

# UNITED STATES FARM POLICY REFORM IN SUPPORTING DIETARY DIVERSITY AND COMBATING MONOCROPPING

Alyson Waite\*

## INTRODUCTION

Americans are unhealthy, and there is increasing evidence that the United States' method of regulating food is fundamentally flawed.<sup>1</sup> According to the U.S. Centers for Disease Control and Prevention (hereinafter "CDC"), in 2017–2018, the prevalence of obesity in adults was 42.4 percent, which was a substantial increase from 1999–2000.<sup>2, 3</sup> Additionally, the prevalence of obesity for children was 19.7 percent and affected about 14.7 million children and adolescents.<sup>4</sup> The CDC stated that, "[o]besity affects children from families with low incomes more than children from families with higher income."<sup>5</sup> A number of these lower income families are food insecure and therefore rely on governmental assistance to obtain nutrition.<sup>6</sup> Food insecure households are defined by their uncertainty of having, or inability to acquire, enough food to meet the needs of all members of the household due to insufficient funds or lack of other resources for food.<sup>7</sup> In the United States

---

\* May 2023 J.D. Candidate at The University of Toledo College of Law. I would like to thank Professor Eric Chaffee for his guidance throughout this project.

1. NAT'L RSCH. COUNCIL AND INST. OF MED., U.S. HEALTH IN INTERNATIONAL PERSPECTIVE: SHORTER LIVES, POORER HEALTH 1 (Steven H. Woolf & Laudan Aron eds., 2012), [https://www.ncbi.nlm.nih.gov/books/NBK115854/pdf/Bookshelf\\_NBK115854.pdf](https://www.ncbi.nlm.nih.gov/books/NBK115854/pdf/Bookshelf_NBK115854.pdf); Melissa D. Mortazavi, *Are Food Subsidies Making Our Kids Fat? Tensions Between the Healthy Hunger-Free Kids Act and the Farm Bill*, 68 WASH. & LEE L. REV. 1699, 1701 (2011).

2. Craig M. Hales et al., *Prevalence of Obesity and Severe Obesity Among Adults: United States, 2017-2018*, CDC 1, 1 (2020), <https://www.cdc.gov/nchs/data/databriefs/db360-h.pdf>.

3. The obesity rate from 1999-2000 was 30.5%. Katherine M. Flegal et al., *Prevalence and Trends in Obesity Among US Adults, 1999-2000*, JAMA 1723 (Oct. 9, 2002), <https://jamanetwork.com/journals/jama/fullarticle/195388#:~:text=Results%20The%20age%2Dadjusted%20prevalence,001>.

4. *Childhood Obesity Facts: Prevalence of Childhood Obesity in the United States*, CDC, <https://www.cdc.gov/obesity/data/childhood.html#:~:text=The%20prevalence%20of%20obesity%20was,more%20common%20among%20certain%20populations> (last visited Nov. 14, 2022).

5. *Obesity Among WIC-Enrolled Young Children*, CDC, [https://www.cdc.gov/obesity/data/obesity-among-WIC-enrolled-young-children.html#:~:text=Obesity%20affects%20children%20from%20families,%2C%20and%20Children%20\(WIC\)](https://www.cdc.gov/obesity/data/obesity-among-WIC-enrolled-young-children.html#:~:text=Obesity%20affects%20children%20from%20families,%2C%20and%20Children%20(WIC)) (last visited Nov. 14, 2022).

6. *Id.*

7. U.S. DEP'T OF AGRIC., *Food Security in the U.S.*, ECON. RSCH. SERV. (Sept. 7, 2021), <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/key-statistics-graphics.aspx#foodsecure>.

a total of 33.8 million people lived in food-insecure households in 2021.<sup>8</sup> As the statistics clearly show, America is in the midst of an obesity epidemic and a food insecurity crisis. These interrelated national crises evince a chronic failure by the legislature to put meaningful food regulations in place that prioritize the health and wellbeing of Americans.

To the average consumer, food and law may be apples and oranges, however, it is undeniable that “food in America is inherently a legal matter.”<sup>9</sup> After all, food choices are at the intersection of laws, regulations, and subsidies surrounding health, environmental, and financial matters.<sup>10</sup> The United States Farm Bill (hereinafter “farm bill” or “bill”) is a key piece of legislation that provides regulation for a wide range of agricultural and food programs.<sup>11</sup> Indeed, the farm bill has been regarded as the most influential piece of legislation regarding nutrition, diet, and food consumption.<sup>12</sup> Despite the bill’s prominence, there is an extreme disconnect between agricultural policy and dietary recommendations, both of which are promulgated by the government.<sup>13</sup> This policy disconnect facilitates the ways in which the farm bill negatively impacts the health of Americans and contributes to the national obesity epidemic.

Beyond perpetuating obesity, the current bill’s regulations and market interventions for the subsidy of crops and dairy products also have substantial detriments that harm the public, thus, furthering the call for program reform. The negative impacts on the public are widespread and systemic, but every five to seven years, the legislature has an opportunity to change the agricultural system through the bill. In fact, the current farm bill is set to expire at the conclusion of the government’s fiscal year in 2023.<sup>14</sup> Thus, the 2023 farm bill offers an opportunity for the United States to shift agricultural policy in a direction that enhances public health and benefits farmers through more effective government subsidies. Past iterations of the bill have fed America’s obesity epidemic, largely thanks to crop and dairy subsidies that promote poor public health outcomes. For example, the bill incentivizes the overproduction of fats, sugars, and oils through commodity farming subsidies.<sup>15</sup> The products then create overabundance and dominance of fats, sugars, and oils in the nation’s food supply.<sup>16</sup> Congress has an

---

8. *Id.*

9. Mortazavi, *supra* note 1, at 1701.

10. *Id.*

11. See Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490 (2018). See also Renée Johnson & Jim Monke, *What Is the Farm Bill?*, CONG. RSCH. SERV. 1 (Sept. 26, 2019), <https://sgp.fas.org/crs/misc/RS22131.pdf>.

12. Mortazavi, *supra* note 1, at 1711.

13. *Agricultural Policy is Health Policy*, NOHARM 2, [https://noharm-uscanada.org/sites/default/files/documents-files/5322/Agricultural%20policy%20is%20health%20policy\\_Farm%20Bill\\_0.pdf](https://noharm-uscanada.org/sites/default/files/documents-files/5322/Agricultural%20policy%20is%20health%20policy_Farm%20Bill_0.pdf) (last visited Nov. 14, 2022).

14. *What is the Farm Bill?*, NAT’L SUSTAINABLE AGRIC. COAL., <https://sustainableagriculture.net/our-work/campaigns/fbcampaign/what-is-the-farm-bill/> (last visited Nov. 14, 2022).

15. Richard J. Jackson et al., *Agriculture Policy is Health Policy*, 4 J. HUNGER & ENV’T NUTRITION 393, 394 (2009).

16. *Id.* at 395.

obligation to fix these shortcomings and should do so by, among other solutions, adopting market regulation practices that mirror the supply-management system, like those favored by Canada, and by supporting farm-to-table programs, which are a proven method to get healthy food onto American tables.

This Note explores the ways in which industrial food policy affects farmers and the public's health, and it also proposes an alternative method for subsidizing agriculture that could reduce the negative impacts of the farm bill, and several other ways in which the next farm bill can change the national obesity narrative. This Note also argues that the legislature has an obligation to incorporate more "farm to fork" policies in the 2023 farm bill to combat the nation's obesity epidemic. Part I of this note discusses the well-intentioned history and goals of the past farm bills. Part II focuses on the negative impacts the farm bill has on public health by examining the dominance of monocropping and its link to obesity, along with the lack of dietary diversity for most citizens. Part III considers potential solutions to mitigate the harmful effects of the bill. Part IV presents arguments against the proposed farm bill reform and counterarguments. Finally, this Note concludes by revisiting the proposed solutions and renews the call for legislative action.

## I. THE HISTORY AND GOALS OF THE PAST FARM BILLS

The United States Department of Agriculture (hereinafter "USDA") is comprised of twenty-nine agencies that cover topics spanning from agriculture to nutrition.<sup>17</sup> In response to the Great Depression devastating agriculture and public health, the United States government passed the Agricultural Adjustment Act of 1933.<sup>18</sup> This Act was passed as a part of the New Deal, and it was the first farm bill to be implemented by the United States government.<sup>19</sup> The Act set forth programs intended to provide a reliable food supply for Americans.<sup>20</sup> An additional purpose of the act was to achieve fair exchange value for agriculture products.<sup>21</sup> In application, the bill successfully reduced surplus and raised crop subsidy payments.<sup>22</sup> The system relied on the agreement of eligible farmers to reduce production of certain commodity crops in exchange for payments.<sup>23</sup> Since the passage of the Act, roughly every five to six years Congress renews a package of

---

17. *About the U.S. Department of Agriculture*, U.S. DEP'T. OF AGRIC., <https://www.usda.gov/our-agency/about-usda> (last visited Oct. 15, 2022).

18. *Farm Bill: A Short History and Summary*, FARM POL'Y FACTS, <https://www.farmpolicyfacts.org/farm-policy-history> (last visited Oct. 15, 2022). *See generally* 7 U.S.C.A. §§ 608c-1 (repealed -- 1945).

19. Sidonie Devarenne & Bailey DeSimone, *History of the United States Farm Bill*, L. LIBR. OF CONG., <https://www.loc.gov/ghe/cascade/index.html?appid=1821e70c01de48ae899a7ff708d6ad8b&bookmark=Farm%20Bills> (last visited Nov. 14, 2022).

20. Scott Fields, *The Fat of the Land: Do Agricultural Subsidies Foster Poor Health?*, 112 ENV'T HEALTH PERSP. A820, A821 (2004).

21. Devarenne & DeSimone, *supra* note 19.

22. *Id.*

23. *Id.*

agriculture and food legislation.<sup>24</sup> This Act is still active, and it is now colloquially referred to as the farm bill.<sup>25</sup>

The agriculture committees of Congress are amongst the oldest congressional committees in existence.<sup>26</sup> Members of Congress, who sit on the Senate and House Committees of Agriculture, Nutrition, and Forestry, are primarily responsible for drafting the updated bill.<sup>27</sup> Since 1933, these committees have written and passed eighteen farm bills.<sup>28</sup> Historically, the farm bill had a significant impact on agriculture and the United States' food supply, and it continues to be a powerful mechanism.<sup>29</sup> This piece of legislation is intended to provide a "predictable opportunity for policymakers to comprehensively and periodically address agricultural and food issues."<sup>30</sup> Typically, the farm bill determines which crops the government will financially support.<sup>31</sup> This financial support from the government influences which crops U.S. farmers produce, crop prices, and which products distributors sell.<sup>32</sup> Each farm bill has a unique title.<sup>33</sup> The current farm bill is titled the Agriculture Improvement Act of 2018.<sup>34</sup> The Agriculture Improvement Act of 2018 was signed into law in December 2018 and expires in 2023.<sup>35</sup>

Since the farm bill's inception, each act has maintained its own focus. For example, the Agricultural Act of 1938 focused on soil conservation and preventative measures against soil erosion.<sup>36</sup> Though each of the bills has its own unique focus to address relevant agricultural issues at that time, each bill maintains the primary purpose of supporting farmers.<sup>37</sup> One important way the bills support farmers is through the Federal Crop Insurance Corporation.<sup>38</sup> This important risk management tool was established in the Agricultural Adjustment Act of 1938.<sup>39</sup> As shown by the past iterations of the farm bill, the goal of the bill has never been to accomplish optional nutrition for Americans. However, the bill directly impacts American's food options and availability.

