

115TH CONGRESS
1ST SESSION

H. R. 4260

To amend the Internal Revenue Code of 1986 to establish a new tax credit and grant program to stimulate investment and healthy nutrition options in food deserts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2017

Mr. RYAN of Ohio (for himself, Mr. COSTELLO of Pennsylvania, Mr. EVANS, and Mr. MCEACHIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to establish a new tax credit and grant program to stimulate investment and healthy nutrition options in food deserts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthy Food Access
5 for All Americans Act”.

1 **SEC. 2. TAX CREDIT AND GRANT PROGRAM FOR SPECIAL**
2 **ACCESS FOOD PROVIDERS.**

3 (a) IN GENERAL.—

4 (1) ALLOWANCE OF CREDIT.—Subpart D of
5 part IV of subchapter A of chapter 1 of the Internal
6 Revenue Code of 1986 is amended by adding at the
7 end the following new section:

8 **“SEC. 45S. SPECIAL ACCESS FOOD PROVIDER CREDIT AND**
9 **GRANT PROGRAM.**

10 “(a) ESTABLISHMENT OF CREDIT FOR GROCERY
11 STORES.—

12 “(1) IN GENERAL.—For purposes of section 38,
13 the special access food provider credit determined
14 under this section for any taxable year is an amount
15 equal to the lesser of—

16 “(A) the amount of the allocation received
17 by the taxpayer under subsection (d)(1)(A), or

18 “(B) the amount equal to—

19 “(i) in the case of a qualified grocery
20 store which is placed in service during such
21 taxable year by a taxpayer which has been
22 certified as a special access food provider,
23 15 percent of the basis of such grocery
24 store, including any property used in the
25 operation of such grocery store—

1 “(I) which is acquired by the tax-
2 payer if the original use of such prop-
3 erty commences with the taxpayer,
4 and

5 “(II) with respect to which de-
6 preciation (or amortization in lieu of
7 depreciation) is allowable, or

8 “(ii) in the case of a qualified renova-
9 tion area which is placed in service during
10 such taxable year, 10 percent of the ren-
11 ovation expenditures incurred by a tax-
12 payer which has been certified as a special
13 access food provider.

14 “(2) RENOVATION EXPENDITURES.—For pur-
15 poses of paragraph (1)(B)(ii), the term ‘renovation
16 expenditures’ means amounts chargeable to capital
17 account and incurred for property (or additions or
18 improvements to property) of a character subject to
19 the allowance for depreciation in connection with the
20 renovation or rehabilitation of a grocery store.

21 “(b) GRANT PROGRAM FOR FOOD BANKS AND TEM-
22 PORARY ACCESS MERCHANTS.—

23 “(1) IN GENERAL.—The Secretary, in coordina-
24 tion with the Secretary of Agriculture, shall, subject
25 to the requirements of this section, provide a grant

1 to any entity which has been certified as a special
2 access food provider in an amount equal to the less-
3 er of—

4 “(A) the amount of the allocation received
5 by the entity under subsection (d)(1)(B), or

6 “(B) the amount equal to—

7 “(i) in the case of a permanent food
8 bank which has been placed in service dur-
9 ing the taxable year by such provider, 15
10 percent of any qualified construction ex-
11 penses incurred by such provider, and

12 “(ii) in the case of any provider which
13 qualifies as a temporary access merchant,
14 10 percent of any annual operational costs
15 incurred by such provider.

16 “(2) TIME FOR PAYMENT OF GRANT.—The Sec-
17 retary shall make payment of any grant under para-
18 graph (1) during the 60-day period beginning on the
19 later of—

20 “(A) the date of the application for certifi-
21 cation as a special access food provider, or

22 “(B) the date—

23 “(i) in the case of a permanent food
24 bank, on which the food bank for which

1 the grant is being made is placed in serv-
2 ice, or

3 “(ii) in the case of a temporary access
4 merchant, the end of the taxable year in
5 which the operational costs were incurred.

6 “(3) GRANT NOT CONSIDERED INCOME FOR
7 PURPOSES OF TAXATION.—A grant under this sub-
8 section shall not be considered as gross income for
9 purposes of this chapter.

