

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of grocery stores in certain underserved areas.

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IN THE SENATE OF THE UNITED STATES

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Mr. OSSOFF introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of grocery stores in certain underserved areas.

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 “Fresh Food Act”.

5 **SEC. 2. TAX INCENTIVES FOR ESTABLISHMENT OF GRO-**  
6 **CERY STORES IN CERTAIN UNDERSERVED**  
7 **AREAS.**

8        (a) IN GENERAL.—Chapter 1 of the Internal Rev-  
9 enue Code of 1986 is amended by inserting after sub-  
10 chapter V the following new subchapter:

1    **“Subchapter W—Tax Incentives for Grocery**  
2                   **Stores in Underserved Areas**

“Sec. 1400. Increased work opportunity tax credit.

“Sec. 1400A. Credit for sales of fresh fruits, vegetables, meat, and dairy.

“Sec. 1400B. Definitions.

3    **“SEC. 1400. INCREASED WORK OPPORTUNITY TAX CREDIT.**

4           “(a) IN GENERAL.—In the case of an individual em-  
5    ployed in the trade or business of operating a new under-  
6    served area grocery store (as certified by the designated  
7    local agency (as defined in section 51(d)(12)), the limita-  
8    tion otherwise in effect under section 51(b)(3) with respect  
9    to such individual shall be increased by \$1,000.

10          “(b) ALTERNATIVE CERTIFICATION.—The Secretary  
11    may provide for alternative methods for certification of an  
12    individual described in subsection (a) in such manner as  
13    the Secretary (in coordination with the head of any rel-  
14    evant Federal agency) determines appropriate.

15          “(c) TERMINATION.—Subsection (a) shall only apply  
16    to wages paid in taxable years beginning after December  
17    31, 2024, and before January 1, 2031.

18    **“SEC. 1400A. CREDIT FOR SALES OF FRESH FRUITS, VEGE-**  
19                   **TABLES, MEAT, AND DAIRY.**

20          “(a) IN GENERAL.—For purposes of section 38, the  
21    underserved area grocery store fruits, vegetables, meat,  
22    and dairy credit determined under this section for the tax-  
23    able year is an amount equal to the applicable percentage  
24    of the cost of goods sold by the taxpayer with respect to

1 the retail sale of fresh fruits, vegetables, meat, and dairy  
2 in the trade or business of operating a new underserved  
3 area grocery store.

4 “(b) COST OF GOODS SOLD.—For purposes of sub-  
5 section (a), the cost of goods sold with respect to any tax-  
6 able year is the total amount (as determined under the  
7 method of accounting of the taxpayer) of purchases made  
8 by the taxpayer for goods acquired for resale and sold dur-  
9 ing such taxable year.

10 “(c) APPLICABLE PERCENTAGE.—

11 “(1) IN GENERAL.—For purposes of subsection  
12 (a), the applicable percentage shall be—

13 “(A) in the case of any new underserved  
14 area grocery store which is placed in service  
15 during a taxable year which includes the date  
16 on which the Secretary determines (pursuant to  
17 section 1400B(3)(C)) that the area in which  
18 such grocery store is located qualifies as an un-  
19 derserved area, or which is placed in service  
20 during a taxable year beginning after such  
21 date—

22 “(i) with respect to the taxable year in  
23 which such grocery store is placed in serv-  
24 ice, 30 percent,

1                   “(ii) with respect to the taxable year  
2                   subsequent to the taxable year described in  
3                   clause (i), 30 percent,

4                   “(iii) with respect to the taxable year  
5                   subsequent to the taxable year described in  
6                   clause (ii), 28 percent,

7                   “(iv) with respect to the taxable year  
8                   subsequent to the taxable year described in  
9                   clause (iii), 26 percent, and

10                   “(v) with respect to any taxable year  
11                   subsequent to the taxable year described in  
12                   clause (iv), 0 percent, or

13                   “(B) in the case of any new underserved  
14                   area grocery store which was placed in service  
15                   during a taxable year which ended prior to the  
16                   date on which the Secretary determines (pursu-  
17                   ant to section 1400B(3)(C)) that the area in  
18                   which such grocery store is located qualifies as  
19                   an underserved area—

