

AMENDMENT TO RULES COMMITTEE PRINT 119-

22

OFFERED BY MRS. SYKES OF OHIO

At the end of subtitle D of title XII, add the following:

1 **SEC. 12414. TAX CREDIT AND GRANT PROGRAM FOR SPECIAL ACCESS FOOD PROVIDERS.**
2

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. 45BB. 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—

1 “(i) in the case of a qualified grocery
2 store which is placed in service during such
3 taxable year by a taxpayer which has been
4 certified as a special access food provider,
5 15 percent of the basis of such grocery
6 store, including any property used in the
7 operation of such grocery store—

8 “(I) which is acquired by the tax-
9 payer if the original use of such prop-
10 erty commences with the taxpayer,
11 and

12 “(II) with respect to which de-
13 preciation (or amortization in lieu of
14 depreciation) is allowable, or

15 “(ii) in the case of a qualified renova-
16 tion area which is placed in service during
17 such taxable year, 10 percent of the ren-
18 ovation expenditures incurred by a tax-
19 payer which has been certified as a special
20 access food provider.

21 “(2) RENOVATION EXPENDITURES.—For pur-
22 poses of paragraph (1)(B)(ii), the term ‘renovation
23 expenditures’ means amounts chargeable to capital
24 account and incurred for property (or additions or
25 improvements to property) of a character subject to

1 the allowance for depreciation in connection with the
2 renovation or rehabilitation of a grocery store.

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

5 “(1) IN GENERAL.—The Secretary, in coordina-
6 tion with the Secretary of Agriculture, shall, subject
7 to the requirements of this section, provide a grant
8 to any entity which has been certified as a special
9 access food provider in an amount equal to the less-
10 er of—

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

13 “(B) the amount equal to—

14 “(i) in the case of a permanent food
15 bank which has been placed in service dur-
16 ing the taxable year by such provider, 15
17 percent of any qualified construction ex-
18 penses incurred by such provider, and

19 “(ii) in the case of any provider which
20 qualifies as a temporary access merchant,
21 10 percent of any annual operational costs
22 incurred by such provider.

23 “(2) TIME FOR PAYMENT OF GRANT.—The Sec-
24 retary shall make payment of any grant under para-

1 graph (1) during the 60-day period beginning on the
2 later of—

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

5 “(B) the date—

6 “(i) in the case of a permanent food
7 bank, on which the food bank for which
8 the grant is being made is placed in serv-
9 ice, or

10 “(ii) in the case of a temporary access
11 merchant, the end of the taxable year in
12 which the operational costs were incurred.

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

17 “(c) CERTIFICATION AS A SPECIAL ACCESS FOOD
18 PROVIDER.—

19 “(1) APPLICATION.—Each applicant for certifi-
20 cation as a special access food provider shall submit,
21 for each grocery store, food bank, mobile market, or
22 farmers market, an application with the Secretary,
23 at such time, in such manner, and containing such
24 information as the Secretary may reasonably re-
25 quire.

1 “(2) CERTIFICATION REQUIREMENTS.—For
2 purposes of certification as a special access food pro-
3 vider, the Secretary, in consultation with the Sec-
4 retary of Agriculture and the applicable regional
5 community development entity, shall determine
6 whether—

7 “(A) in the case of an applicant seeking to
8 construct, renovate, or rehabilitate a grocery
9 store, whether such store—

10 “(i) following completion of such con-
11 struction, renovation, or rehabilitation, will
12 qualify as a grocery store (as defined in
13 subsection (h)(3)),

14 “(ii) is located in a food desert on the
15 date on which construction, renovation, or
16 rehabilitation begins,

17 “(iii) satisfies the eligibility criteria
18 established for projects under the Healthy
19 Food Financing Initiative established
20 under section 243 of the Department of
21 Agriculture Reorganization Act of 1994 (7
22 U.S.C. 6953), and

23 “(iv) satisfies such other criteria as is
24 determined appropriate by the Secretary,

1 in consultation with the Secretary of Agri-
2 culture, or

3 “(B) in the case of an applicant seeking to
4 operate a permanent food bank or as a tem-
5 porary access merchant, whether such appli-
6 cant—

7 “(i) is an entity for which no part of
8 the net earnings of such entity inures to
9 the benefit of any private shareholder or
10 individual,

11 “(ii)(I) in the case of a permanent
12 food bank, is located in a food desert on
13 the date on which construction of such
14 food bank begins, or

15 “(II) in the case of a temporary ac-
16 cess merchant—

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

19 “(AA) in the case of a farm-
20 ers market, not less than 10
21 hours (during daylight hours)
22 each week during the calendar
23 year, or

24 “(BB) in the case of a tem-
25 porary access merchant which is

1 not a farmers market, not less
2 than 5 days and 50 hours each
3 week during the calendar year, or
4 “(bb) satisfies such requirements
5 as are established by the Secretary of
6 Agriculture to ensure an adequate
7 level of food distribution within food
8 deserts,
9 “(iii) satisfies the eligibility criteria
10 described in subparagraph (A)(iii), and
11 “(iv) satisfies such other criteria as is
12 determined appropriate by the Secretary.