10 “(c) CERTIFICATION AS A SPECIAL ACCESS FOOD
11 PROVIDER.—

12 “(1) APPLICATION.—Each applicant for certifi-
13 cation as a special access food provider shall submit,
14 for each grocery store, food bank, mobile market, or
15 farmers market, an application with the Secretary,
16 at such time, in such manner, and containing such
17 information as the Secretary may reasonably re-
18 quire.

19 “(2) CERTIFICATION REQUIREMENTS.—For
20 purposes of certification as a special access food pro-
21 vider, the Secretary, in consultation with the Sec-
22 retary of Agriculture and the applicable regional
23 community development entity, shall determine
24 whether—

1 “(A) in the case of an applicant seeking to
2 construct, renovate, or rehabilitate a grocery
3 store, whether such store—

4 “(i) following completion of such con-
5 struction, renovation, or rehabilitation, will
6 qualify as a grocery store (as defined in
7 subsection (h)(3)),

8 “(ii) is located in a food desert on the
9 date on which construction, renovation, or
10 rehabilitation begins,

11 “(iii) satisfies the eligibility criteria
12 established for projects under the Healthy
13 Food Financing Initiative established
14 under section 243 of the Department of
15 Agriculture Reorganization Act of 1994 (7
16 U.S.C. 6953), and

17 “(iv) satisfies such other criteria as is
18 determined appropriate by the Secretary,
19 in consultation with the Secretary of Agri-
20 culture, or

21 “(B) in the case of an applicant seeking to
22 operate a permanent food bank or as a tem-
23 porary access merchant, whether such appli-
24 cant—

1 “(i) is an entity for which no part of
2 the net earnings of such entity inures to
3 the benefit of any private shareholder or
4 individual,

5 “(ii)(I) in the case of a permanent
6 food bank, is located in a food desert on
7 the date on which construction of such
8 food bank begins, or

9 “(II) in the case of a temporary ac-
10 cess merchant—

11 “(aa) sells or provides food in
12 any food desert for an average of—

13 “(AA) in the case of a farm-
14 ers market, not less than 10
15 hours (during daylight hours)
16 each week during the calendar
17 year, or

18 “(BB) in the case of a tem-
19 porary access merchant which is
20 not a farmers market, not less
21 than 5 days and 50 hours each
22 week during the calendar year, or

23 “(bb) satisfies such requirements
24 as are established by the Secretary of
25 Agriculture to ensure an adequate

1 level of food distribution within food
2 deserts,

3 “(iii) satisfies the eligibility criteria
4 described in subparagraph (A)(iii), and

5 “(iv) satisfies such other criteria as is
6 determined appropriate by the Secretary.

7 “(3) NO ADDITIONAL USDA GRANTS FOR FARM-
8 ERS MARKETS.—A farmers market shall not be eligi-
9 ble for certification as a special access food provider
10 during any period in which such farmers market re-
11 ceives funding pursuant to any other grant program
12 administered by the Department of Agriculture
13 (with the exception of grants provided pursuant to
14 the Food Insecurity Nutrition Incentive under sec-
15 tion 4405 of the Food, Conservation, and Energy
16 Act of 2008).

17 “(d) ALLOCATION OF SPECIAL ACCESS FOOD PRO-
18 VIDER CREDITS AND GRANTS.—

19 “(1) IN GENERAL.—In each calendar year, the
20 Secretary, in coordination with the Secretary of Ag-
21 riculture, shall provide allocations to entities which
22 have been certified as special access food providers
23 under subsection (c) to receive—

24 “(A) in the case of an entity certified pur-
25 suant to subparagraph (A) of subsection (c)(2),

1 a special access food provider credit for expend-
2 itures related to a qualified grocery store or
3 qualified renovation area, and

4 “(B) in the case of an entity certified pur-
5 suant to subparagraph (B) of such subsection,
6 grants for qualified construction expenses or
7 operational costs incurred by such entity.

