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THE PROMISE OF OPPORTUNITY ZONES

HEARING

BEFORE THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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THE PROMISE OF OPPORTUNITY ZONES

THURSDAY, MAY 17, 2018

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 216, Hart Senate Office Building, the Honorable Erik Paulsen, Chairman, presiding.

Representatives present: Paulsen, Maloney, Handel, Adams, LaHood, Delaney, and Comstock.

Senators present: Heinrich, Peters, Hassan, and Sasse.

Staff present: Theodore Boll, Colin Brainard, Gerardo Bonilla, Daniel Bunn, Kim Corbin, Barry Dexter, Alaina Flannigan, Connie Foster, Natalie George, Colleen Healy, Matt Kaido, Allie Neill, and Alex Schibuola.

OPENING STATEMENT OF HON. ERIK PAULSEN, CHAIRMAN, A U.S. REPRESENTATIVE FROM MINNESOTA

Chairman Paulsen. We will call the hearing to order.

Good morning, and welcome to today's hearing on The Promise of Opportunity Zones. America's new economy is finally taking off. The Congressional Budget Office, CBO, now projects 3.3 percent growth for 2018, the highest annual growth rate since 2005, up from a meager 1.9 percent it estimated prior to the Tax Cuts & Jobs Act and regulatory reforms. And while all Americans benefit from faster growth, we can, and should, take special care of those communities who are in greater need of support. Some communities, both urban and rural, are having a particularly difficult time.

The new tax law contains a provision that deserves more public attention, one that is designed to help lower-income areas. The law provides a capital gains tax incentive to encourage long-term, private investment in communities that have had difficulty attracting jobs and new business. Unlike past targeted incentives, the areas are selected by governors, who know the unique needs of their communities, instead of by the Federal Government.

Opportunity Zones have been a bipartisan, bicameral initiative. The House author of the original legislation, The Investing in Opportunity Act, is former representative Pat Tiberi who chaired this Committee until January of this year. We are honored to have the Senate author with us, as well today, Senator Tim Scott of South Carolina.

Opportunity Zones hold the promise of flexible, innovative solutions. And flexibility is important, because the reasons some areas

lag economically vary across communities and regions. A factory central to a town's economy may have closed, leaving workers and searching for new skills and jobs, that is if they haven't given up entirely.

The area may have underperforming schools. They may lack access to capital. Excessive taxes and regulation may have made it difficult to start or maintain a business. The community may be struggling with rampant drug and alcohol abuse. This is why "one size fits all" Federal spending programs or incentives to invest only in particular activities are not well-suited to address each community's unique set of challenges.

This is why also Opportunity Zones, which allow the private sector and local communities to innovative and collaborate on the best solutions, have much greater potential for meeting those unique needs.

John Lettieri, one of our distinguished witnesses today, put it well in a recent op-ed in The Hill. He noted that previous location-targeted programs had an "overly prescriptive top-down approach that left no room for local experimentation."

Opportunity Zones, on the other hand, will bring "the best possible mix of investments in new and expanding businesses, infrastructure and energy projects, commercial real estate, affordable housing and more."

Opportunity Zones also hold the promise of local knowledge and engagement. They are chosen by governors, who know their communities well, and not by Federal planners with a formula-based spreadsheet.

Across the country, there are about 8,700 Opportunity Zones. My own State of Minnesota is hoping to attract additional long-term, private investment into 128 census tracts that were recently selected as Opportunity Zones.

State and local leaders can also help their communities in thriving by collaborating and removing unnecessary barriers to starting a business such as overly prescriptive occupational licensing or local zoning ordinances. Opportunity Zones also hold the promise of access to a large amount of untapped capital. Investors who reinvest capital gains from another investment into these zones temporarily defer taxes.

And these investments are pooled in Opportunity Funds so that no single investor has to have specialized knowledge about how and where to invest since those decisions can be made by the experts who manage the funds.

The longer investments are held in Opportunity Zones the more the capital gains relief grows, a strong incentive to invest in a community for the long-haul. And this also encourages fund managers to invest—in enterprises that will yield the most success and prosper for a community—prosperity.

With an estimated $6 trillion in unrealized capital gains and no upfront State or Federal costs, the potential investments flowing into struggling communities is almost limitless. We have a highly knowledgeable panel of witnesses here today, who have been engaged in the Opportunity Zone initiative and whose observations and insights I very much look forward to hearing.

Before I introduce the witnesses, though, I now recognize our Ranking Member Senator Heinrich for his opening statement.