20                   “(i) with respect to the taxable year  
21                   which includes such date, 30 percent,

22                   “(ii) with respect to the taxable year  
23                   subsequent to the taxable year described in  
24                   clause (i), 28 percent,

1                   “(iii) with respect to the taxable year  
2                   subsequent to the taxable year described in  
3                   clause (ii), 26 percent, and

4                   “(iv) with respect to any taxable year  
5                   subsequent to the taxable year described in  
6                   clause (iii), 0 percent.

7                   “(2) BONUS FOR LOCALLY SOURCED FRUITS,  
8                   VEGETABLES, MEAT, AND DAIRY.—For purposes of  
9                   subsection (a), in the case of any taxable year de-  
10                  scribed in paragraph (1) (with the exception of any  
11                  taxable year described in subparagraph (A)(v) or  
12                  (B)(iv) of such paragraph), the applicable percent-  
13                  age for such taxable year shall be increased by 5  
14                  percentage points with respect to any fresh fruits,  
15                  vegetables, meat, and dairy which are sourced—

16                   “(A) from any location within the same  
17                   State in which the new underserved area gro-  
18                   cery store is located, or

19                   “(B) from any location which is within a  
20                   100-mile radius of the new underserved area  
21                   grocery store.

22                   “(d) TERMINATION.—Subsection (a) shall only apply  
23                   to taxable years beginning after December 31, 2024, and  
24                   before January 1, 2031.

1 **“SEC. 1400B. DEFINITIONS.**

2 “For purposes of this subchapter—

3 “(1) FRESH FRUITS, VEGETABLES, MEAT, AND  
4 DAIRY.—

5 “(A) IN GENERAL.—Subject to subpara-  
6 graph (B), the term ‘fresh fruits, vegetables,  
7 meat, and dairy’ means any product of agri-  
8 culture (as defined in section 3 of the Fair  
9 Labor Standards Act of 1938 (29 U.S.C.  
10 203(f))) which is suitable for human consump-  
11 tion.

12 “(B) EXCLUSION OF CANNED OR FROZEN  
13 FOODS.—The term ‘fresh fruits, vegetables,  
14 meat, and dairy’ shall not include any product  
15 described in subparagraph (A) which is canned  
16 or frozen.

17 “(2) NEW UNDERSERVED AREA GROCERY  
18 STORE.—

19 “(A) IN GENERAL.—The term ‘new under-  
20 served area grocery store’ means any building  
21 of the taxpayer if—

22 “(i) not more than 80,000 square feet  
23 of such building is used for selling items at  
24 retail,

25 “(ii) at least 25 percent of the square  
26 feet of such building which is used for sell-

1 ing items at retail is used for selling fresh  
2 fruits, vegetables, meat, and dairy,

3 “(iii) at least 25 percent of the gross  
4 sales of items sold at retail from such  
5 building are attributable to sales of fresh  
6 fruits, vegetables, meat, and dairy, and

7 “(iv) such building is located in—

8 “(I) an underserved area (as de-  
9 termined by the Secretary under para-  
10 graph (3)(C) after December 31,  
11 2024), or

12 “(II) a rural area (as defined in  
13 section 343(a)(13)(A) of the Consoli-  
14 dated Farm and Rural Development  
15 Act (7 U.S.C. 1991(a)(13)(A)).

16 “(B) MALLS AND SHOPPING CENTERS.—

17 “(i) IN GENERAL.—For purposes of  
18 subparagraph (A), the term ‘building’ in-  
19 cludes any portion of a larger building or  
20 structure (such as a mall or shopping cen-  
21 ter)—

22 “(I) which is owned, leased, or  
23 occupied by the taxpayer, and

24 “(II) in which the taxpayer, as  
25 part of its trade or business, makes

1                   retail sales of fresh fruits, vegetables,  
2                   meat, and dairy.

