYS TO POSITIVELY IMPACT LOCAL FOOD SYSTEMS

Local food systems are smaller-scale versions of traditional food systems, including growing, packaging, transporting, and selling food.⁷³ Food may travel as little as tens of miles to its destination in local food systems compared with hundreds or thousands of miles in large-scale systems. The details of large-scale systems typically go unnoticed—as long as the systems run smoothly. In the height and aftermath of the COVID-19 pandemic, however, many people experienced a host of actual and prospective shortages, earning the traditional supply chain worldwide attention and criticism. At a United Nations Global Food Security Ministerial Meeting in 2022, the United States, as Chair, issued a call to several actions by member nations, including “increas[ing] efforts to support the sustainable transformation of agriculture and food systems to make them more resilient and available to *smallholder farmers*, and strengthen the infrastructure, logistical support, and innovation needed to cultivate, store, and distribute food.”⁷⁴

72. See, e.g., *Health and Economic Costs of Chronic Diseases*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/chronicdisease/about/costs/index.htm> [<https://perma.cc/DQA8-9ZR2>] (stating that 20% of children and 42% of adults are affected by obesity).

73. SUSTAINABLE AM., BUILDING A BETTER LOCAL FOOD SYSTEM 6 <https://sustainableamerica.org/downloads/Community-Toolkit-Local-Food-Systems.pdf> [<https://perma.cc/6D5Y-ETXW>].

74. *Chair's Statement: Roadmap for Global Food Security—Call to Action*, U.S. DEP'T OF STATE (June 24, 2022) (emphasis added), <https://www.state.gov/chairs-statement->

Proponents of small-scale farms and nearby sales of goods allege many strategic benefits that seemingly echo objectives set out by the United States and the 103 joining signatories.⁷⁵ Consider the nations' first-stated objective: resiliency.⁷⁶ In national large-scale food systems, weather conditions and the availability of fuel, packaging materials, long-haul drivers, and appropriate vehicles are merely a few of the variables that can affect long-distance transportation of goods. A minor interruption at any stage can cause a severely delayed or restricted supply. A smaller system, by contrast, may have greater flexibility and accessibility to manage situations that are less than ideal.

Local food distribution could respond more quickly to real-time weather situations—opening the farmers market as soon as the ice thaws or resuming sales once the rainstorm passes. Less fuel is required to travel shorter distances; farmers and producers may choose alternative packaging or may require very little packaging at all; and ordinary personal vehicles may be sufficient for most local transport needs, reducing the need for commercial driving licensure or specialized vehicles. These differences make local food systems better able to recover from a variety of interruptions that devastate a large-scale operation. The United Nations would seem to agree, given that it goes on to explicitly affirm making food systems available to smallholder farmers.⁷⁷ “Smallholder” generally refers to rural producers who farm using mainly family labor and whose farm is their principal source of income.⁷⁸ These kinds of farmers are integral to reaping the benefits of stronger local food systems.

In addition to the resiliency and flexibility of local food systems, they may also encourage better overall health. Food in a local system is typically sold in a fresh, unprocessed state soon after being harvested, unlike food in a national system that must be packaged and transported for long-distance shipping,⁷⁹ which may often involve canning, freezing, or artificial preservatives. Processing can cause food to decrease in nutritional value,⁸⁰

roadmap-for-global-food-security-call-to-action-2/?utm_medium=email&utm_source=govdelivery [https://perma.cc/P8E-J6ME].

75. *Id.*

76. *See id.*

77. *See id.*

78. John F. Morton, *The Impact of Climate Change on Smallholder and Subsistence Agriculture*, 104 PROC. OF THE NAT'L ACAD. OF SCI. OF THE U.S. OF AM. 19680, 19680 (2007).

79. SUSTAINABLE AM., *supra* note 73, at 9.

80. *See Processed Foods and Health*, HARV. T.H. CHAN SCH. OF PUB. HEALTH, <https://www.hsph.harvard.edu/nutritionsource/processed-foods/#:~:text=But%20food%20processing%20also%20has,destroy%20certain%20vitamins%20and%20minerals>

while the local food model allows it to be purchased and consumed with maximal nutritional benefit. Better nutritional quality can lead to better health overall, which benefits all citizens because of the shared cost of poor health.⁸¹ Because “eating local” can provide many benefits, the following are ways that the federal government, and the USDA in particular, could support and foster local food systems.