[The prepared statement of Chairman Paulsen appears in the Submissions for the Record on page 32.]

OPENING STATEMENT OF HON. MARTIN HEINRICH, RANKING MEMBER, A U.S. SENATOR FROM NEW MEXICO

Senator Heinrich. Good morning, Chairman Paulsen, and thank you for holding today's hearing. I want to recognize my colleagues Senator Booker and Senator Scott for their important work to create a new incentive to invest in communities with high poverty and persistent unemployment.

Mr. Chairman, my good friend Senator Booker, could not be here this morning but provided a statement and asked that it be entered into the record.

Chairman Paulsen. Without objection.

[The prepared statement of Senator Booker appears in the Submissions for the Record on page 35.]

Senator Heinrich. It is good to have my colleague from South Carolina here with us today, and we look forward to his testimony. And I want to thank you and Senator Booker for your leadership on this issue.

Even today, more than ten years after the recession began, the recovery still has not reached many communities, both rural and urban. In New Mexico, our statewide unemployment rate is almost 50 percent higher than the national average. And in some areas, it's much higher.

Across the country, there are more than 50 million Americans living in distressed communities. There's enormous talent in these communities, but we have underinvested in it.

While the Chairman and I disagree on the underlying Republican tax bill, a partisan bill that continues to leave working Americans behind, we do agree that Opportunity Zones hold the promise to direct some much needed financial investment to places like New Mexico.

Opportunity Zones are an important addition to the tool kit. They can support investments in affordable housing and small businesses while spurring job creation, and they can help lift living standards in neighborhoods across the country.

The new Opportunity Funds have the potential to attract high-net-worth investors, who previously have not invested in low-income communities.

Thanks to the long bull market, many investors are sitting on substantial unrealized capital gains that we can put to work generating housing, jobs, and growth.

What distinguishes Opportunity Zones from other Federal efforts to stimulate growth in distressed communities, such as the New Markets Tax Credit, is flexibility. There are few investment constraints. Funds can invest as much as they want. There's no competition to receive the benefit.

But with this flexibility, there is risk that the social impact will not be as great as we would like it to be. To achieve broad public benefits, projects should be part of a community strategy to create

jobs, boost entrepreneurship, increase affordable housing, and promote economic development.

Investors should also tap the vast expertise that exists in private, public, and non-profit sectors about how to make high-impact community investments. And we were fortunate enough to have some of that expertise here with us today.

I've seen first-hand the important work Enterprise and LISC, together with their partners, has done in New Mexico, providing affordable housing projects and creating jobs in Gallup and Las Cruces and Santo Domingo Pueblo, for that matter. And Opportunity Zones can help us do even more.

Poverty is stubborn; one in five children grows up in poverty in this country, a number that hasn't moved much in a generation. In New Mexico, three in ten children grow up in poverty. And in some of our counties, close to half of all children live in poverty. Growing up poor has lasting impacts on a child's development, affecting successes in the classroom and educational and employment outcomes later in life.

In addition to expanding proven credits and programs like the Earned Income Tax Credit and Head Start, we need new approaches. Two-generation models can increase opportunities for families living in poverty by simultaneously targeting children and parents with programs and supports to boost economic security and improve the health and well-being of the whole family.

Opportunity Zones offer an additional path to spur economic development. Before the new zones are implemented, we have time to think through some guardrails that can help ensure that the intent of the legislation is fully realized; and closely monitoring implementing and establishing appropriate guardrails, either through rules or additional action by Congress, can go a long way towards ensuring that Opportunity Zones bring new economic activity to communities that desperately need it. This is a big opportunity. I'd like to see us seize it.

Thank you to the witnesses for being here today, and I look forward to each of your testimonies.

[The prepared statement of Senator Heinrich appears in the Submissions for the Record on page 36.]

Chairman Paulsen. Well—and thank you Senator. And as we begin with our witnesses today, I want to, first, acknowledge the Honorable Tim Scott. Senator Scott is with us, who worked with your colleague, Senator Booker, whose testimony has been entered into the record also.

Senator Scott is a South Carolina native and was sworn in as a United States Senator from South Carolina in January of 2013 to complete the term of retiring Senator Jim DeMint. Senator Scott was elected to a full term in the U.S. Senate in January 2017. And prior to the U.S. Senate, he served in the U.S. House of Representatives, the South Carolina State House, and the Charleston County Council.

