To provide a tax credit to live event venues that provided refunds on tickets for events that were cancelled due to the coronavirus pandemic.

IN THE SENATE OF THE UNITED STATES

Mr. Tester (for himself and Mr. Carper) introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To provide a tax credit to live event venues that provided refunds on tickets for events that were cancelled due to the coronavirus pandemic.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Entertainments New Credit Opportunity for Relief and Economic Sustainability Act” or the “ENCORES Act”.

SEC. 2. ESTABLISHMENT OF TAX CREDIT FOR TICKET RE-
FUNDS ISSUED BY LIVE EVENT VENUES.

(a) IN GENERAL.—Subject to subsections (b) and (c),
of 1986, in the case of an eligible entity, the live event refund credit shall be treated as a credit listed at the end of subsection (b) of such section. For purposes of this subsection, the live event refund credit shall be an amount equal to 50 percent of any qualified ticket refund made by the eligible entity during the period—

(1) beginning on January 31, 2020, and

(2) ending on the date of enactment of this Act.

(b) LIMITED CARRYBACK OF CREDIT.—In the case of the live event refund credit allowed under subsection (a)—

(1) at the election of the eligible entity—

(A) such credit shall not be applied to the taxable year in which the qualified ticket refunds were made by such taxpayer and the amount of the credit with respect to such refunds shall be reduced to zero for such taxable year, and

(B) the amount of such credit shall be a live event refund credit carryback to either of the 2 taxable years preceding such taxable year, and

(2) section 39 of the Internal Revenue Code of 1986 shall not apply with respect to such credit.
(c) CREDIT MADE AVAILABLE TO TAX EXEMPT ENTITIES.—

(1) IN GENERAL.—In the case of an eligible entity which is an organization described in section 501(c) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code, there shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 of such Code (and not allowable under subpart D of such part) the lesser of—

(A) the amount of the credit determined under subsection (a) with respect to such entity, or

(B) the amount of the payroll taxes (as defined in section 45R(f)(3) of such Code) of such entity during the calendar year in which the taxable year begins, as determined without regard to any credit against such taxes.

(2) LIMITED CARRYBACK.—Rules similar to subsection (b)(1) shall apply for purposes of this subsection.

(d) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE ENTITY.—
(A) IN GENERAL.—The term “eligible entity” means a person engaged in a trade or business which—

(i) includes—

(I) organizing, promoting, producing, or managing live events, and

(II) the sale to members of the general public (directly or through a third party) of tickets to attend such events, and

(ii) for the preceding taxable year, had an average number of full-time equivalent employees (as defined in section 45R(d)(2) of the Internal Revenue Code of 1986) which is equal to or less than 500.

(B) AGGREGATION RULE.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single taxpayer for purposes of subparagraph (A).

(C) EXCLUSION.—The term “eligible entity” shall not include any person engaged in professional football, basketball, baseball, or other professional sport.
The term “live event” means any live concert, comedy show, sporting event, or theatrical production for which tickets were made available to members of the general public by the eligible entity not less than 6 weeks prior to such concert, show, event, or production.

(3) Qualified ticket refund.—The term “qualified ticket refund” means any refund paid by the eligible entity to an individual who purchased a ticket which entitled such individual to attend a live event which was cancelled or postponed due to the virus SARS–CoV–2 or coronavirus disease 2019 (COVID–19), provided that—

(A) the eligible entity made a good faith effort to offer such individual the option to receive a voucher or discount for any live event at a later date in an amount which was equal to or greater than the price paid by such individual for such ticket, and

(B) such individual elected to receive a refund.

(4) Other terms.—Except as otherwise provided under this subsection, any term used in this section which is also used in chapter 1 of the Inter-
nal Revenue Code of 1986 shall have the meaning given such term under such chapter.

(e) Denial of Double Benefit.—No deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1986 with respect to any amount taken in account in determining the credit allowed to a taxpayer under this section.

(f) Regulations and Guidance.—The Secretary of the Treasury (or the Secretary’s delegate) may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section.