

SENATE No. 2880

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, May 16, 2022.

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petitions (accompanied by bill, Senate, No. 495) of Joseph A. Boncore, Adrian C. Madaro, James B. Eldridge, Marc R. Pacheco and other members of the General Court for legislation to create a Garden Agriculture Program; (accompanied by bill, Senate, No. 502) of Joanne M. Comerford, Hannah Kane, Brendan P. Crighton, Brian W. Murray and other members of the General Court for legislation to promote agriculture; (accompanied by bill, House, No. 860) of Natalie M. Blais and others relative to racially equitable investments, policies, and practices to promote equity in agriculture; (accompanied by bill, House, No. 967) of Adrian C. Madaro and others for legislation to create local and community garden agriculture programs within the Department of Agricultural Resources; and (accompanied by bill, House, No. 1007) of Paul A. Schmid, III and others for legislation to authorize the Department of Conservation and Recreation to establish a program to provide for the use of certain state owned land for community gardens and farmers' markets, reports the accompanying bill (Senate, No. 2880).

For the committee,
Rebecca L. Rausch

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An Act advancing food and agricultural equity in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 20 of the General Laws is hereby amended in subsection (a) of
2 section 6C by striking the words “1 of whom shall be a member of the house of representatives;
3 1 of whom shall be a member of the senate” and inserting in place thereof the following words:-
4 2 of whom shall be the senate and house co-chairs of the joint committee on environment,
5 natural resources and agriculture, or their respective designees.

6 SECTION 2. Said chapter 20 is hereby further amended by inserting after section 6C the
7 following section:-

8 Section 6D. There shall be established within the department a circuit rider program to
9 provide on-site guidance to businesses regulated by the department about state programs,
10 regulations, and funding opportunities available to farmers in the commonwealth. Subject to
11 appropriation, the commissioner shall designate a program director. The director shall establish
12 places at which and the methods whereby farmers may make requests for a farm visit by program
13 staff at no cost. Program staff shall coordinate with state agencies as necessary to assist farmers

14 with compliance with state programs, regulations, and funding sources. No enforcement
15 measures shall be taken during or as a result of farm visits provided under this section.

16 SECTION 3. Said chapter 20 is hereby further amended in subsection (a) of section 23 by
17 inserting at the end of the second sentence thereof the following words:- ; provided, however,
18 that the committee or any independent appraisal to determine the fair market value of the land
19 restricted for agricultural purposes shall include in its valuation the appraised value of any
20 easements and infrastructure including dwellings, structures, plumbing and irrigation systems on
21 the entire parcel in its fair market value consideration or any payment.

22 SECTION 4. Said chapter 20 is hereby further amended by inserting after section 32 the
23 following section:-

24 Section 33. There shall be established a Massachusetts Farmer Equity Commission Fund
25 administered by the department of agricultural resources. The fund shall be credited with: (i)
26 revenue from appropriations or other money authorized by the general court and specifically
27 designated to be credited to the fund; (ii) interest earned on such revenues; and (iii) funds from
28 public and private sources such as gifts, grants and donations. Amounts credited to the fund shall
29 not be subject to further appropriation and any money remaining in the fund at the end of a fiscal
30 year shall not revert to the General Fund; provided, however, that such contributions shall not be
31 further restricted by the donor or used by the commonwealth for any other purpose. Any bond
32 proceeds deposited into the fund shall be kept separate from any and all other funds deposited
33 into the fund. The commission shall disburse funds to provide stipends for time spent and costs
34 incurred furthering the cause of the commission made by non-governmental members of the
35 commission.

36 SECTION 5. Chapter 29 of the General Laws is hereby amended by adding the following
37 section:-

38 Section 2DDDDD. (a) There shall be established and set up on the books of the
39 commonwealth a separate fund to be known as the Next Generation Farmers Fund. The fund
40 shall be administered by the secretary of energy and environmental affairs, in consultation with
41 the secretary of labor and workforce development. The fund shall be credited with: (i) revenue
42 from appropriations or other money authorized by the general court and specifically designated
43 to be credited to the fund; (ii) interest earned on such revenues; and (iii) funds from public and
44 private sources such as gifts, grants and donations. Amounts credited to the fund shall not be
45 subject to further appropriation and any money remaining in the fund at the end of a fiscal year
46 shall not revert to the General Fund; provided, however, that such contributions shall not be
47 further restricted by the donor or used by the commonwealth for any other purpose. Any bond
48 proceeds deposited into the fund shall be kept separate from any and all other funds deposited
49 into the fund.