---

24. Johnson & Monke, *supra* note 11, at 1.

25. *Id.*

26. *Farm Bill*, *supra* note 18.

27. *What is the Farm Bill?*, *supra* note 14.

28. Devarenne & DeSimone, *supra* note 19.

29. *What is Farm the Bill?*, *supra* note 14.

30. Johnson & Monke, *supra* note 11, at 1; *Id.*

31. *What is the Farm Bill?*, *supra* note 14.

32. See Raphael Lencucha et al., *Government Policy and Agricultural Production: A Scoping Review to Inform Research and Policy on Healthy Agricultural Commodities*, GLOBALIZATION AND HEALTH 8-10 (Jan. 20, 2020), <https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-0542-2>.

33. *What is the Farm Bill?*, *supra* note 14.

34. Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4490 (2018); Johnson & Monke, *supra* note 11, at 1.

35. Johnson & Monke, *supra* note 11, at 1.

36. Devarenne & DeSimone, *supra* note 19.

37. *Id.*

38. *Id.*

39. *Id.*



## II. NEGATIVE IMPACTS OF THE CURRENT FARM BILL

### *A. Lack of Dietary Diversity Due to Monocropping as Encouraged by the Farm Bill*

Unfortunately, the Agriculture Improvement Act of 2018 and past farm bills have negatively impacted the public, as well as stakeholders within the agricultural industry, in some significant ways. First, the farm commodity program for select staple commodities has allowed crops, like corn and soybeans, to take over America's food system.<sup>40</sup> The industrial practice of monocropping, which is encouraged by the farm bill, has caused commodity crops to take over. Monocropping describes the "cultivation of one crop... on the same piece of land repeatedly over successive seasons, without crop rotation."<sup>41</sup> Critics of the farm bill argue that many agricultural subsidies go to commodity crops that are processed into several of the foods that are linked to obesity.<sup>42</sup> Due to subsidies, food companies are able to purchase government commodities at artificially cheap prices, which encourages the overuse of government incentivized crops in processed foods throughout the public's food supply.<sup>43</sup> These crops often appear in the food system as added fats and sugars.<sup>44</sup> Foods with added fats and sugars negatively impact the public because the intake of energy-dense foods that are high-in-fat contribute to obesity.<sup>45</sup>

A correlated problem with farm policy food subsidies is that they improperly intervene with the market by keeping sale prices of commodity crops artificially low.<sup>46</sup> Because food processors can purchase commodities at a significantly cheaper rate, healthier foods like fruits and vegetables are at a competitive disadvantage.<sup>47</sup> This has resulted in an increased production in the amount of cheap and processed foods, containing ingredients such as high-fructose corn syrup, in the American diet.<sup>48</sup> Not only does a diet consisting of processed foods contribute to significant weight gain and numerous adverse health effects on individuals, but

---

40. Mark Muller et al., INST. FOR AGRIC. AND TRADE POL'Y, *Considering the Contribution of U.S. Food and Agricultural Policy to the Obesity Epidemic: Overview and Opportunities*, 1, 11 (2007), <https://www.healthandenvironment.org/docs/xaruploads/7mullerbackgroundpaper.pdf>.

41. *How Our Food System Affects Public Health*, FOODPRINT (Aug. 11, 2020), <https://foodprint.org/issues/how-our-food-system-affects-public-health/>.

42. Anahad O'Connor, *How the Government Supports Your Junk Food Habit*, N.Y. TIMES: EAT WELL (July 19, 2016, 11:21 AM), <https://well.blogs.nytimes.com/2016/07/19/how-the-government-supports-your-junk-food-habit/>.

43. Heather Schoonover, *A Fair Farm Bill for Public Health*, INST. FOR AGRIC. AND TRADE POL'Y 1, 3 (2007), <https://www.iatp.org/sites/default/files/2018-01/A%20Fair%20Farm%20Bill%20for%20Public%20Health.pdf>.

44. *Id.*

45. *Factors of Obesity*, RETHINK OBESITY, <https://www.rethinkobesity.com/disease-progression/factors-of-obesity.html> (last visited Nov. 15, 2022).

46. Schoonover, *supra* note 43, at 3.

47. *Id.* at 4.

48. *Id.*

it also has national consequences, like rendering more than two-thirds of American adults overweight or obese.<sup>49</sup>

Another consequence of the commodity crop infiltration in the American diet is the lack of crop diversification and the resulting lack of dietary diversity amongst the American people.<sup>50</sup> In this way, the farm bills have supported unhealthy food environments for Americans.<sup>51</sup> Critics of the farm bill argue that agricultural subsidies provided by the farm bill both damage the country's health and increase the medical costs needed to treat the obesity epidemic.<sup>52</sup> In other words, "[t]he sticker price is a small fraction of the true cost of highly processed foods, which contain excessive amounts of sodium, fat, and calories that contribute to an estimated \$147 billion in annual healthcare costs."<sup>53</sup> These critics also believe that, moving forward, public health advocates must push for a "farm to fork" policy that links local produce to local consumers. Hence, the concentration of ownership and intensive production of fewer crops have been the harmful consequences of policies that mistakenly emphasize maxing productivity over everything else.<sup>54</sup>

### *B. Systematic Failures of the Dairy Industry*

Not only does the farm bill provide crop subsidies, but it also provides subsidies to U.S. dairy farmers.<sup>55</sup> As a consequence of these subsidies, the dairy industry has half-heartedly attempted to adapt to shifting product demands because the subsidies insulate them from the market demand, disincentivizing change.<sup>56</sup> For example, it is undeniable that the consumption of cow's milk in America has

---

49. *Eating Highly Processed Foods Linked to Weight Gain*, NAT'L INSTS. OF HEALTH (May 21, 2019), <https://www.nih.gov/news-events/nih-research-matters/eating-highly-processed-foods-linked-weight-gain>; Rachel Ehrenberg, *Finding the Fat: The US Farm Bill and Health*, KNOWABLE MAG. (Sept. 6, 2018), <https://knowablemagazine.org/article/society/2018/finding-fat-us-farm-bill-and-health>.

50. Caroline Franck et al., *Agricultural Subsidies and the American Obesity Epidemic*, 45 AM. J. PREVENTATIVE MED. 327, 329 (2013).

51. Mary Story et al., *Creating Healthy Food and Eating Environments: Policy and Environmental Approaches*, 28 ANN. REV. OF PUB. HEALTH 253, 254 (2008), <https://www.annualreviews.org/doi/pdf/10.1146/annurev.publhealth.29.020907.090926>.

52. O'Connor, *supra* note 42, at 2.

53. Julie Foster, *Subsidizing Fat: How the 2012 Farm Bill Can Address America's Obesity Epidemic*, 160 UNIV. PA. L. REV. 235, 236-37 (2011). *See also* Eric A. Finkelstein et al., *Annual Medical Spending Attributable to Obesity: Payer- and Service-Specific Estimates*, 28 HEALTH AFFS. w822, w828 (2009), <http://content.healthaffairs.org/content/28/5/w822.full.pdf+html?sid=8e3da08f-804a-4e9a-bdb5-ba052755032e>; *see also* B. Sherry et al., *Vital Signs: State-Specific Obesity Prevalence Among Adults - United States*, 2009, 59 MORBIDITY & MORTALITY WKLY REP. 951, 952 (2010) (reporting that obese individuals spend \$1,429 more on healthcare annually than nonobese people).

54. *Agricultural Policy*, *supra* note 13, at 2.

55. *The Farm Bill*, FOOD PRINT (Sept. 18, 2019), <https://foodprint.org/issues/farm-bill/>.

56. Daniel Grant, *Dairy Industry Adapting to Shifts in Consumer Demand*, FARMWEEK (July 17, 2020), [https://www.farmweeknow.com/profitability/dairy-industry-adapting-to-shifts-in-consumer-demand/article\\_0b5b1b4a-c6e0-11ea-8a06-7f09037abc95.html](https://www.farmweeknow.com/profitability/dairy-industry-adapting-to-shifts-in-consumer-demand/article_0b5b1b4a-c6e0-11ea-8a06-7f09037abc95.html).

recently decreased.<sup>57</sup> In fact, researchers at the USDA's Economic Research Service found that the sale of cow's milk has fallen over time, while sales of plant-based milks increased.<sup>58</sup> Consequently, the researchers concluded that the sales of plant-based milks are contributing to the declining sales of cow's milk.<sup>59</sup> Alarming, the current farm bill does not address a plan for plant-based milk moving forward. The bill also fails to empower farmers to capitalize on the increase in plant-based milk consumption.<sup>60</sup> In response to these failures, the Plant Based Foods Association (PBFA) is advocating for agricultural policies to support the growing plant-based food market,<sup>61</sup> but the dairy industry is a historical institution that is hard to change.

Indeed, the dairy industry has been a top governmental priority since the inception of the USDA.<sup>62</sup> The first supporting group of the dairy industry and inspiration for the USDA, the 1895 Dairy Division, collected and distributed information to dairy farmers.<sup>63</sup> As early as the 1930s, the federal government began subsidizing and regulating the dairy industry.<sup>64</sup> At this time, the government also began a public health nutrition campaign that pushed milk to be a staple in American households.<sup>65</sup> The Agricultural Act of 1949 was the first time the government was permitted to purchase excess dairy products through the Commodity Credit Corporation.<sup>66</sup> Since then, despite government intervention, there have been times when farmers were forced to purposefully pour out excessive amounts of milk, due to the overabundant supply of dairy product in the country.<sup>67</sup> For example, in 2016, U.S. dairy farmers dumped forty-three million gallons of milk in fields and manure lagoons.<sup>68</sup> This was a record amount of milk waste.<sup>69</sup>

---

57. Hayden Stewart, *Plant-Based Products Replacing Cow's Milk, but the Impact Is Small*, U.S. DEP'T OF AGRIC.: ECON. RSCH. SERV. (Dec. 7, 2020), <https://www.ers.usda.gov/amber-waves/2020/december/plant-based-products-replacing-cow-s-milk-but-the-impact-is-small/>.