A. *Subsidizing Local Producers*

Subsidy payments are heavily skewed toward the largest farms, with two-thirds of subsidy payments going toward only the largest 10% of farming operations in 2020.⁸² What do these figures mean on a practical level? Calculating the average payment size for each farm can begin to illuminate the data more concretely. The payment quantities in 2020 were abnormally elevated because of extra pandemic assistance, so take the more standard 2017 subsidy numbers as an example: approximately \$8.9 billion⁸³ paid to approximately 2 million farms.⁸⁴ Two hundred thousand farms received an average payment of nearly \$30,000 per farm during the year,⁸⁵ while approximately 1.8 million farms would have received an average payment of just over \$1,500.⁸⁶ This rough averaging paints a picture of how much a few farms receive and how little most farms receive under the current subsidy scheme.

This system could be altered to ensure a larger portion of subsidies reach small farms, especially those that are processing, packaging, and

[<https://perma.cc/4QL4-3Y9U>] (last updated Aug. 2023) (discussing the nutritional impact of different levels of processing on fresh foods).

81. See *supra* Part I.

82. See Björn Ólafsson, *What Farm Subsidies Are and Why They Matter, Explained*, SENTIENT MEDIA (Aug. 11, 2023), <https://sentientmedia.org/why-are-farmers-subsidized/> [<https://perma.cc/WYR8-6HRW>].

83. FARM ECONOMICS, *supra* note 56, at 1–2.

84. *Id.* at 1.

85. See *id.* Two hundred thousand farms represent 10% of 2 million total U.S. farms. Those farms receive two-thirds of the subsidy payments, which is just under \$6 billion. Six billion dollars split between 200,000 farms equals an average payment of just under \$30,000 per farm per year. It is important to note that this figure represents only an illustrative average, so some farms would have received a greater amount and other farms a lesser amount.

86. One million eight hundred thousand farms represent 90% of 2 million total U.S. farms. Those farms receive one-third of the subsidy payments, which is just under \$3 billion. Three billion dollars split between 1.8 million farms equals an average payment of a little over \$1,500 per farm per year. It is important to note that this figure represents only an illustrative average, so some farms would have received a greater amount and other farms a lesser amount.

distributing their food products in a local or regional area. The benefit and security of subsidy payments is exponentially stronger for small farms with less capital. For example, the jump from an average annual payment of \$1,500 to \$2,000 for smaller farms could be tremendously meaningful, while the corresponding drop of about \$3,000 per average annual payment for the largest farms could have comparatively little impact.⁸⁷

What changes can be made so that the other 90% of farms in the United States can receive support from the agricultural subsidy payment system? One option is for the next legislative bill to include provisions allowing the USDA to direct a portion of subsidies toward those farmers helping to create new market opportunities and improve nutritional access; in other words, toward those farms who are specifically aligned with the USDA's own priorities. Then the USDA could offer credits for those who sell food locally, participate in farmers markets and roadside stands, or grow fruits and vegetables as a large portion of their crops. By including these factors in the subsidy calculus rather than simply the quantity of corn, soybeans, wheat, and rice produced by a farm, smaller producers who add value in other ways could gain access to the reinforcement of subsidies.

A common challenge to the idea of local food systems is the concept of "food deserts," or areas with limited access to affordable and nutritious foods.⁸⁸ In the United States, these areas typically refer to concentrated urban environments and low-income rural environments.⁸⁹ This concern tends to construe local food systems too narrowly. Because this Comment's proposal strengthens smaller farms to stand alongside the larger ones, the system of nationwide distribution for staple goods will continue. Populations will still be able to obtain their food as they have, but this proposal adds new market options specifically for fresh and unprocessed goods. People are empowered to choose what they want, to choose what is best for them, rather than being pigeon-holed into the only option available.