50 (b) Monies in the fund shall be used to establish and implement an agricultural workforce
51 development grant program to provide training in agriculture, as such term is defined in section
52 1A of chapter 128. Said program shall award grants to the commonwealth's higher education
53 institutions, vocational technical schools, or community-based organizations that have existing
54 programs for providing workforce development training to first time farmers or the capacity to
55 create such programs. Priority consideration shall be given to programs that serve environmental
56 justice populations or people with disabilities, as well as programs that include hands-on
57 agricultural job training and training in agricultural practices that mitigate climate change and
58 protect the environment. Not more than one-third of the total grants awarded under this program

59 shall be granted annually to programs providing training in the growing and harvesting of forest
60 products upon forest land. Funds from the Massachusetts Alternative and Clean Energy
61 Investment Trust Fund, established by section 35FF of chapter 10, may be allocated for purposes
62 of funding the grant program described in this paragraph.

63 (c) A report detailing the expenditures of the fund shall be submitted annually on or
64 before May 30 to the clerks of the house of representatives and the senate, the house and senate
65 committees on ways and means, the committee on economic development and emerging
66 technologies and the committee on environment, natural resources and agriculture.

67 SECTION 6. The General Laws, as so appearing, are hereby amended by inserting after
68 chapter 128C the following new chapter:-

69 Chapter 128D: Local Garden Agriculture Program

70 Section 1: As used in this section, the following words shall have the following
71 meanings, unless the context clearly requires otherwise:

72 “Chemical fertilizer”, any chemical compound of synthetic origin applied to soil or to a
73 plant to supply the plant with nutrients.

74 “Chemical herbicide”, any chemical compound of synthetic origin applied to plants,
75 crops, or soil which is designed, used, or intended to kill or inhibit the growth of unwanted plants
76 or fungi.

77 “Chemical pesticide”, any chemical compound of synthetic origin applied to plants,
78 crops, or soil which is designed, used, or intended to kill pests that can damage crops or interfere
79 with agricultural production, including insects, birds, rodents, or any other type of animal.

80 “Commissioner”, the commissioner of the Massachusetts department of agricultural
81 resources.

82 “Division”, the agriculture jobs division.

83 “Garden Agriculture Program”, the cumulative entirety of any and all rules, regulations,
84 contracts, plans, projects, expenditures, and activities completed by the division in order to
85 award Garden Agriculture Grants to recipients, including, but not limited to, designing the
86 Garden Agriculture Grant Application, reviewing Garden Agriculture Grant Applications which
87 have been submitted by Garden Agriculture Grant Applicants, awarding Garden Agriculture
88 Grants, hiring Technical Assistance Experts, and monitoring and enforcing compliance with the
89 provisions of this chapter. The Program shall be designed to: (i) enable Massachusetts residents,
90 whether individually or through a nonprofit entity, to establish small-scale food gardens; (ii)
91 localize food production to reduce the carbon emissions created by buying food produced out of
92 state; and (iii) increase Massachusetts residents’ access to locally grown food with high
93 nutritional value.

94 “Garden Agriculture Grant”, a delivery, from the Agriculture Jobs Division to a Garden
95 Agriculture Grant Recipient, of items, tools, resources, seeds, instructional guides, and other
96 goods specified in Section 5 of this chapter.

97 “Garden Agriculture Grant Application”, a form used to request a Garden Agriculture
98 Grant.

99 “Garden Agriculture Grant Applicant”, a party who submits a Garden Agriculture Grant
100 Application.

101 “Garden Agriculture Grant Recipient”, a party who receives a Garden Agriculture Grant.

102 Section 2. The division shall create the Garden Agriculture Program.

103 Section 3. (a) The division shall create the Garden Agriculture Grant Application for use
104 by individuals and qualifying nonprofit organizations to apply for a Garden Agriculture Grant.