58. *Id.*

59. *Id.*

60. PBFA, *Plant Based Foods Association Announces its 2018 Farm Bill Agenda*, PLANT BASED FOODS ASS'N (Mar. 7, 2018), <https://www.plantbasedfoods.org/plant-based-foods-association-announces-its-2018-farm-bill-agenda/>.

61. *Id.*

62. Karyn Moyer, *History of the Dairy Industry*, AGHIRES, <https://blog.aghires.com/history-of-the-dairy-industry/> (last visited Nov. 15, 2022); Morrill Act, Pub. L. No. 37-108 (1862) (repealed) (establishing a Department of Agriculture).

63. Moyer, *supra* note 62.

64. Chris Edwards, *Milk Madness*, CATO INST.: TAX & BUDGET BULL. (2007), [https://www.cato.org/sites/cato.org/files/pubs/pdf/tbb\\_0707\\_47.pdf](https://www.cato.org/sites/cato.org/files/pubs/pdf/tbb_0707_47.pdf).

65. Emily Moon, *What Will the U.S. Government Do with 1.4 Billion Pounds of Cheese?*, PAC. STANDARD (Jan. 10, 2019) <https://psmag.com/economics/what-will-the-us-government-do-with-1-4-billion-pounds-of-cheese>.

66. *Id.*; 7 U.S.C. § 1431.

67. Melissa Chan, *Dairy Farmers Pour Out 43 Million Gallons of Milk Due to Surplus*, TIME (Oct. 13, 2016, 4:43 PM), <https://time.com/4530659/farmers-dump-milk-glut-surplus/>.

68. *Id.*

69. *Id.*

Additionally, during this time, the USDA also offered to purchase twenty-million dollars worth of cheddar cheese to help reduce the private cheese surplus.<sup>70</sup>

Today, government subsidies continue to support dairy production by buying surplus product to keep market prices steady.<sup>71</sup> Currently, the USDA has 1.4 billion pounds of processed American cheese.<sup>72</sup> Experts have concluded that the stockpile is enough to wrap around the U.S. Capitol building.<sup>73</sup> With all of this extra cheese on hand, the government has resorted to using the surplus for a number of public benefit programs set forth in the farm bill.<sup>74</sup> The programs putting the surplus of cheese to use include: the Supplemental Nutritional Assistance Program (SNAP) (hereinafter “SNAP”), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and adjustments made to the federal dietary guidelines.<sup>75</sup> Before using public assistance programs to consume the surplus, the government funneled surplus through the Temporary Emergency Food Assistance Program (TEFAP), which was created under President Reagan’s administration.<sup>76</sup> Under TEFAP, five-pound blocks of cheese were distributed to impoverished seniors.<sup>77</sup> It is reasonable to speculate that the overdistribution of absurdly large quantities of cheese has not improved the health of average Americans. Certainly, the growing problem of obesity has been an unintended consequence of the federal government thrusting the surplus of cheese onto American consumers.<sup>78</sup> In other words, instead of admitting they bit off more than they can chew by consistently over subsidizing a diminishing industry, the government chooses to pry open the mouths of America’s most vulnerable to correct the systematic failure of the dairy industry.

Another powerful tool the government uses to divest its dairy surplus, is public advertising campaigns that promote dairy consumption.<sup>79</sup> In the 1990s, the Dairy Management Inc. (hereinafter “DMI”) was created.<sup>80</sup> Primarily funded by the U.S. Dairy Promotion Program, DMI is the marketing branch of the USDA.<sup>81</sup> The U.S. Dairy Promotion Program is funded by government-mandated checkoff

---

70. *USDA Announces Plans to Purchase Surplus Cheese, Releases New Report Showing Trans-Pacific Partnership Would Create Growth for Dairy Industry*, U.S. DEP’T OF AGRIC. (Oct. 11, 2016), <https://www.usda.gov/media/press-releases/2016/10/11/usda-announces-plans-purchase-surplus-cheese-releases-new-report>.

71. Moon, *supra* note 65.

72. Craig Eyermann, *Why Does the Federal Government Have 1.4 Billion Pounds of American Cheese Stockpiled?*, FEE STORIES (Mar. 5, 2019), <https://fee.org/articles/why-does-the-federal-government-have-14-billion-pounds-of-american-cheese-stockpiled/>.

73. *Id.*

74. Moon, *supra* note 65.

75. *Id.*

76. *Id.*

77. Erin Blakemore, *How the US Ended Up With Warehouses Full of ‘Government Cheese’*, -- HISTORY (Feb. 24, 2021), <https://www.history.com/news/government-cheese-dairy-farmers-reagan>.

78. Eyermann, *supra* note 72.

79. Moon, *supra* note 65.

80. *Id.*

81. *Dairy Management Inc.*, UNDENIABLY DAIRY, <https://www.usdairy.com/about-us/dmi> (last visited Oct. 17, 2022).

fees<sup>82</sup> on dairy products.<sup>83</sup> Essentially, DMI's job is to increase dairy consumption in order to decrease the government surplus.<sup>84</sup> DMI's most successful campaign was the 1995 "Got Milk?" campaign.<sup>85</sup> This campaign further deepened consumer's emotional connection to the household staple.<sup>86</sup>

DMI has been referred to as the "Illuminati of cheese" due to the group's conflicting interests of ridding the government of its cheese surplus while at the same time providing dietary guidance to the public.<sup>87</sup> DMI's unsavory behavior is further evinced by its partnerships with questionable fast-food restaurant chains to accomplish its cheese-offloading mission.<sup>88</sup> In an IRS 990 form, the DMI stated that, "DMI partners with foodservice industry leaders to help create dairy-based innovation to drive dairy sales and build trust in dairy products."<sup>89</sup> DMI's partnership chains include: Pizza Hut, Burger King, Domino's, McDonalds, and Wendy's.<sup>90</sup> Not surprisingly, the restaurant partnerships have succeeded in boosting American consumer's dairy intake.<sup>91</sup> For example, in 1995, the DMI worked with Pizza Hut on its stuffed crust pizza advertisement.<sup>92</sup> DMI president at the time, Barbara O'Brien, noted: "If you use more cheese, you sell more pizza."<sup>93</sup> By the end of the year, Pizza Hut's sales had risen seven percent over sales from the previous year.<sup>94</sup> Critics of the DMI argue that American's rely on the USDA for dietary guidance, which should include healthy eating.<sup>95</sup> Of course, partnerships with unhealthy chain restaurants, to boost dairy consumption, directly conflict with promoting healthy eating among Americans.

As demonstrated above, the American subsidy and surplus systems, as established in the farm bill, produce faulty operation principles for a diminishing

82. Checkoff fees is a nickname for The National Fluid Milk Processor Promotion Program. The program develops and finances generic advertising programs designed to maintain and expand markets and uses for fluid milk products produced in the U.S. U.S. DEP'T OF AGRIC., *Dairy*, ECON. RSCH. SERV., <https://www.ers.usda.gov/topics/animal-products/dairy/policy.aspx> (Sept. 23, 2022).

83. *National Dairy Promotion & Research Board*, U.S. DEP'T OF AGRIC.: AGRIC. MKTG. SERV., <https://www.ams.usda.gov/rules-regulations/research-promotion/dairy> (last visited Nov. 15, 2022).

84. Clint Rainey, *The Mad Cheese Scientists Fighting to Save the Dairy Industry*, BLOOMBERG: BUSINESSWEEK (July 19, 2017, 5:00 AM), <https://www.bloomberg.com/news/features/2017-07-19/the-mad-cheese-scientists-fighting-to-save-the-dairy-industry>.

85. *Id.*; LAURA S. SIMS, *THE POLITICS OF FAT: FOOD AND NUTRITION POLICY IN AMERICA* 227 (1998).

86. Matthew Daddona, *Got Milk? How the Iconic Campaign Came to Be, 25 Years Ago*, FAST CO. (June 13, 2018), <https://www.fastcompany.com/40556502/got-milk-how-the-iconic-campaign-came-to-be-25-years-ago> (showing evidence of an emotional connection to milk through a 1993 study of a focus group where individuals were "anxious" when told they could not have milk for one week).

87. Moon, *supra* note 65.

88. Rainey, *supra* note 84.

89. Sherry Bunting, *DMI's Innovation = Secret Projects with Strategic Partners*, AG MOOS -- (Sept. 13, 2019), <https://agmoos.com/2019/09/29/dmis-innovation-secret-projects-with-strategic-partners/>.

90. Rainey, *supra* note 84.

91. Bunting, *supra* note 89.

92. Rainey, *supra* note 84.

93. *Id.*

94. *Id.*

95. *Id.*

American dairy market. This American dairy system is remarkably substandard compared to other commodity markets around the world. For example, Canada operates its dairy system through a supply management system.<sup>96</sup> In its best form, the supply management system provides stability to dairy farmers through production control.<sup>97</sup> As stated by Canadian officials, the supply management system rests on three pillars: (1) production control, (2) pricing mechanisms, and (3) import control.<sup>98</sup> In order to control production, the Canadian Dairy Commission (hereinafter “Commission”) sets national production quota levels for farmers each year.<sup>99</sup> Farmers are only permitted to produce within their allotted quota.<sup>100</sup> Each year, the Commission also sets support prices to guarantee minimum prices for select dairy products.<sup>101</sup> The set prices are based on current production costs and market conditions.<sup>102</sup> The Commission also restricts imports to ensure that Canadian dairy products are being sold in Canadian grocery stores.<sup>103</sup> Canadians value this system because it is designed to give a fair price to farmers and consumers, but is not subsidized through tax dollars.<sup>104</sup> The supply management system varies greatly from the American system that heavily relies on subsidies. Americans could benefit from implementing a similar supply management system. If done correctly, a supply management system would presumably decrease the amount of excess dairy product present in the United States. Without excess perishable product to worry about, the United States government can stop pushing these products off to impoverished communities.

### *C. Nutritional Assistance Programs*

The foundation of national nutritional assistance began with the 1933 farm bill under the Federal Surplus Relief Corporation.<sup>105</sup> Under this program, the federal government bought basic commodities at discounted prices and distributed them to those in need.<sup>106</sup> In 1939, the first food stamp was issued.<sup>107</sup> The original food stamps program was terminated in 1943, but it was reintroduced in 1961 by President John F. Kennedy through the farm bill.<sup>108</sup> The goal of the reintroduced food stamp program was to strengthen the agricultural economy, improve nutrition

---

96. CONG. RSCH. SERV., CANADA’S DAIRY SUPPLY MANAGEMENT SYSTEM 1 (2018) <https://www.everycrsreport.com/reports/IN10973.html>.

97. *Id.* at 2.

98. *Id.*

99. *See id.*

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.* at 3.

