119TH CONGRESS
1ST SESSION

S. ______

To amend the Internal Revenue Code of 1986 to exclude from gross income grants and the proceeds of transferrable tax credits supporting the development of affordable housing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WELCH introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income grants and the proceeds of transferrable tax credits supporting the development of affordable housing, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Supporting Small Affordable Housing Developers Act’’.

SEC. 2. CERTAIN AMOUNTS SUPPORTING AFFORDABLE HOUSING EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 140 the following new section:

"SEC. 139M. CERTAIN AMOUNTS SUPPORTING AFFORDABLE HOUSING.

''(a) IN GENERAL.—In the case of an eligible taxpayer, gross income shall not include—

''(1) any affordable housing grant, or

''(2) any income received in cash from the sale of any transferrable affordable housing tax credit.

''(b) ELIGIBLE TAXPAYER.—

''(1) IN GENERAL.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

''(A) which meets the gross receipts test of section 448(c) (determined by substituting '$36,000,000' for '$25,000,0000″ in paragraph (1) thereof)', and

''(B) which conducts a trade or business to which any of the following North American Industry Classification Codes applies:

''(i) 237210.

''(ii) 238300.

''(iii) 531110.

"(iv) 23611.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2027, the $36,000,000 dollar amount in paragraph (1)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2026' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

If any amount as increased under the preceding sentence is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) AFFORDABLE HOUSING GRANT.—The term 'affordable housing grant' means any grant—

"(A) which is received from the United States, from a State or a political subdivisions thereof, a possession of the United States, or any organization described in section 501(c)(3) and exempt from tax under section 501(a), and

"(B) the purpose of which is to develop or rehabilitate affordable housing.

"(2) TRANSFERRABLE AFFORDABLE HOUSING TAX CREDIT.—The term 'affordable housing tax credit' means any credit against State or local taxes which—

"(A) is based on the development or rehabilitation of affordable housing, and

"(B) is transferrable to another taxpayer in return for cash.

"(3) AFFORDABLE HOUSING.—The term 'affordable housing' means housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act.

"(d) CROSS REFERENCE.—For treatment of the transferee taxpayer with respect to transferrable affordable housing tax credits, see section 280I".

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—Section 7871(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph:

"(8) for purposes of section 139M (relating to grants supporting affordable housing).".

(c) DENIAL OF DEDUCTION BY TRANSFEREE.—Part IX of subchapter B of chapter 1 of the Internal Revenue

Code of 1986 is amended by adding at the end the following new section:

"SEC. 280I. TRANSFERABLE AFFORDABLE HOUSING TAX CREDITS.

"No deduction shall be allowed with respect to any consideration paid by the transferee taxpayer for the transfer of a transferrable affordable housing tax credit (as defined in section 139M(c)(2)).".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting before the item relating to section 140 the following new item:

"Sec. 139M. Grants supporting affordable housing.".

(2) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by inserting at the end the following new item:

"Sec. 280I. Transferable affordable housing tax credits.".

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

SEC. 3. DISCHARGE OF INDEBTEDNESS RELATING TO AFFORDABLE HOUSING.

(a) IN GENERAL.—Section 108(a)(1) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ‘‘, or’’, and by adding at the end the following new subparagraph:

‘‘(F) in the case of an eligible taxpayer, the indebtedness discharged is qualified affordable housing indebtedness.’’.

(b) REDUCTION OF TAX ATTRIBUTES.—Section 108(b)(1) of such Code is amended by striking ‘‘or (C)’’ and inserting ‘‘(C), or (F)’’.

(c) DEFINITIONS.—Section 108 of such Code is amended by adding at the end the following new subsection:

‘‘(j) RULES RELATED TO QUALIFIED AFFORDABLE HOUSING INDEBTEDNESS.—For purposes of this section—

‘‘(1) QUALIFIED AFFORDABLE HOUSING LOAN.—The term ‘qualified affordable housing loan’ means indebtedness incurred pursuant to a loan—

‘‘(A) which is made by the United States, a State or any political subdivision thereof, a possession of the United States, or any organization described in section 501(c)(3) and exempt from tax under section 501(a), and

‘‘(B) the purpose of which is to finance the development or rehabilitation of affordable housing (as defined in section 139M(c)).

"(2) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' has the meaning given to such term under section 139M.''.

(d) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—Section 7871(a)(8) of the Internal Revenue Code of 1986, as added by section 2, is amended by inserting " and section 108(j) (relating to affordable housing loans) and'' before "section 139M''.

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