105 The division and its agents and employees shall refer to the Garden Agriculture Grant
106 Application as such.

107 (b) The Garden Agriculture Grant Application shall require individual applicants to: (i)
108 provide their name; (ii) provide their address; (iii) provide their cumulative family adjusted gross
109 income; (iv) identify which of the available gardening items they would like to receive as part of
110 the grant from a list, which list shall include without limitation a trowel, a spade, a pair of
111 pruners, soil, mulch, and organic fertilizer; (v) identify which types of seeds they would like to
112 receive as part of the grant, choosing from a list of available seed types which shall be listed on
113 the Garden Agriculture Grant Application; (vi) indicate whether they would like to receive one
114 raised garden bed or two raised garden beds as part of the grant; (vii) identify the dimensions that
115 they would like the raised garden bed or beds to have, choosing from a list of available
116 dimensions which shall be listed on the Garden Agriculture Grant Application; (viii) indicate
117 whether they would like to receive any other tools, equipment, resources, or items listed on the
118 Garden Agriculture Grant Application, which the commissioner has deemed appropriate to list
119 on the Garden Agriculture Grant Application, provided that it is reasonable to believe that
120 including those tools, equipment, resources, or items on the Garden Agriculture Grant
121 Application would improve the Garden Agriculture Program; and (ix) provide any other

122 information the commissioner deems appropriate for determining whether to award the applicant
123 a Garden Agriculture Grant.

124 (c) The Garden Agriculture Grant Application shall require nonprofit organization
125 applicants to: (i) provide the title of their organization; (ii) provide their address; (iii) provide
126 their taxpayer identification number; (iv) provide the name and contact information for a staff
127 person responsible for implementing the grant; (v) provide demographics information and
128 income eligibility of the population that will farm or be served by the community garden; (vi)
129 indicate whether the community garden will be located in or will serve an environmental justice
130 population or a community lacking convenient access to quality fresh food; (vii) identify which
131 of the available gardening items they would like to receive as part of the grant from a list, which
132 list shall include without limitation a trowel, a spade, a pair of pruners, soil, mulch, and organic
133 fertilizer; (viii) identify which types of seeds they would like to receive as part of the grant,
134 choosing from a list of available seed types which shall be listed on the Garden Agriculture
135 Grant Application; (ix) indicate the number of individuals that will be farming and therefore the
136 number of garden plots as part of the grant; (x) identify the dimensions that they would like the
137 garden plots to have, choosing from a list of available dimensions which shall be listed on the
138 Garden Agriculture Grant Application; (xi) indicate whether they would like to receive any other
139 tools, equipment, resources, or items listed on the Garden Agriculture Grant Application, which
140 the commissioner has deemed appropriate to list on the Garden Agriculture Grant Application,
141 provided that it is reasonable to believe that including those tools, equipment, resources, or items
142 on the Garden Agriculture Grant Application would improve the Garden Agriculture Program;
143 and (xii) provide any other information the commissioner deems appropriate for determining
144 whether to award the applicant a Garden Agriculture Grant.

145 (d) The Garden Agriculture Grant Application shall include: (i) a brief description of the
146 purposes of the Garden Agriculture Grants; (ii) a description of the restrictions, legal duties, and
147 obligations that accompany the receipt of a Garden Agriculture Grant, including, but not limited
148 to, the requirements provided in Section 7 of this chapter; (iii) a space for the applicant to sign
149 and date the application; and (iv) a clearly worded statement advising potential applicants that by
150 signing, dating, and submitting a Garden Agriculture Grant Application, they are agreeing to
151 abide by and comply with the restrictions, legal duties, and legal obligations that accompany
152 receipt of a Garden Agriculture Grant.

153 (e) The Garden Agriculture Grant Application shall be easily accessible on the website of
154 the division. Applicants shall be given the option of submitting their Garden Agriculture Grant
155 Application electronically on the website of the division. Visitors to the website of the division
156 shall be able to download and print as many copies of the Garden Agriculture Grant Application
157 as they wish. The division shall also allow applicants to easily and conveniently submit non-
158 electronic, paper versions of the Garden Agriculture Grant Application.