104. *What Is the Difference Between Canadian and American Milk?*, ALBERTA MILK, <https://albertamilk.com/ask-dairy-farmer/difference-canadian-american-milk/> (last visited Nov. 15, 2022).

105. *The History of SNAP*, SNAP TO HEALTH, <https://www.snapttohealth.org/snap/the-history-of-snap/> (last visited Nov. 15, 2022).

106. *Id.*

107. *Id.*

108. *Id.*

among low-income individuals, and achieve more effective use of agricultural overproduction.<sup>109</sup> By 1973 the farm bill was meaningfully expanded beyond its primary purpose to support farmers by formally adding a nutritional assistance program for Americans in need.<sup>110, 111</sup> In 1981, under President Reagan's administration, the food stamp program's budget was severely cut.<sup>112</sup> The program underwent another reform in the early 2000s.<sup>113</sup> It was during this time that electronic benefit transfer (hereinafter "EBT") was first introduced.<sup>114</sup>

EBT was revolutionary because it allows families to transfer SNAP benefits to a participating retailer.<sup>115</sup> In 2008, the assistance program was renamed to the Supplemental Nutrition Assistance Program (hereinafter "SNAP").<sup>116</sup> In 2015, the USDA awarded \$31.5 million in funding to support programs that help SNAP participants increase their purchases of fruits and vegetables.<sup>117</sup> Nutrition for SNAP participants continues to be an area of discussion under the farm bill.<sup>118</sup> Today, Congress is considering a number of proposals to ensure SNAP promotes healthy nutrition.<sup>119</sup>

SNAP benefit amounts are updated each year based on the Thrifty Food Plan (hereinafter "TFP").<sup>120</sup> The TFP was developed by the USDA, in 1975, to estimate the cost of groceries needed to provide a healthy, budget-conscious diet for a family of four.<sup>121</sup> The plan is designed for an average family of four, consisting of an adult male and female, ages twenty to fifty, and two children, ages six to eight and nine to eleven.<sup>122</sup> TFP has several goals, including: goals aligning with dietary guidance, representing a limited food budget, reflecting what Americans buy and eat, and supporting a healthy, active lifestyle.<sup>123</sup> Per the 2018 farm bill, the USDA must reevaluate the TFP every five years.<sup>124</sup>

---

109. *Id.*

110. Devarenne & DeSimone, *supra* note 19.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *The History of SNAP*, *supra* note 105.

120. *SNAP and the Thrifty Food Plan*, U.S. DEP'T OF AGRIC.: FOOD AND NUTRITION SERV. (Mar. 9, 2022), <https://www.fns.usda.gov/snap/thriftyfoodplan>.

121. *Id.*

122. *Id.*

123. *Id.*

124. *SNAP and the Thrifty Food Plan*, *supra* note 120.

*D. The Current Farm Bill: Titles and Focuses*

The current farm bill, the Agricultural Improvement Act of 2018, sets forth twelve titles that attempt to address current agricultural and food issues.<sup>125</sup> Title I, commodity programs, covers price support and disaster assistance to farmers producing commodity crops.<sup>126</sup> Some of the crops under this title include: corn, wheat, soybeans, rice, and sugar.<sup>127</sup> Title II, conservation, sets forth programs that aid farmers to implement conservation efforts.<sup>128</sup> Title III, trade, covers food export subsidy programs and international food aid programs.<sup>129</sup> Title IV, nutrition, implements SNAP and other niche nutritional programs to provide food assistance to low-income American families.<sup>130</sup> Title V, credit, sets forth federal loan programs designed to help farmers access credit.<sup>131</sup> Title VI, rural development, carries out programs that help foster rural business, community development, and rural economic growth.<sup>132</sup> Title VII, research, extension, and related matters, implements food research programs to support innovation.<sup>133</sup> Title VIII, forestry, sets forth the forest conservation programs.<sup>134</sup> Title IX, energy, backs programs that research renewable energy and help farmers install renewable energy systems. Title X, horticulture, covers local food programs.<sup>135</sup> Title XI, crop insurance, provides subsidies to farmers.<sup>136</sup> Finally, title XII, miscellaneous, touches on advocacy and outreach programs.<sup>137</sup>

### III. PROPOSAL

There are several ways the upcoming farm bill can minimize the negative impact it has had on the public. First, the bill can incentivize crop diversification to increase dietary diversity. Second, the bill can aid local farmers in providing produce to local community members. Additionally, the bill can improve the TFP. Finally, the bill can reform the way the dairy industry is operated. Within dairy reform, the bill can empower dairy farmers to break into alternative milk markets.

---

125. CONG. RSCH. SERV., 2018 FARM BILL PRIMER: AGRICULTURE IMPROVEMENT ACT OF 2018 1 (2019), <https://crsreports.congress.gov/product/pdf/IF/IF11126>.

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.*

131. RENÉE JOHNSON & JIM MONKE, CONG. RSCH. SERV., IF11126, 2018 FARM BILL PRIMER: AGRICULTURE IMPROVEMENT ACT OF 2018 1 (2019), <https://crsreports.congress.gov/product/pdf/IF/IF11126>.

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.*

137. *Id.*



*A. Crop Diversification*

The farm bill has stark implications for the types of food available and consumption of these foods.<sup>138</sup> The upcoming farm bill must incentivize crop diversification instead of creating a distorted food system by using subsidies to force farmers to grow commodity crops in order to remain profitable. The current policy is suboptimal because it only subsidizes commodity crops and causes shortages of healthy food choices for Americans. This problematic relationship between U.S. agricultural policy and health has received increased scrutiny as the United States continues to struggle with obesity and other chronic diseases.<sup>139</sup>

Customarily, the farm bill determines which crops the government will support.<sup>140</sup> These crops are typically corn, soybeans, wheat, cotton, and rice.<sup>141</sup> Support for these crops has compelled farmers “to ignore other crops such as fruits, vegetables, and other grains.”<sup>142</sup> Therefore, governmental support of select crops influences which crops United States farmers chose to grow.

The current agricultural system favors production of low-value bulk commodities over higher-value, healthier crops.<sup>143</sup> For example, U.S. farmers planted 91.7 million acres of corn in 2019.<sup>144, 145</sup> At the same time, roughly two percent of farmland in the United States is used to grow fruits and vegetables.<sup>146</sup> Richard Atkinson, a professor of medicine and nutritional sciences at the University of Wisconsin-Madison and president of the nonprofit American Obesity Association, stated, “[t]here are a lot of subsidies for... sugar and fat, and there are not a lot of subsidies for broccoli and Brussels sprouts.”<sup>147</sup> Highly processed foods produced from commodity crops are less expensive than healthier foods.<sup>148</sup> Michael Pollan, a writer for the New York Times, noted, “[t]he result [of the current farm bill is] a food system awash in added sugars (derived from corn) and added fats (derived mainly from soy), as well as dirt-cheap meat and milk (derived from both).”<sup>149</sup> Current agricultural policies packaged in the farm bill are not aligned with public health goals. “If tomorrow every American woke up and

138. William S. Eubanks II, *A Rotten System: Subsidizing Environmental Degradation and Poor Public Health Wins Our Nation's Tax Dollars*, 28 STAN. ENV'T. L.J. 213, 275 (2009).

139. Jackson, *supra* note 15.

140. Kimberly Amadeo, *How Farm Subsidies Affect the U.S. Economy*, THE BALANCE: U.S. ECON., (Apr. 18, 2022), <https://www.thebalance.com/farm-subsidies4173885#:~:text=Out%20of%20all%20the%20crops,be%20stored%20and%20affordably%20shipped>.

141. *Id.*

142. Fields, *supra* note 20, at A821.

143. Schoonover, *supra* note 43, at 3.

144. Tom Capehart & Susan Proper, *Corn is American's Largest Crop in 2019*, U.S. DEP'T OF AGRIC.: RSCH. & SCI. (July 29, 2021), <https://www.usda.gov/media/blog/2019/07/29/corn-americas-largest-crop-2019>.

145. That is approximately sixty-nine million football fields of corn.

146. *Agricultural Policy*, *supra* note 13.

147. Fields, *supra* note 20, at A821.

148. Matthieu Maillot et al., *Nutrient-Dense Food Groups Have High Energy Costs: An Econometric Approach to Nutrient Profiling*, 137 J. NUTRITION 1815, 1815 (2007).

149. Michael Pollan, *You Are What You Grow*, N.Y. TIMES MAG. (Apr. 22, 2007), <http://www.nytimes.com/2007/04/22/magazine/22wwlnlede.t.html?pa>.

refused to consume anything but the foods recommended by the... USDA Dietary Guidelines for Americans, there would be a catastrophic food shortage.”<sup>150</sup> Therefore, the existing food system fails to provide enough fresh fruits and vegetables despite the USDA guideline recommendations that these foods are an essential part of a balanced diet.<sup>151</sup> This hypocrisy from the U.S. government of recommending a healthy diet, but subsidizing unhealthy foods, has created crop homogeneity rather than diversity. Without a variety of crops producing a wide range of foods, Americans cannot diversify their diets. Americans today are left to consume government-selected foods that are limited and calorically dense.<sup>152</sup> Moreover, a study found that people who eat more commodity-rich foods are more likely to be overweight and at risk for heart disease and diabetes.<sup>153</sup> To change America’s obesity narrative, the public must continue to put pressure on Congress to increase funding to support producers of fruits and vegetables. Furthermore, the farm bill must be reformed in a way that promotes public health through incentivizing crop diversification.

#### B. Local Farm to Table Programs

The upcoming farm bill should empower local farmers to provide fresh produce to local families enrolled in SNAP. Under the current farm bill, about half of government subsidies go to farmers that make more than \$100,000 per year.<sup>154</sup> This “corporate welfare” system exists by giving the top ten percent of farms seventy-eight percent of government farming subsidies.<sup>155</sup> The top ten percent of farmers grow crops, such as corn, that make up processed foods.<sup>156</sup> Therefore, local farm families miss out on government assistance while food conglomerates benefit from the subsidies given to farmers through the farm bill.<sup>157</sup> Further, a General Accounting Office report showed that small specialty farms represented seventy-

---

150. Jackson et al., *supra* note 15, at 395.

151. Judy Putnam et al., *U.S. Per Capita Food Supply Trends: More Calories, Refined Carbohydrates, and Fats*, 25 FOOD REV. 2, 15 (2002), <https://ageconsearch.umn.edu/record/234624>.

152. Sangam L. Dwivedi et al., *Diversifying Food Systems in the Pursuit of Sustainable Food Production and Healthy Diets*, 22 CELL PRESS: TRENDS IN PLANT SCI. 842, 846 (2017), <https://www.sciencedirect.com/science/article/pii/S1360138517301346#bib0210>.