8 “(2) DURATION OF GRANTS TO TEMPORARY AC-
9 CESS MERCHANTS.—In the case of a special access
10 food provider which qualifies as a temporary access
11 merchant, the Secretary shall provide the grant to
12 such provider on an annual basis for a period of not
13 greater than 10 years.

14 “(e) RECAPTURE.—

15 “(1) IN GENERAL.—Subject to paragraph (3),
16 the Secretary shall provide for recapturing the ben-
17 efit of any credit allowable or grant provided under
18 this section with respect to any qualified grocery
19 store, qualified renovation area, or permanent food
20 bank which fails to satisfy the requirements under
21 subsection (c)(2) during the 5-year period following
22 the date on which such store, area, or food bank is
23 placed in service.

24 “(2) TEMPORARY ACCESS MERCHANT.—Subject
25 to paragraph (3), the Secretary shall provide for re-

1 capturing the benefit of any grant provided under
2 this section with respect to any temporary access
3 merchant which fails to satisfy the requirements
4 under subsection (c)(2) for any year during the pe-
5 riod described in subsection (d)(2).

6 “(3) APPLICATION.—If, during any taxable
7 year, a special access food provider fails to satisfy
8 the requirements under subsection (c)(2), the tax
9 under this chapter for such taxable year shall be in-
10 creased by an amount equal to the appropriate per-
11 centage of the credit or grant amount as is deter-
12 mined appropriate by the Secretary.

13 “(f) BASIS REDUCTION.—The basis of any qualified
14 grocery store, any grocery store which includes a qualified
15 renovation area, or any food bank, mobile market, or
16 farmers market shall be reduced by the amount of any
17 credit or grant determined under this section with respect
18 to such property.

19 “(g) REGULATIONS.—The Secretary, in coordination
20 with the Secretary of Agriculture, shall prescribe such reg-
21 ulations as may be appropriate to carry out this section,
22 including regulations which—

23 “(1) prevent the abuse of the purposes of this
24 section,

1 “(2) impose appropriate reporting require-
2 ments, and

3 “(3) ensure that non-metropolitan areas receive
4 a proportional amount of allocations provided under
5 subsection (d).

6 “(h) DEFINITIONS.—For purposes of this section:

7 “(1) FOOD DESERT.—

8 “(A) IN GENERAL.—The term ‘food desert’
9 means any population census tract in which—

10 “(i) not less than 500 people, or 33
11 percent of the population of such tract, re-
12 side—

13 “(I) in the case of a tract located
14 within a metropolitan area, more than
15 1 mile from a grocery store, or

16 “(II) in the case of a tract not lo-
17 cated within a metropolitan area,
18 more than 10 miles from a grocery
19 store,

20 “(ii) the poverty rate for such tract is
21 at least 20 percent, or

22 “(iii)(I) in the case of a tract not lo-
23 cated within a metropolitan area, the me-
24 dian family income for such tract does not

1 exceed 80 percent of statewide median
2 family income, or

3 “(II) in the case of a tract located
4 within a metropolitan area, the median
5 family income for such tract does not ex-
6 ceed 80 percent of the greater of statewide
7 median family income or the metropolitan
8 area median family income.

9 “(B) AREAS NOT WITHIN CENSUS
10 TRACTS.—In the case of an area which is not
11 traced for population census tracts, the equiva-
12 lent county divisions (as defined by the Bureau
13 of the Census) shall be used for purposes of de-
14 terminations of food deserts under this para-
15 graph.

16 “(C) DETERMINATION OF FOOD
17 DESERTS.—For purposes of determining wheth-
18 er a population census tract qualifies as a food
19 desert for purposes of this section, the Sec-
20 retary shall make such determinations in co-
21 ordination with the Secretary of Agriculture in
22 such manner as is determined appropriate, in-
23 cluding use of the Food Access Research Atlas
24 established by the Department of Agriculture.

1 “(2) GROCERIES.—The term ‘groceries’
2 means—

3 “(A) fresh and frozen produce,

4 “(B) fresh and frozen meat and seafood,

5 “(C) dairy products, and

6 “(D) deli products, including sliced meats,
7 cheeses, and salads.