159 (f) The Garden Agriculture Grant Application shall be available in English and in any
160 other language spoken by at least 10 percent of the Massachusetts population.

161 (g) The division shall only approve a Garden Agriculture Grant Application if it intends
162 to provide the Garden Agriculture Grant Applicant with a Garden Agriculture Grant.

163 Section 4. The division shall, at all times, prioritize Garden Agriculture Grant
164 Applications submitted by Garden Agriculture Grant Applicants who are individuals with lower
165 annual, cumulative household adjusted gross incomes or nonprofit organizations that serve such
166 individuals.

167 Section 5. (a) A Garden Agriculture Grant shall consist of: (i) all of the items requested
168 by the applicant pursuant to Section 3(b)(iv) of this chapter; (ii) all of the seeds requested by the
169 applicant pursuant Section 3(b)(v) of this chapter, in a quantity equal to no less than 200 seeds
170 divided by the number of types of seeds the applicant requested; (iii) any raised garden bed or
171 raised garden beds requested by the applicant, pursuant to Section 3(b)(vi) and Section 3(b)(vii)
172 of this chapter, provided that no applicant shall receive more than two raised garden beds; (iv)
173 any additional items requested by the applicant, pursuant to Section 3(b)(viii) of this chapter; (v)
174 organic fertilizer; (vi) mulch and soil; (vii) assistance assembling and setting up any raised
175 garden bed which was included in the Garden Agriculture Grant; (viii) assistance setting up any
176 pest control cage included in the Garden Agriculture Grant; (ix) an accessible instructional guide
177 for how to plant, grow, and harvest the types of plants associated with the seeds the applicant
178 requested, pursuant to Section 3(b)(v) of this chapter, in English and in any other language
179 spoken by at least 10 percent of the Massachusetts population; and (x) any other item or items
180 which the commissioner determines should be included in all Garden Agriculture Grants.

181 (b) Any raised garden bed delivered to any applicant as part of a Garden Agriculture
182 Grant shall have a built-in pest-control cage or shall arrive with a separately installable pest-
183 control cage.

184 Section 6. (a) No later than 2 weeks after approving a Garden Agriculture Application,
185 the division shall notify the applicant that their application was approved, either by mail,
186 electronic mail, or by telephone.

187 (b) After approving a Garden Agriculture Application, the division shall deliver the
188 Garden Agriculture Grant to the applicant, to arrive no later than 2 months after the application
189 was approved.

190 Section 7. (a) Every Garden Agriculture Grant Recipient is prohibited from using
191 chemical pesticides.

192 (b) Every Garden Agriculture Grant Recipient is prohibited from using chemical
193 herbicides.

194 (c) Every Garden Agriculture Grant Recipient is prohibited from using chemical
195 fertilizer.

196 (d) Every Garden Agriculture Grant Recipient is prohibited from selling, trading, or
197 otherwise alienating any of the items, seeds, tools, equipment, or raised garden bed that they
198 received as part of their Garden Agriculture Grant.

199 Section 8. (a) The division shall hire at least one Technical Assistance Expert as a full-
200 time employee to receive and resolve questions from Garden Agriculture Grant Recipients
201 related to optimal, effective, or proper agricultural practices, and to refer Garden Agriculture
202 Grant Recipients to agricultural resources and resource centers, as appropriate, including but not
203 limited to the University of Massachusetts Center for Agriculture, Food and the Environment.

204 (b) Technical Assistance Experts must speak both English and any other language spoken
205 by at least 10 percent of the Massachusetts population.

206 (c) Technical Assistance Experts must have experience practicing agricultural gardening
207 without the use of chemical fertilizers, chemical pesticides, or chemical herbicides.

208 (d) Technical Assistance Experts must be qualified to answer questions that Garden
209 Agriculture Grant Recipients could reasonably be expected to have as they set up their gardens,
210 plant seeds, and grow and harvest plants.

211 (e) Technical Assistance Experts must receive an annual salary that is not less than 140
212 percent of the statewide per capita income, as calculated by the United States Census Bureau.

213 (f) Technical Assistance Experts must receive health insurance, dental insurance, at least
214 two weeks of paid vacation time, and at least one paid sick day off of work for every 20 days in
215 which they work more than 6 hours.