153. Karen R. Siegel et al., *Association of Higher Consumption of Foods Derived from Subsidized Commodities with Adverse Cardiometabolic Risk Among US Adults*, 176 JAMA INT’L MED. 1124, 1124 (2016), <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2530901>.

154. Bridget Huber, *What is the Farm Bill and Why Does it Matter?*, FOOD & ENV’T REPORTING NETWORK (June 12, 2018), [https://thefern.org/2018/06/what-is-the-farm-bill-and-why-does-it-matter/?gclid=CjwKCAjwk6-LBhBZEiwAOUUDpxnhAQOhRKT3AitXEltVjq1uj2JsqlGyEbGkVMVMwGkQPFvsvXxcxCgpsQAvD\\_BwE](https://thefern.org/2018/06/what-is-the-farm-bill-and-why-does-it-matter/?gclid=CjwKCAjwk6-LBhBZEiwAOUUDpxnhAQOhRKT3AitXEltVjq1uj2JsqlGyEbGkVMVMwGkQPFvsvXxcxCgpsQAvD_BwE).

155. Amadeo, *supra* note 140.

156. *Farm Land Loan Interest Rates: Produce Crop Farmers*, AGAMERICA LENDING, <https://agamerica.com/blog/power-of-10-top-10-produce-crops-in-the-u-s/> (June 21, 2022).

157. Huber, *supra* note 154; STANDING COMMITTEE ON CHILDHOOD OBESITY PREVENTION, *Food and Agriculture*, in ALLIANCES FOR OBESITY PREVENTION: FINDING COMMON GROUND: WORKSHOP SUMMARY 12 (National Academies Press, 2012), [https://www.ncbi.nlm.nih.gov/books/NBK202014/pdf/Bookshelf\\_NBK202014.pdf](https://www.ncbi.nlm.nih.gov/books/NBK202014/pdf/Bookshelf_NBK202014.pdf).

six percent of the country's cropland, but receive fourteen percent of the government subsidies.<sup>158</sup>

The food provided by food conglomerates is highly processed.<sup>159</sup> Consumption of these processed foods are partially responsible for the obesity epidemic in the United States.<sup>160</sup> Barry Popkin, a professor of nutrition at the Carolina Population Center of the University of North Carolina at Chapel Hill, believes that "fattening foods are supported [by the farm bill] whereas healthy fare isn't."<sup>161</sup> Popkin's statement is not far off, as commodity crops are subsidized by the government, but fresh produce is not.

It is no secret that reducing Americans' intake of these commodity crops is an unavoidable obstacle to obtaining optimal public health.<sup>162</sup> To combat the increased consumption of processed foods and its harmful effects, the upcoming farm bill needs to financially assist local produce farms. Of all the subsidies available to farmers, farmers that grow fruits and vegetables can only benefit from crop insurance and disaster relief.<sup>163</sup> An increase in funding to local produce farmers will provide local farmers with the necessary tools to produce fruits and vegetables to local families in need. These families will then be able to turn to local farmers for healthy foods, instead of turning to food conglomerates for processed alternatives.

The upcoming farm bill should set out a Thrifty Food Plan (hereinafter TFP) that combats the negative health effects of the past farm bills. The current nutritional programs are poorly implemented, because they focus on calories, not nutritional value of foods.<sup>164</sup> TFP is used to calculate SNAP benefit amounts.<sup>165</sup> TFP is "designed to meet the nutritional needs of an average person consuming a healthy, cost-conscious diet at home."<sup>166</sup> TFP was recently updated for the first time since 2006.<sup>167</sup> In the fifteen years since the last update of the TFP, there have been significant changes to food prices, dietary guidance, and American consumption habits.<sup>168</sup> The TFP has four main flaws: (1) it does not reflect the foods most people consume; (2) it assumes consumers have unlimited time to cook, with limited use of time-saving healthy food; (3) it does not meet all federal

---

158. U.S. GEN. ACCT. OFF., GAO-01-606, FARM PROGRAMS: INFORMATION ON RECIPIENTS OF FEDERAL PAYMENTS 1, 2 (2001), <https://www.gao.gov/assets/gao-01-606.pdf>.

159. *Food Processing's Top 100 – 2021*, FOOD PROCESSING, <https://www.foodprocessing.com/top100/2021/> (last visited Nov. 15, 2022).

160. Elizabeth Pratt, *Obesity Linked to Processed Foods: What You Should Avoid in Your Diet*, HEALTHLINE: HEALTH NEWS (Jan. 8, 2020), <https://www.healthline.com/health-news/link-between-processed-foods-and-obesity>.

161. Fields, *supra* note 20, at A822.

162. Putnam et al., *supra* note 151, at 8-11.

163. Amadeo, *supra* note 140.

164. Eubanks II, *supra* note 138, at 273.

165. Food and Nutrition Service Public Affairs, *The Thrifty Food Plan: What It Is and Why It Matters*, U.S. DEP'T OF AGRIC.: FOOD & NUTRITION (Aug. 12, 2021), <https://www.usda.gov/media/blog/2021/08/12/thrifty-food-plan-what-it-and-why-it-matters>.

166. *Id.*

167. *Id.*

168. *Id.*

nutritional recommendations; and (4) it does not account for a range of dietary needs.<sup>169</sup> TFP, and therefore SNAP, fails to provide the proper monetary amounts families need to get healthy foods on the table.<sup>170</sup> With an improved TFP, participants in SNAP will have more reliable access to a sufficient amount of healthy food, therefore minimizing the harmful effects of the farm bill.<sup>171</sup>

### C. Dairy Reform

The upcoming farm bill should improve the way the dairy industry is operated by implementing a dairy management system to decrease excess product. The 2018 Farm Bill attempted to control wasteful production, but more must be done.<sup>172</sup> USDA data shows that in 1975, Americans consumed 247 pounds of dairy milk per capita.<sup>173</sup> Conversely, in 2017, Americans drank 149 pounds per capita.<sup>174</sup> The past and current farm bills have not accounted for this ninety-eight-pound per capita decrease in demand. In other words, the bills continue to incentivize farmers to increase production regardless of the national drop in demand.<sup>175</sup> It is likely that chronic oversupply will continue if a production management system is not put in place.<sup>176</sup> This oversupply will continue to be passed on to consumers. A supply management system will allow the industry to accurately reflect market demands and require farmers to produce equivalent to those identified demands to control excess product.

Due to the amount of excess product produced by farmers in the dairy industry, the United States government, through the United States Department of Agriculture, has been left to purchase alarming amounts of dairy products overlooked by consumers.<sup>177</sup> Typically, dairy suppliers convert excess milk into

---

169. *Modernizing SNAP Benefits Would Help Millions Better Afford Healthy Food*, CTR. ON BUDGET AND POL'Y PRIORITIES, <https://www.cbpp.org/sites/default/files/Benefitis-Adequacy-info-graphic-Aug-2021.pdf> (last visited Nov. 15, 2022) [hereinafter *Modernizing SNAP Benefits*].

170. *Id.*; Mary Story et al., *Creating Healthy Food and Eating Environments: Policy and Environmental Approaches*, ANN. REV. OF PUB. HEALTH (Apr. 2008), [https://www.annualreviews.org/doi/10.1146/annurev.publhealth.29.020907.090926?url\\_ver=Z39.88-2003&rft\\_id=ori%3Arid%3Aacrossref.org&rft\\_dat=cr\\_pub++0pubmed](https://www.annualreviews.org/doi/10.1146/annurev.publhealth.29.020907.090926?url_ver=Z39.88-2003&rft_id=ori%3Arid%3Aacrossref.org&rft_dat=cr_pub++0pubmed).

171. *Modernizing SNAP Benefits*, *supra* note 169.

172. Brenna Ellison, *The Farm Bill Looks to Tackle Food Loss and Waste*, UNIV. OF ILL.: FARMDOC DAILY (July 3, 2019), <https://farmdocdaily.illinois.edu/wp-content/uploads/2019/07/fdd030719.pdf>.

173. Beth Kaiserman, *Is 2019 the Year of the Oat?*, FORBES: FOOD & DRINK (Jan. 29, 2019, 1:13 PM), <https://www.forbes.com/sites/bethkaiserman/2019/01/29/2019-year-of-oat-milk/?sh=2f45d24772e8>.

174. *Id.*

175. *A Mountain of Surplus Cheese, Brought to You by the Federal Government*, INVS. BUS. DAILY: EDS. (July 6, 2018, 3:57 PM), <https://www.investors.com/politics/editorials/dairy-subsidies-government-farm-programs-surplus-cheese/>.

176. Allison Kaika, *It's Time to Reform the U.S. Dairy Industry*, NAT'L FARMERS UNION: BLOG (June 18, 2019), <https://nfu.org/2019/06/18/its-time-to-reform-the-u-s-dairy-industry/>.

177. Samantha Raphelson, *Nobody is Moving Our Cheese: American Surplus Reaches Record High*, NPR: HERE & NOW COMPASS (Jan. 9, 2019, 5:58 AM), <https://www.npr.org/2019/01/09/683339929/nobody-is-moving-our-cheese-american-surplus-reaches-record-high>.

cheese to defeat freshness and perishability concerns.<sup>178</sup> The cheese is typically purchased to sustain the dairy industry and is often used for commodity programs.<sup>179</sup> The government would not be left to purchase the products if the dairy industry did not overproduce in the first place.<sup>180</sup> The government consciously decides to purchase excess product as opposed to reducing the government subsidies, which would in turn, reduce the surplus to more reasonable levels.<sup>181</sup> The USDA has been faced with this dairy surplus problem since the 1980s.<sup>182</sup> During this time, a USDA official told the *Washington Post* that “[p]robably the cheapest and most practical thing would be to dump it [(the surplus of cheese)] in the ocean.”<sup>183</sup> If the industry produced in accordance with current market demands, then the government would not be left to purchase excess dairy products. In turn, there would not be an abundance of products to get rid of, and the government would then be prevented from pushing these products onto commodity programs for consumption. The decrease in consumption of excess dairy products by people using commodity programs, like SNAP, would aid in mitigating the harmful effects the farm bills have had on the public.

In addition to pushing the dairy surplus off to SNAP participants, the government has also pawned excess product off to schools and children.<sup>184</sup> On October 20, 2021, the USDA announced that it will extend the program to allow schools to offer free breakfast and lunch to students.<sup>185</sup> The program was created to get rid of the U.S. dairy supply.<sup>186</sup> This is occurring despite the devastating findings in a BMJ report that concluded the amount for dairy recommended in the U.S. daily dietary guidelines is associated with higher mortality.<sup>187</sup>

The government has also used advertising tactics through the DMI to push the dairy surplus on to the public.<sup>188</sup> The most popular version of these advertisements take form in cheese pull.<sup>189</sup> Uma Karmarkar, an assistant professor at Harvard Business School, noted that the cheese pull can ““trigger deep-seated

---

178. *Id.*

179. *USDA Cheese Purchase Program Announced*, U.S. DEP’T OF AGRIC.: AGRIC. MKTG. SERV. (Aug. 4, 2020), <https://www.ams.usda.gov/content/usda-cheese-purchase-program-announced-0>.