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

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

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

6 “(A) in the case of an entity certified pur-
7 suant to subparagraph (A) of subsection (c)(2),
8 a special access food provider credit for expend-
9 itures related to a qualified grocery store or
10 qualified renovation area, and

11 “(B) in the case of an entity certified pur-
12 suant to subparagraph (B) of such subsection,
13 grants for qualified construction expenses or
14 operational costs incurred by such entity.

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

21 “(e) RECAPTURE.—

22 “(1) IN GENERAL.—Subject to paragraph (3),
23 the Secretary shall provide for recapturing the ben-
24 efit of any credit allowable or grant provided under
25 this section with respect to any qualified grocery

1 store, qualified renovation area, or permanent food
2 bank which fails to satisfy the requirements under
3 subsection (c)(2) during the 5-year period following
4 the date on which such store, area, or food bank is
5 placed in service.

6 “(2) TEMPORARY ACCESS MERCHANT.—Subject
7 to paragraph (3), the Secretary shall provide for re-
8 capturing the benefit of any grant provided under
9 this section with respect to any temporary access
10 merchant which fails to satisfy the requirements
11 under subsection (c)(2) for any year during the pe-
12 riod described in subsection (d)(2).

13 “(3) APPLICATION.—If, during any taxable
14 year, a special access food provider fails to satisfy
15 the requirements under subsection (c)(2), the tax
16 under this chapter for such taxable year shall be in-
17 creased by an amount equal to the appropriate per-
18 centage of the credit or grant amount as is deter-
19 mined appropriate by the Secretary.

20 “(f) BASIS REDUCTION.—The basis of any qualified
21 grocery store, any grocery store which includes a qualified
22 renovation area, or any food bank, mobile market, or
23 farmers market shall be reduced by the amount of any
24 credit or grant determined under this section with respect
25 to such property.

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

5 “(1) prevent the abuse of the purposes of this
6 section,

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

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

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

13 “(1) FOOD DESERT.—

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

16 “(i) not less than 500 people, or 33
17 percent of the population of such tract, re-
18 side—

19 “(I) in the case of a tract located
20 within a metropolitan area, more than
21 1 mile from a grocery store, or

22 “(II) in the case of a tract not lo-
23 cated within a metropolitan area,
24 more than 10 miles from a grocery
25 store,

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

3 “(iii)(I) in the case of a tract not lo-
4 cated within a metropolitan area, the me-
5 dian family income for such tract does not
6 exceed 80 percent of statewide median
7 family income, or

8 “(II) in the case of a tract located
9 within a metropolitan area, the median
10 family income for such tract does not ex-
11 ceed 80 percent of the greater of statewide
12 median family income or the metropolitan
13 area median family income.

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

21 “(C) DETERMINATION OF FOOD
22 DESERTS.—For purposes of determining wheth-
23 er a population census tract qualifies as a food
24 desert for purposes of this section, the Sec-
25 retary shall make such determinations in co-

1 ordination with the Secretary of Agriculture in
2 such manner as is determined appropriate, in-
3 cluding use of the Food Access Research Atlas
4 established by the Department of Agriculture.

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

7 “(A) fresh and frozen produce,

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

9 “(C) dairy products, and

10 “(D) deli products, including sliced meats,
11 cheeses, and salads.

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

16 “(4) METROPOLITAN AREA.—The term ‘metro-
17 politan area’ has the same meaning given the term
18 ‘metropolitan statistical area’ under section
19 143(k)(2)(B).

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

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

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

10 “(8) REGIONAL COMMUNITY DEVELOPMENT EN-
11 TITY.—

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

15 “(i) the primary mission of the entity
16 is serving, or providing investment capital
17 for, low-income communities or low-income
18 persons,

19 “(ii) the entity maintains account-
20 ability to residents of low-income commu-
21 nities through their representation on any
22 governing board of the entity or on any ad-
23 visory board to the entity, and

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

4 “(B) LOCAL GOVERNMENT.—In the case of
5 a grocery store for which there is no entity de-
6 scribed in subparagraph (A) within a 50-mile
7 radius, the chief executive officer (or the equiv-
8 alent) of the local jurisdiction in which the gro-
9 cery store will be located may serve as the re-
10 gional community development entity for pur-
11 poses of subsection (c)(2).

12 “(9) SECRETARY OF AGRICULTURE.—The term
13 ‘Secretary of Agriculture’ means the Secretary of
14 Agriculture or the Secretary’s delegate.

15 “(10) TEMPORARY ACCESS MERCHANT.—The
16 term ‘temporary access merchant’ means a mobile
17 market, a farmers market, or a temporary or mobile
18 food bank (as such terms are defined by the Sec-
19 retary, in coordination with the Secretary of Agri-
20 culture)—

21 “(A) which is operated by a special access
22 food provider, and

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

1 (b) CREDIT PART OF GENERAL BUSINESS CREDIT.—
2 Section 38(b) of the Internal Revenue Code of 1986 is
3 amended by striking “plus” at the end of paragraph (40),
4 by striking the period at the end of paragraph (41) and
5 inserting “, plus”, and by adding at the end the following
6 new paragraph:

7 “(42) the special access food provider credit de-
8 termined under section 45BB(a).”.

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

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

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

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

19 **SEC. 12415. UPDATES TO FOOD ACCESS RESEARCH ATLAS.**

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

22 (1) by redesignating subsection (d) as sub-
23 section (e); and

24 (2) by inserting after subsection (e) the fol-
25 lowing:

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