216 SECTION 7. Chapter 132A of the General Laws is hereby amended by inserting after
217 section 2D the following 2 sections:-

218 Section 2E. (a) The commissioner of the department of conservation and recreation shall
219 establish a program to provide for the use of designated lands in state-owned department parks
220 and reservations throughout the commonwealth for community gardens. Lands so designated
221 shall be restricted to noncommercial horticultural uses of growing and harvesting food crops by
222 inhabitants of local communities.

223 Under the program, specific planting areas that are available within designated
224 community garden sites shall be allotted for personal use on a seasonal basis by special permits
225 issued to qualifying individual gardeners.

226 The department shall evaluate, identify and map community garden lands, and post
227 relevant information about the sites and potential sites on the department's public website. The
228 department shall conduct culturally competent and linguistically diverse public outreach to

229 municipalities and qualified nonprofit organizations about the program, including targeted efforts
230 in environmental justice populations as defined in section 62 of chapter 30.

231 (b) The commissioner shall be authorized to license cities and towns and qualified non-
232 profit organizations to establish, improve, maintain, operate and access local community gardens
233 on designated department land. The commissioner shall prioritize initial grants to municipalities
234 that encompass and nonprofit organizations that serve environmental justice populations as
235 defined in section 62 of chapter 30. Said licenses shall be granted for no fee, upon such terms,
236 restrictions and agreements, and for such period of years as the commissioner may deem
237 appropriate; provided, that the land licensed is utilized for the purposes of the department's
238 community garden program consistent with the applicable rules and regulations established by
239 the department; provided further, that licenses shall be granted through a competitive application
240 process; provided further, that licensees may be responsible for costs and expenses, or portions
241 thereof, to establish, improve, maintain and operate community gardens; provided further, that
242 licenses to cities and towns shall be for periods not to exceed 10 years; provided further, that
243 licenses to qualified non-profit organizations shall be for periods not to exceed 5 years; and
244 provided further, that no license shall be granted to a qualified non-profit organization for
245 designated land unless the commissioner has first provided the city or town where the available
246 land is located the option to be granted a license for such community garden site.

247 (c) Licenses granted for community garden lands under this section shall be revocable at
248 any time by the commissioner for the failure of licensees to comply with license terms,
249 restrictions and agreements, or applicable rules and regulations established by the department.

250 (d) In no event shall the granting of said licenses be construed to create in such licensees
251 any title, right to acquire title, or ownership interest in licensed lands. The provisions of this
252 subsection shall not prohibit the commissioner from leasing such lands to municipalities or
253 qualified non-profit organizations under applicable law, for the purposes of the community
254 garden program.

255 (e) The department and its employees shall not be liable for injuries or death to persons,
256 or damage to property, resulting from any conduct related to the operation and use of community
257 gardens on department lands, in the absence of willful, wanton, or reckless conduct on the part of
258 said department or employees; provided, the community garden where such injury or death
259 occurred, is enclosed by suitable fencing of not less than 4 feet in height and conspicuous
260 signage warning of such limitation of liability is posted on, or near such fence at garden
261 entryways.

262 (f) The department shall adopt rules and regulations related to the establishment, use and
263 operation of community gardens under the department's community garden program.

264 Section 2F. The commissioner of the department of conservation and recreation shall
265 establish a program to provide for the seasonal use of areas in department parks and reservations
266 by farmers for public marketplaces. Such public markets shall be limited mainly to the vending
267 of food and other agricultural products that are grown, raised or produced on Massachusetts
268 farms.

269 The temporary establishment of said public markets as approved by the commissioner
270 shall be at suitable land and parking areas accessible by the public, and, at appropriate times
271 during daylight hours. Under the program, the commissioner shall be authorized to issue special

272 seasonal permits to farmer vendors, with a priority for permits granted to environmental justice
273 populations as defined in section 62 of chapter 30, which shall be restricted to specific approved
274 public market sites and times, upon such terms and conditions as the commissioner may deem
275 appropriate. As a condition of the issuance of a permit, a farmer vendor shall be required to
276 comply with any laws and regulations applicable to the vending of food and agricultural products
277 at said public markets.