Further, small farmers markets and farm-to-door deliveries can be conducted in both urban and rural environments, though the format and norms would adapt to each location. As discussed, the flexibility of local food systems is one of their strengths. Adding these new markets could

87. Consider, for example, a farming corporation as large as Driscoll's, whose annual sales are around \$3 billion. MARY SHELMAN, DRISCOLL'S: HARNESSING DIGITAL TECHNOLOGY TO DELIVER DELIGHT 7 (2017), <https://agribusiness.purdue.edu/wp-content/uploads/2019/08/6-driscoll-s-case-study.pdf> [<https://perma.cc/W7U6-EKS3>].

88. PAULA TARNAPOL WHITACRE ET AL., INST. OF MED. & NAT'L RSCH. COUNS., THE PUBLIC HEALTH EFFECTS OF FOOD DESERTS: WORKSHOP SUMMARY 5 (2009), https://www.ncbi.nlm.nih.gov/books/NBK208019/pdf/Bookshelf_NBK208019.pdf [<https://perma.cc/HUY7-5YXB>].

89. *Id.*

actually increase access, restoring these areas so that they are food deserts no longer. The concept of food deserts also focuses on traditional ingredients—the ones stocked by the grocery store chains. Many climates, however, are capable of growing numerous crops and lesser-known varieties; there simply has been less opportunity and desire to cultivate those foods since the advent of nationwide suppliers.⁹⁰ Reintroducing new foods and learning about historic cultures and recipes promotes biodiversity in the environment as well as nutritional diversity for consumers.

One concern about the proposal to grant more subsidies to local producers is whether the government would incur more costs, translating to additional taxes for national citizens. However, this Comment's proposal avoids incurring extra cost in two ways. First, by using the federal agricultural subsidy administration system already in place, this proposal does not require any additional personnel, administration, or oversight beyond what is required to administer the existing program. Second, by redirecting a portion of the subsidy budget toward small farms rather than creating new subsidies on top of the existing program, the government's subsidy expenses would remain unchanged overall.

Another concern may be about potential increases in the price of food. National food trade will—and should—continue, and it is possible that large, industrial farms receiving less payments under this system would raise the commercial prices of their goods to cover the difference. However, the price increase may not be significant because such farms will still receive most of their existing USDA benefits; the system would only reduce their subsidy payments. At the same time, the price of locally-sourced foods may decrease slightly as farmers experience the benefits and added security of governmental support. All things considered, there should not be a substantial increase in the average price of food.

It also makes sense for industrial farms to bear more burdens than smaller farms because they are better able to manage the inherent risks of farming than their more vulnerable counterparts. This system will also push the largest farming operations—those with the greatest individual environmental impact and the best resources—to engineer new farming

90. See generally Preeti Jha, *Are Forgotten Crops the Future of Food?*, BBC FUTURE (Aug. 21, 2018), <https://www.bbc.com/future/article/20180821-are-forgotten-crops-the-future-of-food> [<https://perma.cc/DHH6-VMFH>] (discussing how the ubiquity of wheat, maize, rice, and soybeans has pushed out indigenous crop growth in Malaysia and describing an initiative to re-popularize indigenous crops); Shoshana Leon, *The Best Pizza in Arizona Per Netflix: Chris Bianco's 5 Star Chef's Table Pizza Phoenix*, ICONIC LIFE (Sept. 14, 2022), <https://iconiclif.com/the-perfect-pizza-chris-bianco-focuses-on-quality-ingredients-2022/> [<https://perma.cc/PMA7-BQZ6>] (acknowledging the contribution of Arizona agriculture in a respected chef's award-winning pizza).

methods and tools that resist climate change, promote crop success, and ensure food security.

B. Credits and Commodity Exchanges

Changing the subsidy structure is not the only action the USDA could take to bolster local food systems. Alternatively, the USDA could provide benefits that incentivize local food system participation and production of nutritionally diverse crops. One such incentive could be a contingent tax credit or deduction applied to farms that distribute their produce within a certain mile radius or cultivate certain categories of crops.⁹¹ Another approach could increase the insurance options or decrease insurance prices for specialty crops, which include many varieties of fruits and vegetables. It can also continue to cultivate the programs it has already debuted for introducing fresh produce to children in schools and providing credits for farmers markets to seniors and families who qualify for assistance.