3                   “(ii) APPLICATION OF REQUIRE-  
4                   MENTS.—In the case of any portion of a  
5                   larger building or structure described in  
6                   clause (i), the requirements under clauses  
7                   (i) through (iii) of subparagraph (A) shall  
8                   be applied solely with respect to such por-  
9                   tion and not with respect to the larger  
10                  building or structure described in such  
11                  clause.

12                  “(C) DURATION OF STATUS.—

13                  “(i) UNDERSERVED AREA.—In the  
14                  case of any building which is described in  
15                  clauses (i) through (iii) of subparagraph  
16                  (A) and is in operation during a period in  
17                  which the Secretary has determined (pur-  
18                  suant to paragraph (3)(C)) that the area  
19                  in which such building is located qualifies  
20                  as an underserved area, such building shall  
21                  not fail to satisfy the requirement de-  
22                  scribed in subparagraph (A)(iv)(I) solely  
23                  by reason of the area in which such build-  
24                  ing is located subsequently ceasing to be  
25                  an underserved area.





1                   “(II) in the case of a tract not lo-  
2                   cated within a metropolitan area,  
3                   more than 10 miles from a building  
4                   which satisfies the requirements in  
5                   clauses (i) through (iii) of paragraph  
6                   (2)(A),

7                   “(ii) the poverty rate for such tract is  
8                   at least 20 percent, and

9                   “(iii)(I) in the case of a tract not lo-  
10                  cated within a metropolitan area, the me-  
11                  dian family income for such tract does not  
12                  exceed 80 percent of statewide median  
13                  family income, or

14                  “(II) in the case of a tract located  
15                  within a metropolitan area, the median  
16                  family income for such tract does not ex-  
17                  ceed 80 percent of the greater of statewide  
18                  median family income or the metropolitan  
19                  area median family income.

20                  “(B) AREAS NOT WITHIN CENSUS  
21                  TRACTS.—In the case of an area which is not  
22                  traced for population census tracts, the equiva-  
23                  lent county divisions (as defined by the Bureau  
24                  of the Census) shall be used for purposes of de-

1 terminations of underserved areas under this  
2 paragraph.

3 “(C) DETERMINATION OF UNDERSERVED  
4 AREA.—For purposes of determining whether a  
5 population census tract qualifies as an under-  
6 served area for purposes of this paragraph, the  
7 Secretary shall make such determinations in co-  
8 ordination with the Secretary of Agriculture in  
9 such manner as is determined appropriate, in-  
10 cluding use of the Food Access Research Atlas  
11 established by the Department of Agriculture.

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

16 “(E) REGULATIONS AND GUIDANCE.—Not  
17 later than 6 months after the date of enactment  
18 of the Fresh Food Act, the Secretary shall issue  
19 such regulations or other guidance as may be  
20 necessary or appropriate to carry out the pur-  
21 poses of this paragraph.”.

22 (b) CREDIT TO BE PART OF GENERAL BUSINESS  
23 CREDIT.—

24 (1) IN GENERAL.—Section 38(b) of the Internal  
25 Revenue Code of 1986 is amended by striking

1 “plus” at the end of paragraph (40), by striking the  
2 period at the end of paragraph (41) and inserting “,  
3 plus”, and by adding at the end the following new  
4 paragraph:

5 “(42) the underserved area grocery store fruits,  
6 vegetables, meat, and dairy credit determined under  
7 section 1400A.”.

8 (2) SPECIFIED CREDITS.—Section 38(c)(4)(B)  
9 of such Code is amended—

10 (A) in clause (xi), by striking “and” at the  
11 end,

12 (B) in clause (xii), by striking the period  
13 at the end and inserting “, and”, and

14 (C) by adding at the end the following:

15 “(xiii) the credit determined under  
16 section 1400A.”.

17 (c) CLERICAL AMENDMENT.—The table of sub-  
18 chapters for chapter 1 of the Internal Revenue Code of  
19 1986 is amended by inserting after the item relating to  
20 subchapter V the following new item:

“SUBCHAPTER W. TAX INCENTIVES FOR GROCERY STORES IN UNDERSERVED  
AREAS”.

21 (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2024.