278 Special permits issued by the commissioner shall be based on a competitive application
279 and proposal process and be subject to revocation by the commissioner upon 60 days' notice.

280 The commissioner, in consultation with the commissioner of the department of
281 agricultural resources, shall adopt rules and regulations for said public markets.

282 Farmers' markets allowed pursuant to this section shall not be subject to the commercial
283 limitations under section 2B of chapter 132A.

284 SECTION 8. The Massachusetts emergency management agency shall consider and
285 develop, in all emergency preparedness planning efforts, plans for supporting agricultural,
286 seafood, and processed food production in the commonwealth in order to mitigate the impacts of
287 food supply chain disruptions. Plans shall be developed in coordination with the department of
288 agricultural resources, the department of public health, and the department of transitional
289 assistance, and shall include consideration for production, transportation, storage, and
290 distribution.

291 SECTION 9. (a) There shall be established a special legislative commission on
292 agricultural equity and develop recommendations for supporting investments, policies, and
293 practices designed to promote racial equity in agriculture in the commonwealth.

294 The commission shall consist of the following 17 members: the commissioner of
295 agricultural resources or a designee; the senate and house chairs of the committee on
296 environment, natural resources and agriculture or their respective designees; 1 member appointed
297 by the Massachusetts Black and Latino legislative caucus; 1 member appointed by the
298 Massachusetts Asian legislative caucus; 2 members appointed by the Massachusetts food system
299 legislative caucus, to be selected through an open nomination process under criteria developed
300 by the caucus; 2 members appointed by Buy Local organizations funded by the department of
301 agricultural resources; 2 members appointed by the Massachusetts Food System Collaborative; 1
302 member appointed by the commission on African Americans; 1 member appointed by the
303 commission on Latinos and Latinas; 1 member appointed by the commission on the status of
304 citizens of Asian descent; 1 member appointed by the commission on Indian affairs; 1 member
305 appointed by Massachusetts Farm Bureau Federation; and 1 member appointed by the University
306 of Massachusetts Center for Agriculture, Food and the Environment. The appointing entities
307 shall appoint members generally familiar with agriculture and who represent a diversity of
308 knowledge of urban and rural agricultural practices and experiences.

309 The commission shall be co-chaired by the commissioner of agricultural resources and a
310 member of the commission chosen by the members.

311 The commission shall hold 3 or more public hearings in various regions of the state,
312 including 1 in a rural area and 1 in an urban area with potential for increased urban agriculture.

313 (b) The commission shall investigate and study ways to increase equity in agriculture in
314 the commonwealth, and shall prepare a report that includes, but is not limited to: (i)
315 recommendations for data collection and dissemination, benchmark development, targeting

316 practices, and transparency for grantmaking to promote equitable access to grant programs and
317 equitable distribution of funds; (ii) recommendations for generating greater equity in the laws,
318 regulations, and other policies that regulate and support agriculture in the commonwealth,
319 including without limitation legislative, regulatory, and sub-regulatory processes; (iii)
320 recommendations for improving equity in the programs and services offered by the department,
321 including but not limited to those programs regarding land access and protection, farmer
322 technical assistance and education, marketing, and others; (iv) recommendations for the ongoing
323 role of the commission or another representative body in supporting implementation and
324 monitoring of these goals; and (v) a plan for implementation of these recommendations,
325 including a timeline.

326 The department of agriculture shall furnish reasonable staff and other support for the
327 work of the commission. Commissioners may receive reimbursement for the reasonable
328 expenses incurred in carrying out their responsibilities as members of the commission under
329 procedures established by the department.

330 The department of agriculture may fund the expenses of the commission from the
331 Massachusetts Farmer Equity Commission Fund, without further appropriation.

332 (d) The Commission shall, not later than 12 months following the date of enactment of
333 this act, report to the general court on the results of its investigation and study together with its
334 findings, recommendations, and drafts of legislation, if any, necessary to carry out those
335 recommendations. The report shall be posted on the web site of the department and shall be
336 submitted to the speaker of the house, the senate president, the house and senate committees on
337 ways and means and the joint committee on environment, natural resources and agriculture.