180. *Id.*

181. Eyermann, *supra* note 72.

182. Ward Sinclair, *Cheese Giveaway Churning*, WASH. POST (Dec. 5, 1981), [https://www.washingtonpost.com/archive/politics/1981/12/05/cheese-giveaway-churning/4f3aa750-cf4b-494d-b87a-5a02c94336f5/?utm\\_term=.825983768258](https://www.washingtonpost.com/archive/politics/1981/12/05/cheese-giveaway-churning/4f3aa750-cf4b-494d-b87a-5a02c94336f5/?utm_term=.825983768258).

183. *Id.*

184. AGDAY TV, *Dairy Report: Free School Lunches Helping Offset Dairy Supplies*, DAIRY HERD MGMT.: BUS. (Oct. 20, 2021), <https://www.dairyherd.com/news/business/dairy-report-free-school-lunches-helping-offset-dairy-supplies>.

185. *Id.*

186. *Id.*

187. Karl Michaëlsson et al., *Milk Intake and Risk of Mortality and Fractures in Women and Men: Cohort Studies*, BMJ (Oct. 28, 2014), <https://www.bmj.com/content/bmj/349/bmj.g6015.full.pdf>.

188. Sophia Ling, *You Have Been Strung by the U.S. Cheese Scheme*, THE EMORY WHEEL: OP. (Apr. 2, 2021), <https://emorywheel.com/you-have-been-strung-by-the-u-s-cheese-scheme/>.

189. *Id.*

memories of food experiences.”<sup>190</sup> The DMI takes advantage of these reactions by targeting advertisements that evoke involuntary cravings.<sup>191</sup> According to the USDA, the average American’s annual cheese consumption between 1977 and 2017 has increased from sixteen pounds to thirty-seven pounds.<sup>192</sup>

The increase in cheese consumption is likely to be caused by unfettered food advertisements and the DMI’s interest in decreasing the government’s cheese surplus. Lobbyists for big dairy are also pouring millions of dollars into advertisements each year to persuade the American public that milk is essential to a healthy diet.<sup>193</sup> An associate professor of psychiatry and psychology at Yale University found that exposure to food advertisements correlated positively with weight gain.<sup>194</sup> “Ironically, the government advocates for healthier eating and mandates the inclusion of nutritional facts on menus while allowing DMI to improve cheese-related ads, which encourages Americans to consume more cheese and fuels the obesity epidemic.”<sup>195</sup> Education and accessibility of information is critical to curbing the obesity epidemic.<sup>196</sup> The upcoming farm bill should contain an advertisement provision that provides stricter regulations on food marketing to protect and educate consumers on deceptive advertisements that promote weight gain.

Congress should also consider implementing a dairy supply management program, similar to the program found in Canada. This fifty-year-old program, set out by the Canadian Dairy Commission, imposes production quotas and reportedly protects farmers’ incomes.<sup>197</sup> This program was created by the Canadian government to avoid overproduction within the industry.<sup>198</sup> Under this system, Canadians have found that prices are stable and predictable under the supply management system.<sup>199</sup> The prices of products are not based on supply and

---

190. Ashley Rodriguez, *The Art and Science of the “Cheese Pull”: Why the Cheesiest Ad Trick Still Makes Us Hungry*, QUARTZ (June 24, 2016, 7:00 AM), <https://qz.com/693590/why-the-cheesiest-st-advertising-trick-in-the-book-still-makes-us-hungry/>.

191. Ling, *supra* note 188.

192. Rachel Kraus, *We’re Stuffing Our Faces with Cheese More than Ever Before: Expanding Wastelines Have Had a Partner in Crime*, MASHABLE: LIFE (July 25, 2019), [https://mashable.com/article/how-much-cheese-eat-data#:~:text=Between%201977%20and%202017%20\(the,of%2021%20pounds%20per%20person](https://mashable.com/article/how-much-cheese-eat-data#:~:text=Between%201977%20and%202017%20(the,of%2021%20pounds%20per%20person).

193. Animal Outlook, *Why the Dairy Lobby is Drowning Classrooms in Surplus Milk*, MEDIUM: ANIMAL OUTLOOK (Feb. 18, 2019), <https://animaloutlook.medium.com/why-the-dairy-lobby-is-drowning-classrooms-in-surplus-milk-9092712d1c48>.

194. Rebecca G. Boswell & Hedy Kober, *Food Cue Reactivity and Craving Predict Eating and Weight Gain: A Meta-Analytic Review*, 17 OBESITY REVS. 159, 159 (2015), <https://onlinelibrary.wiley.com/doi/epdf/10.1111/obr.12354>.

195. Ling, *supra* note 188.

196. *Id.*

197. *What is the Supply Management System?: Supply Management in Canada’s Agricultural Sector*, GOV’T OF CAN.: CANADIAN DAIRY COMM’N (Oct. 5, 2022), <https://www.cdc-ccl.ca/en/node/662>; Canadian Dairy Commission Act, R.S.C. 1985 c C-15.

198. *Supply Management*, HOLSTEIN CAN.: ABOUT US, [https://www.holstein.ca/Public/en/About\\_Us/The\\_Canadian\\_Dairy\\_Industry/Supply\\_Management](https://www.holstein.ca/Public/en/About_Us/The_Canadian_Dairy_Industry/Supply_Management) (last visited Nov. 15, 2022).

199. Dan Charles, *How Canadian Dairy Farmers Escape the Global Milk Glut*, NPR: THE SALT (May 3, 2017, 5:13 AM), <https://www.npr.org/sections/thesalt/2017/05/03/526613411/how-canadian-dairy-farmers-escape-the-global-milk-glut>.

demand.<sup>200</sup> Instead, prices are set by a group that evaluates the current state of the market and balances the market against costs to farmers.<sup>201</sup> To maintain a stable market, each dairy producer gets a share of the market.<sup>202</sup> Each farmer can buy and sell their shares, but they cannot sell more than their quota.<sup>203</sup>

In its best form, this system provides fair returns for efficient producers.<sup>204</sup> Canadian farmers can buy and sell their shares, but they cannot sell more than their quota.<sup>205</sup> If a farmer over produces milk, that farmer will be faced with the decision to either buy another farmer's quota or sell cows to decrease their production.<sup>206</sup> By forcing farmers to only produce within their share of the market, Canada has been able to maintain a stable market without requiring their government to purchase absurd amounts of cheese.<sup>207</sup> The United States adaptation of a supply management program may decrease the need for government subsidies of the dairy industry because, in theory, dairy farmers will only be producing the amount of product allowed for their share of the market. With production rates that adequately reflect the market, the United States government will not have to purchase product in order to sustain the market, because consumers will.

If the United States government opposes the implementation of a supply management program, then the subsidization of the industry should be reformed to reflect present consumer demands. Current government support for agriculture looks vastly different compared to other industries in the country. For example, during the 2008-2010 automotive industry crisis, the United States Department of the Treasury announced the Auto Industry Financing Program.<sup>208</sup> Under the program, leadership of companies seeking government assistance had to submit credible restructuring plans involving significant changes to the way they were doing business in order to qualify for future government assistance.<sup>209</sup> These changes included securing new management, restructuring, and creating and implementing new policies.<sup>210</sup> This requirement and the overall intervention in the

---

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

205. *Id.*

206. *Id.*

207. *Supply Management*, *supra* note 198.

208. *Auto Industry: Program Overview*, U.S. DEP'T OF THE TREASURY: TROUBLED ASSETS RELIEF PROGRAM, <https://home.treasury.gov/data/troubled-assets-relief-program/automotive-programs> (last visited Nov. 15, 2022).

209. Greg Hitt & John D. Stoll, *Auto Makers Force Bailout Issue: Government Finds it Difficult to Deny Aid to Detroit in Wake of Wall Street Rescue*, WALL ST. J. (Nov. 10, 2008, 12:01 AM), <https://www.wsj.com/articles/SB122616278065311225>.

210. Stephanie Luiz, *My Beef with Dairy: How the US Government is Bailing Out a Dying Industry*, NORTHEASTERN UNIV. POL. REV.: NAT'L (May 16, 2020), <https://www.nupoliticalreview.com/2020/05/16/my-beef-with-dairy-how-the-us-government-is-bailing-out-a-dying-industry/>.

private sector by the United States government led to “one of the most successful interventions in U.S. economic history.”<sup>211</sup>

Additionally, auto makers were given a loan during the 2009 bailout.<sup>212</sup> This contrasts with the way in which the government routinely subsidizes the dairy industry at no later cost to farmers.<sup>213</sup> If the government continues to subsidize the dairy industry, then the next farm bill should require benefitting farmers to submit restructuring plans that force the farmers to stop over producing in the future. It is imperative that the next farm bill consider implementing an alternative supply management system or require farmers to produce in accordance with the current supply.

The upcoming farm bill should support programs to help farmers break into growing alternative milk markets. Since 2013, the sale of non-dairy alternatives for milk has grown by sixty-one percent.<sup>214</sup> In 2018, the total retail sales reached \$2.3 billion.<sup>215</sup> Not only is there an increasing demand for these products, but these products have the potential to decrease some of the harmful effects the farm bill has had on American families. For example, plant-based milks are typically low in fat and do not contain cholesterol.<sup>216</sup> High fat intake can increase cholesterol and increase risk of heart disease and stroke.<sup>217</sup> To account for the increase in plant-based milks, the new farm bill needs to help willing farmers to switch from dairy operations to alternative milk operations.

#### *D. Additional Considerations*

Congress should consider renaming the farm bill. Ironically, the nickname “farm bill” lacks suggestion that this legislation is paramount to food policy and therefore public health policy. The farm bill has significant impacts on public health, yet it is not framed as a health bill. The current deception surrounding the name “farm bill” prevents Americans from recognizing the severe implications the bill has on public health. In truth, the bill “drives public health policy in the United States and is a predominant reason that our nation suffers from record levels of obesity, heart disease, diabetes, and asthma.”<sup>218</sup>

---

211. Reuters Staff, *Auto Bailout Saved 1.5 million U.S. Jobs. -Study*, REUTERS (Dec. 9, 2013, 12:37 PM), <https://www.reuters.com/article/autos-bailout-study/auto-bailout-saved-1-5-million-u-s-jobs-study-idUSL1N0JO0XU20131209>.