8 “(3) GROCERY STORE.—The term ‘grocery
9 store’ means a retail store for which forecasted sales
10 of groceries account for not less than 35 percent of
11 its total annual sales.

12 “(4) METROPOLITAN AREA.—The term ‘metro-
13 politan area’ has the same meaning given the term
14 ‘metropolitan statistical area’ under section
15 143(k)(2)(B).

16 “(5) QUALIFIED CONSTRUCTION EXPENSES.—
17 The term ‘qualified construction expenses’ means
18 any costs incurred by the special access food pro-
19 vider before the date on which a permanent food
20 bank is placed in service relating to the planning,
21 design, and construction of such food bank.

22 “(6) QUALIFIED GROCERY STORE.—The term
23 ‘qualified grocery store’ means a grocery store
24 which, on the date on which construction of such
25 store begins, is located in a food desert.

1 “(7) QUALIFIED RENOVATION AREA.—The term
2 ‘qualified renovation area’ means any area of a gro-
3 cery store in which groceries are sold, provided that
4 such grocery store, on the date on which renovation
5 of such area begins, is located in a food desert.

6 “(8) REGIONAL COMMUNITY DEVELOPMENT EN-
7 TITY.—

8 “(A) IN GENERAL.—The term ‘regional
9 community development entity’ means any do-
10 mestic corporation or partnership if—

11 “(i) the primary mission of the entity
12 is serving, or providing investment capital
13 for, low-income communities or low-income
14 persons,

15 “(ii) the entity maintains account-
16 ability to residents of low-income commu-
17 nities through their representation on any
18 governing board of the entity or on any ad-
19 visory board to the entity, and

20 “(iii) the entity is certified by the Sec-
21 retary for purposes of this section as being
22 a regional community development entity.

23 “(B) LOCAL GOVERNMENT.—In the case of
24 a grocery store for which there is no entity de-
25 scribed in subparagraph (A) within a 50-mile

1 radius, the chief executive officer (or the equiv-
2 alent) of the local jurisdiction in which the gro-
3 cery store will be located may serve as the re-
4 gional community development entity for pur-
5 poses of subsection (c)(2).

6 “(9) SECRETARY OF AGRICULTURE.—The term
7 ‘Secretary of Agriculture’ means the Secretary of
8 Agriculture or the Secretary’s delegate.

9 “(10) TEMPORARY ACCESS MERCHANT.—The
10 term ‘temporary access merchant’ means a mobile
11 market, a farmers market, or a temporary or mobile
12 food bank (as such terms are defined by the Sec-
13 retary, in coordination with the Secretary of Agri-
14 culture)—

15 “(A) which is operated by a special access
16 food provider, and

17 “(B) for which the primary purpose is food
18 distribution within food deserts.”.

19 (b) CREDIT PART OF GENERAL BUSINESS CREDIT.—
20 Section 38(b) of the Internal Revenue Code of 1986 is
21 amended by striking “plus” at the end of paragraph (35),
22 by striking the period at the end of paragraph (36) and
23 inserting “, plus”, and by adding at the end the following
24 new paragraph:

1 “(37) the special access food provider credit de-
2 termined under section 45S(a).”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 of the Internal Revenue Code of 1986 is amended by add-
6 ing at the end the following new item:

“Sec. 45S. Special access food provider credit and grant program.”.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as may be
9 necessary to carry out the purposes of this section.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 3. UPDATES TO FOOD ACCESS RESEARCH ATLAS.**

14 Section 243 of the Department of Agriculture Reor-
15 ganization Act of 1994 (7 U.S.C. 6953) is amended—

16 (1) by redesignating subsection (d) as sub-
17 section (e); and

18 (2) by inserting after subsection (e) the fol-
19 lowing:

20 “(d) FOOD ACCESS RESEARCH ATLAS.—Not less fre-
21 quently than once each year, the Secretary shall update
22 the Food Access Research Atlas of the Secretary to ac-
23 count for food retailers that are placed in service during
24 that year.”.

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