The USDA could also create a commodity exchange program that encourages hobby-farming. This would be a type of cooperative in which each household can elect to grow produce in whatever capacity they have at home, whether in a backyard, balcony, or neighboring field. Growers could focus on the produce that works best for their conditions, and any food they grow beyond what they want to consume could be brought to a central location and traded in for other types of produce at no cost. Depending on the variety of produce, the exchange rate could be based on weight or quantity. Particularly nutritious categories of produce could even be given extra value to increase their relative worth and promote more health-boosting options. The USDA could make this determination based on research and national health statistics and data. Commodities that are already subsidized, such as corn, would have a low value in the exchange system because its aim is to promote nutritional diversity as a supplement to the existing subsidy system.

Grocery stores, which already have the facilities to monitor and store produce, could choose to participate in facilitating the exchange in return for a flat payment from the federal government. While a variable payment based on the quantity of produce being exchanged would more accurately

91. Though this particular objective is novel, tax credits and deductions are already being used at the state and federal level for other farming purposes, such as encouraging new/beginning farmers and implementing farming advancements. *See, e.g., Tax Credits Tips for Farm Businesses*, FARMRAISE (Aug. 11, 2023), <https://www.farmraise.com/blog/agricultural-tax-credit-tips#:~:text=State%20Tax%20Credits,to%20new%20or%20beginning%20farmers> [<https://perma.cc/TZ5J-9B88>] (overviewing types of tax incentives available for farmers).

reflect the work a store does to participate, stores would probably be less likely to join the program without the security of at least a minimum guaranteed payment. The USDA could establish rules for the program such as what kinds of fertilizers or pesticides are permissible, but facilitating stores would have no responsibility for ensuring compliance; participation in the program would ultimately be at-your-own-risk.

The benefits of an exchange program would be far-reaching and often intangible, including growers spending time outdoors, garnering appreciation for the value of food and the work involved in its production, promoting biodiversity and nutrition, fostering a sense of community, and increasing accessibility for a wide range of socioeconomic situations and personal backgrounds. While the public would face a barrier of independent learning in hobby-farming just as they currently do with the USDA's various educational tools, these benefits provide incentives for hobby-farming that help to overcome that barrier. Additionally, no-cost educational resources on gardening are more varied and accessible than the previously-mentioned USDA resources on nutrition, which have garnered little success in improving American diets. Gardening resources abound through internet blogs, YouTube videos, public library books, community classes, and brochures from gardening centers. Experience itself also educates the gardener, so continued participation in each growing season is inherently rewarded. Although credits and commodity exchange programs would not be as comprehensively beneficial as a change in the agricultural subsidy system, these tools also have promising potential for aiding the USDA in its priorities.

III. CONCLUSION

Local food systems are gaining popularity and offer many benefits over traditional nationwide food distributors and industrial producers including resiliency, diversity, and sound nutrition. However, the support and security provided by federal agricultural subsidies strongly favor national food systems. The USDA has identified several priorities that are laudable, including increasing food and nutrition security and creating new market opportunities, but its current programs are insufficient. It must bolster local food systems to achieve its goals—through new tools such as changing agricultural subsidies to favor local and regional food systems or implementing commodity exchange programs.

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* J.D. Candidate, 2025, Campbell University School of Law; M.A. Intercultural Studies, 2017, Southeastern Baptist Theological Seminary; B.A. Biblical Studies, 2015, Louisiana Christian University. This Comment would never have been possible without the people in my life. To my husband, Will Johnston, thank you for the many sacrifices you have made that allow me to pursue this work. I love you. To my brother, Matthew Duberville, thank you for helping me develop this topic at the outset and often acting as a sounding board; and to my parents, Don and Jeffrie Duberville, thank you for spurring me on to try hard things. I also thank Helen Vincent, Annette Rhodes, and many beloved friends who have generously provided encouragement, support, and inspiration at various stages of this project. Finally, to each member of Campbell Law Review Volume 46, thank you for your tireless and excellent work in preparing this Comment for publication.