212. Luiz, *supra* note 210.

213. *Id.*

214. Trey Malone et al., *Who is Substituting Milk with Plant-Based Beverages and Why?*, MICH. STATE UNIV.: COLL. OF AGRIC. & NAT. RES.: DEP'T OF AGRIC., FOOD, & RES. ECON. (Nov. 10, 2020), <https://www.canr.msu.edu/news/who-is-substituting-milk-with-plant-based-beverages-and-why>.

215. *Id.*

216. *Benefits of Plant Based Milk*, VACU VIN: NEW & NOW, <https://tomorrows.kitchen/articles/benefits-plant-based-milk> (last visited Nov. 15, 2022).

217. Stefania Manetti, *Facts About Saturated Fats*, MEDLINEPLUS: MED. ENCYCLOPEDIA (June 22, 2022), <https://medlineplus.gov/ency/patientinstructions/000838.htm#:~:text=Your%20body%20needs%20healthy%20fats,for%20heart%20disease%20and%20stroke>.

218. Eubanks II, *supra* note 138, at 213-14.



As stated previously, it is imperative that Congress consider the negative effects the farm bill has on public health. Americans will continue to fall victim to obesity and obesity related illnesses if reform does not occur. Many health professionals have identified the public health issues with the farm bill and have challenged Congress to address these issues:

Together, Congress and the USDA, the two entities charged with writing and implementing the Farm Bill, send confusing mixed messages to the American public. On the one hand, the USDA uses tools such as the Food Pyramid to instruct people to eat a variety of nutritious foods in order to attain good health. On the other hand, the Farm Bill creates a distorted market wherein processed foods based on unhealthy subsidized crops are the simplest supermarket choice for most Americans. Until these governmental institutions stop talking out of both sides of their mouths about health and nutrition, the impacts to our nation's public health will worsen dramatically from already record levels of Farm Bill-driven illness and disease.<sup>219</sup>

The next farm bill provides the government an opportunity to clear these confusing mixed messages, support public health policy, and empower farmers in need.

#### IV. ARGUMENT AGAINST REFORM

Proponents of the current status of the farm bill may argue that the bill is essential to the United States agricultural system. For example, the 2019 Agricultural Secretary, Sonny Perdue, believed that the 2018 farm bill “is good news because it provides a strong safety net for farmers and ranchers, who need the dependability and certainty this legislation affords.”<sup>220</sup> Proponents may also argue that the suggested solutions set forth above are not feasible. First, crop diversification will not cure the United States of its obesity problem. Next, the farm bill already provides adequate financial aid to local farmers. Third, the bill promotes public health by providing access to food for those in need. Finally, reforming the dairy industry would further promote waste and harm farmers.

To begin, it may be argued that it is futile for the next farm bill to incentivize crop diversification to create dietary diversity because the United States obesity epidemic is a systematic problem.<sup>221</sup> Therefore, there is no single solution to this issue.<sup>222</sup> Increasing dietary diversity through crop diversification may be burdensome for farmers and the legislature while not wholly solving the United States obesity epidemic. There are several problems with incentivizing crop diversification. First, the farm bill is already costly to taxpayers. The current bill is

---

219. *Id.* at 295

220. Jeff Stein, *Congress Just Passed an \$867 Billion Farm Bill. Here's What's in It.*, WASH. POST: BUS. (Dec. 12, 2018, 5:03 PM), <https://www.washingtonpost.com/business/2018/12/11/congress-billions-billion-farm-bill-is-out-heres-whats-it/>.

221. N. Pischon et al., *Obesity, Inflammation, and Periodontal Disease*, 86 J. DENTAL RSCH. 400, 400 (2007).

222. *Overweight & Obesity: Strategies to Prevent & Manage Obesity*, CDC (Apr. 5, 2022), <https://www.cdc.gov/obesity/strategies/index.html>.

projected to cost \$867 billion over ten years.<sup>223</sup> If the next bill includes financial incentives for crop diversification, then it is likely that the projected cost of the farm bill will increase, leaving taxpayers to account for the new incentives. Additionally, crop diversification may harm farmers because they will have to change their current practices. This can become costly if farmers need new equipment and education to change their existing crops. As for the legislature, writing a farm bill that incentivizes crop diversification would be a strenuous task. The past farm bills have never incentivized this area of agriculture. It will take time for the legislature to research, write, and pass a meaningful crop diversification incentive program. However, proponents of farm bill reform argue that time is the least of the legislature's problem. Just because it will take time for the legislature to create policies that align with public health goals, does not mean that the legislature should not attempt to improve public health through the farm bill. America is amidst an obesity epidemic, and the farm bill is one way in which the government can help combat it.

Proponents may also argue that the nation should shift its focus to local healthy lifestyle education programs rather than a national crop and dietary diversity program. A national program that fosters crop and dietary diversity may seem beneficial to the public, but many Americans lead busy lives and do not have time to prepare food.<sup>224</sup> This causes many Americans to turn to convenience foods; “[c]onvenience foods are defined as foods that save time in food acquisition, preparation, and cleanup.”<sup>225</sup> Busy Americans allow time constraints, prices, food environments, and financial resources to influence their decisions on how much of different types of convenience foods they purchase.<sup>226</sup> With much of the nation too busy to prepare meals, crop and dietary diversity programs would only incentivize farmers to provide produce that Americans would not have time to prepare. This could create a new food waste problem because fresh fruits and vegetables do not have relatively long shelf lives. It is likely that proponents of the current farm bill will argue that crop diversification is fruitless labor and therefore should not be implemented in the next farm bill.

Next, proponents of the current farm bill may argue that the farm bill already provides adequate financial aid to local farmers to produce for local community members. Some programs that the bill funds include: promotional funds for local farmers markets, research funds for organic farming, and money for organizations working to train new farmers.<sup>227</sup> The 2018 farm bill provides that local farmers can apply for microloans. These loans provide up to \$50,000 for annual operating

---

223. John Newton, *Reviewing the 2018 Farm Bill Baseline*, AM. FARM BUREAU FED’N (Dec. 17, 2018), <https://www.fb.org/market-intel/reviewing-the-2018-farm-bill-baseline>.

224. Ilya Rahkovsky et al., *What Drives Consumers to Purchase Convenience Foods?*, U.S. DEPT’ OF AGRIC.: RSCH. & SCI. (Aug. 2, 2021), <https://www.usda.gov/media/blog/2018/07/24/what-drives-consumers-purchase-convenience-foods>.

225. *Id.*

226. *Id.*

227. Stein, *supra* note 220.

expenses or real estate purchases for small farmers serving local markets.<sup>228</sup> The loans are mainly tailored for starter, disadvantaged, and veteran farmers.<sup>229</sup> The bill also supports local food through the farmers market and local food promotional program. This program provides grants to organizations that market locally or regionally produced food.<sup>230</sup> Local farmers benefit from these competitive grants, because the organizations receiving the grants directly promote the local farmers' products. Farm to school grants set forth in the farm bill support the development of farm to school activities. These activities work to incorporate local produce in school programs.<sup>231</sup> Each of the grants and programs mentioned above benefit local farmers and empower them to produce to local community members.

Further, critics of farm bill reform may argue that the farm bill promotes public health. One way in which the 2018 farm bill does this is through its expansion of the SNAP.<sup>232</sup> The bill includes SNAP revisions while maintaining that millions of struggling Americans will continue to be able to rely on SNAP. The title was also expanded to encompass a pilot project regarding SNAP recipients' use of mobile technology to redeem SNAP benefits.<sup>233</sup> The more accessible SNAP benefits are, the more likely those in need will be able to take advantage of their benefits which afford them access to food options. Even if this food is not always healthy, some access to food is better than no access at all. A study conducted by The Urban Institute in March 2010, found evidence that SNAP reduces households' food-related hardships and that SNAP participation reduces the likelihood of being food insecure, very food insecure, and food insufficient.<sup>234</sup> Moreover, two-thirds of the farm bill's budget is dedicated to the nutrition title of the bill.<sup>235</sup> Critics of farm bill reform may argue that there should be separate legislation drafted to address public health implications of agricultural policy because the nutritional title already dominates the majority of the farm bill's budget. The above arguments may seem valid on their face, but in its current state, the farm bill does not promote public health. Instead, the bill contributes to an obesity epidemic that has been going on since the 1980s by forcing the public to consume calorie-dense commodity crop products.<sup>236</sup> It is not enough for the

228. *Overview: Farm Bill Programs & Grants*, NAT'L SUSTAINABLE AGRIC. COAL., <https://sustainableagriculture.net/publications/grassrootsguide/farm-bill-programs-and-grants/> (last visited Nov. 15, 2022).

229. *Id.*

230. *Farmers Market Promotion Program*, U.S. DEP'T AGRIC.: AGRIC. MKTG. SERV., <https://www.ams.usda.gov/services/grants/fmpp> (last visited Nov. 15, 2022).

231. *Farm to School Grant Program*, U.S. DEP'T OF AGRIC.: FOOD & NUTRITIONAL SERV., <https://www.fns.usda.gov/cfs/farm-school-grant-program> (last visited Nov. 15, 2022).

232. Stein, *supra* note 220.

233. RENÉE JOHNSON & JIM MONKE, CONG. RSCH. SERV., RS22131, WHAT IS THE FARM BILL? 10 (2019), <https://crsreports.congress.gov/product/pdf/RS/RS22131>.

234. Caroline Ratchliffe & Signe-Mary McKernan, *How Much Does SNAP Reduce Food Insecurity?*, THE URB. INST. 2 (2010), <https://www.urban.org/sites/default/files/publication/28506/412065-How-Much-Does-SNAP-Reduce-Food-Insecurity-.PDF>.

235. *Agricultural Policy*, *supra* note 13, at 2.

236. Katelyn Newman, *Obesity in America: A Public Health Crisis*, U.S. NEWS & WORLD REP.: HEALTHIEST CMTYS. (Sept. 19, 2019, 12:01 AM), <https://www.usnews.com/news/healthiest-communities/articles/2019-09-19/obesity-in-america-a-guide-to-the-public-health-crisis>.

government to simply provide the public with any type of food. Poor food choices often lead to other diseases that can negatively impact public health, including obesity.<sup>237</sup>

Finally, critics of farm bill reform may argue that changing the industry will harm farmers, harm the public, and further perpetuate waste. To begin, if the legislature decides to reform the dairy industry into a supply management system, there is a risk that the dairy industry could crash because they would no longer be producing dairy products in such large quantities. Alongside the risk of crashing an industry as old as time, some dairy farmers are against the idea of a supply management system because of the necessary federal government intervention a new system would require.<sup>238</sup> Farmers' distrust of the government sits against the recent \$220 million price-fixing class action settlement by members of the National Milk Producers Federation.<sup>239</sup> In this action, plaintiff-consumers alleged that defendants—National Milk Producers Federation, Cooperatives Working Together, Dairy Farmers of America, Land O'Lakes, and Agri-Mark—engaged in a national conspiracy to eliminate dairy cows as part of a price-fixing scheme that affected the cost of cheese, milk, and other dairy products.<sup>240</sup> Defendants agreed to make gradual payments to meet the \$220 million settlement fund.<sup>241</sup> Despite tensions between the federal government and dairy farmers, in order to transition an entire industry, Congress would have to draft new laws and policies that would ease the industry into the new supply management system. Not only do the majority of dairy farmers distrust government intervention, but waiting for law to catch up with a new supply management system and its practices can be costly and time consuming for all involved. With opposition from the intended beneficiaries of the new system, the legislature would have an even more difficult time writing policies to transition the system.

Further, Tim Trotter, a writer for *The Hill*, argues that supply management is absolutely wrong for United States dairy farmers.<sup>242</sup> Under this system, in order for a farmer “to sell their products, [the] farmer must hold a quota.”<sup>243</sup> This quota is essentially a license to produce up to a set amount. Trotter argues that the Canadian system generates labor issues by forcing farmers to wait their turn for a

---

237. *How Does Food Impact Health?*, UNIV. OF MINN., <https://www.takingcharge.csh.umn.edu/how-does-food-impact-health>, (last visited Nov. 15, 2022).

238. Richard Mertens, *Could Supply Management Help Struggling Dairy Farmers*, MOD. FARMER (Dec. 9, 2019), <https://modernfarmer.com/2019/12/could-supply-management-help-struggling-dairy-farmers/>.

239. Brigitte Honaker, *\$220M Milk Price-Fixing Class Action Settlement Reached*, TOP CLASS ACTIONS (Dec. 6, 2019), <https://topclassactions.com/lawsuit-settlements/consumer-products/beverages/220m-milk-price-fixing-class-action-settlement-reached/>.

240. *First Impressions Salon, Inc. v. Nat'l Milk Producers Fed'n*, 214 F. Supp. 3d 723, 725 (S.D. Ill. 2016).

241. Honaker, *supra* note 239.

242. Tim Trotter, *Supply Management for US Dairy? No Thank You*, THE HILL (Aug. 4, 2018, 5:00 PM), <https://thehill.com/opinion/energy-environment/400403-supply-management-for-us-dairy-no-thank-you>.

243. John Paul Tasker, *How Canada's Supply Management System Works*, CBC NEWS: POL. (June 16, 2018, 4:00 AM), <https://www.cbc.ca/news/politics/canada-supply-management-explainer-1.4708341>.

market quota because there are more farmers than the market needs.<sup>244</sup> He believes that Canadian's "hurry up and wait" mentality will further the already existing labor challenges in the United States.<sup>245</sup> Trotter believes that if a new farmer would like to break into the supply management system, not only will the newcomer have to wait for a market quota from the government, but the newcomer should also expect to pay tens of thousands of dollars per cow.<sup>246</sup> This is because the value of obtaining a market quota is so high. In 2015 there were approximately 16,000 Canadian quota holders.<sup>247</sup> Quotas were originally issued for free, but "Canada's total [market] quota is now valued at over \$32 billion."<sup>248</sup> These two factors, expense and wait time for a quota, will negatively impact the industry significantly, because the United States already faces labor issues in the industry.

One of the pressing labor issues the industry faces is the increasing age of producers. For example, the average age of all United States farm producers in 2017 was 57.5 years.<sup>249</sup> This average has increased by 1.2 years since 2012.<sup>250</sup> With the average age of producers already increasing, the challenges set forth by the supply management system will further disincentivize farmers to produce in the dairy sector. There are also concerns that a supply management system would harm dairy farmers' existing operations, because the government would no longer be subsidizing their income. Instead of providing subsidies, the government would be issuing quotas which dairy farmers could not produce over. This is what allows the market to support farmers.

Transitioning to a supply management system may also increase dairy product waste and disproportionately harm poor Americans. Within a supply management system, a national marketing agency, the Canadian Milk Supply Management Committee, determines production amounts for each commodity and then sets geographic production quotas.<sup>251</sup> If the United States moves to a supply-management system, then the government will have to determine production amounts. Currently, Wisconsin farmers possess more cows and produce more milk than all of Canada.<sup>252</sup> If the United States imposes a supply-management system, it is likely that Wisconsin farmers will either be forced to sell their excess product to other farmers with the market quota able to take on these products or dump their excess product.

Critics will maintain that a supply management system will negatively affect the public. Several critics argue that Canadians pay too much for supply-

---

244. Trotter, *supra* note 242.

245. *Id.*

246. *Id.*

247. Tasker, *supra* note 243.

248. *Id.*

249. *2017 Census of Agriculture Highlights: Farm Producers*, U.S. DEPT OF AGRIC.: NAT'L AGRIC. STAT. SERV. (Apr. 2019), [https://www.nass.usda.gov/Publications/Highlights/2019/2017Census\\_Farm\\_Producers.pdf](https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Farm_Producers.pdf).

250. *Id.*

251. Tasker, *supra* note 243; *Canadian Milk Supply Management Committee (CMSMC)*, CANADIAN DAIRY COMM'N, <https://web.archive.org/web/20181025041456/http://www.cdc-ccl.gc.ca/CDC/index-eng.php?id=3808> (last visited Nov. 15, 2022).

252. Tasker, *supra* note 243.

management products because the system no longer relies on the open market to set prices for products.<sup>253</sup> The Montreal Economic Institute argues that Canadians pay artificially high prices to benefit few farmers.<sup>254</sup> Moreover, the system disproportionally harms low-income households. The Montreal Economic Institute stated, “[t]hese costs hit hard at the poorest households, which appear to have been abandoned in this matter.... The supposedly ‘fair’ supply management mechanisms set up in Canada amount to nothing less than a highly regressive tax that has escaped the attention tax measures normally get.”<sup>255</sup> The institute argues that the government allows producers to raise prices by giving them monopoly privileges.<sup>256</sup> This is opposed to the United States system where the government directly subsidizing farmers by taxes collected from citizens. Many critics will also contend that many countries have phased out of their supply management programs because it proved to harm the public. Governments in Australia, the United Kingdom, South Korea, and the European Union, among other places, have phased the system out.<sup>257</sup>

Critics of dairy reform may argue that dietary preferences for alternative milks is not nationally strong enough to shift dairy practices to profitable plant-based alternatives. Foremost, dairy farmers have a lower chance of being subsidized through the farm bill if they elect to fully transition to plant-based alternatives. In 2020, dairy producers received \$3.5 billion in subsidies, and direct payments.<sup>258</sup> During this year, plant-based milk producers and crop suppliers received \$44 million.<sup>259</sup> In other words, eighty dollars was given to dairy farmers for every one dollar alternative milk producers received.<sup>260</sup> Although millennials and Generation Z are rapidly transitioning into the biggest groups with purchasing power,<sup>261</sup> however, their variation of dietary preferences may not be enough to drive the cost of plant-based milk alternatives down.

In conclusion, opponents of farm bill reform may argue that making substantial changes to the bill will negatively affect the agricultural industry and that the crop diversification will not cure the United States of its obesity problem. Subsequently, the farm bill already provides adequate financial aid to local farmers

---

253. *Id.*

254. *Id.*

255. Marcel Boyer & Sylvain Charlebois, *Supply Management of Farm Products: A Costly System for Consumers*, MONTREAL ECON. INST. 3 (Aug. 2007), [https://www.iedm.org/files/agri0807\\_en\\_0.pdf](https://www.iedm.org/files/agri0807_en_0.pdf).

256. *Id.*

257. Jon Berry et al., *Canada can Eliminate Supply Management by Following Australia’s Lead*, FRASER INST. (July 17, 2018), <https://www.fraserinstitute.org/article/canada-can-eliminate-supply-management-by-following-australias-lead>; Sylvain Charlebois, et al., *Supply Management 2.0: A Policy Assessment and a Possible Roadmap for the Canadian Dairy Sector*, THE NAT’L LIBR. OF MED. (Apr. 28, 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8145998/>.

258. Sally Ho, *U.S. Animal Agriculture Subsidies Soared in 2020 Despite Climate & Health Damage*, GREEN QUEEN (Oct. 6, 2021), <https://www.greenqueen.com.hk/us-animal-agriculture-subsidies-soared-in-2020-despite-climate-health-damage/>.

259. *Id.*

260. *Id.*

261. *The Dairy Industry in 50 Years*, UNIV. OF MINN. EXTENSION (Jan. 16, 2019), <https://extension.umn.edu/dairy-news/dairy-industry-50-years>.

and promotes public health. Finally, reforming the dairy industry would have disastrous outcomes for dairy farmers and the public. However, farm bill reform is necessary. The United States' current practices are no longer sustainable for public health, as evidenced by the increasing number of obese Americans.

#### CONCLUSION

Current regulations set forth by the farm bill improperly intervene with the market and have substantial detriments that harm the public, thus calling for subsidy and commodity program reform. Although the farm bill was not created for the production of food recommended for a healthy diet, United States farm policy has created a food system that damages our health.<sup>262</sup> There is an extreme disconnect from policy to dietary recommendations set forth by the USDA that needs to be remedied by placing doctors, farmers, nutritionists, and others on the forefront of policy change.<sup>263</sup> The broken commodity subsidies set forth in the farm bill will continue to be in place while Americans' health continues to decline at an alarming rate if nothing is done.<sup>264</sup> There are several ways in which the upcoming farm bill can minimize the negative impacts it has had on the public. Future farm bills must prioritize public health through creating and implementing "farm to fork" policy that links local produce to local consumers.<sup>265</sup> The next farm bill should also address plant-based milk and empower farmers to capitalize on the increase in plant-based milk consumption.<sup>266</sup> While reforming the dairy industry, the government should also look to alternative ways of subsidizing the industry. The government can do this through a supply management program.

Overall, the upcoming farm bill needs to financially assist local produce farms. This will help to decrease consumption of processed foods and its harmful effects. An improved TFP will also help increase the consumption of fruits and vegetables because participants in SNAP will have more reliable access to enough healthy food.<sup>267</sup> Additionally, the upcoming farm bill should contain an advertisement provision that provides stricter regulations on food marketing to protect and educate consumers on deceptive advertisements that promote weight gain. The current lack of advertisement regulation takes advantage of consumers and provides them with false information. In conclusion, the farm bill provides the government with an opportunity to commit to public health. If legislatures do not answer the call to reform farm policy, then it is likely that the systematic problems set forth by the farm bill will continue the obesity epidemic for many generations to come.

---

262. Jackson et al., *supra* note 15, at 394.

263. *Agricultural Policy*, *supra* note 13, at 2.

264. *See id.* at 1.

265. Eubanks II, *supra* note 138, at 309.

266. PBFA, *supra* note 60.

267. *Modernizing SNAP Benefits*, *supra* note 169.