Before he entered public service, Senator Scott built a successful small business of his own, and is a co-author with former Ohio Representative, Pat Tiberi, of the original Opportunity Zone legislation.

We welcome your expertise and you being here today. I know you have to leave a little early, so we'll listen to you and introduce the rest of the witnesses after you conclude.

With that, Senator Scott, you're recognized for five minutes.

STATEMENT OF HON. TIM SCOTT, U.S. SENATOR FOR SOUTH CAROLINA

Senator Scott. Thank you, Chairman and to the Ranking Member, as well. I appreciate you guys having this hearing.

In large part, because of the tax cuts in jobs, our economy is booming. We're in the middle of the third largest economic expansion since 1854; yes, 1854, and by the time we're done, it will be the second longest economic expansion.

Record revenues entered our Treasury in April. Unemployment rates are at 3.9 percent; a million folks have come back to the workforce; wages are up 2.9 percent over last year. African-American unemployment is the lowest record in four decades, since they started taking notes in 1972; 800,000 new jobs have been created since the passage of this legislation.

Because of tax reform, millions of Americans have seen increases in benefits wages or bonuses. According to a survey by the manufacturers, 72 percent of manufacturers plan to increase wages or benefits this year; 77 percent plan to hire more employees. Additionally, the NFIB says optimism for small businesses is at a 45-year high; poor sales at record lows.

Many components of the Tax Reform Bill have yet to be implemented. And this is really good news, because as I speak, the Treasury Department is finalizing guidance for Opportunity Zones. And here's why that's so important.

Fifty-two million Americans live in distressed communities. I have personally been raised in one of those distressed communities, and I will tell you that the potential in those Opportunity Zones is incredibly high. But too often, too little of these Opportunity Zones find themselves manifesting in these distressed communities.

And the question that, I think, of the Investing in Opportunity Act answers is: How do we attract private sector capital back into distressed communities?

The answer is, in part, by deferring the capital gains tax, if you will, make a long-term investment in those distressed communities. This is incredibly important, because the goal is not to make short-term investments where investors have an opportunity to have a great return. This goal, the goal of the legislation, is to make sure that those residents living in the Opportunity Zones, those businesses located in the Opportunity Zones, the property that could be rehabilitated in the Opportunity Zones, benefits from a long-term view of making a community better without the gentrification. And there are a number of models from Atlanta to Spartanburg, South Carolina, and North Charleston, South Carolina, where we can see that the approach become reality.

It's also a win, win, win. Local mayors had major input in making sure that the governors' recommendation came from the experts closest to the people. And those of us serving in Congress, we all know that's it's amazing that our approval ratings are at 13

percent. That includes our family, our cousins, our brothers, our best friends from high school.

But local officials have a much higher approval rating. The closer the government is to the people, the more the people trust that government. And when it comes to investing in opportunity and Opportunity Zones, having the mayors' input, with the governors' assistance, makes this a win-win on the local level and the State level. But what makes it a win on the Federal is that our hands are not there; that the red tape and the challenges that come with Federal Governmental oversight are not there. We can have great confidence in our cities, in our states, to do the right thing for all of our citizens. And by having a Federal program that simply encourages, in a sense, capital to take a second look at communities that they would not normally take a second look, this is really good news for residents.

My hope is a simple one: That as we see the manifestation and the creation around the country of Opportunity Zones that we will be having another joint meeting in a year, in two years, so that we can measure the progress made in reasonable time and that we can celebrate in a bipartisan fashion of the Opportunity Zone while it was a part of the Republican package for tax cuts and jobs, it is not a partisan legislation. It is not even a bipartisan legislation. It was American legislation for American people stuck, sometimes trapped, in a place where it seems like the lights grow dimmer, and the future does too. Let's turn those lights on and make the future bright.

[The prepared statement of Senator Scott appears in the Submissions for the Record on page 37.]

Chairman Paulsen. I want to thank Senator Scott again for taking the time to appear before the Committee. And I know you may join us for a little bit, and I know you have to also run.

I also want to, once again, acknowledge Senator Booker's testimony that has been entered into the record. And with that, we'll begin the introduction—introduce our witnesses.

First, we have with us, Mr. Maurice—I apologize—we have Mr. Lettieri who is with us, John Lettieri, who is the Co-Founder and President of the Economic Innovation Group.

Mr. Lettieri leads EIG's policy development, economic research and legislative affairs efforts. He has worked in both the public and private sectors with policymakers, entrepreneurs, investors and global business leaders. Prior to EIG, Mr. Lettieri was the Vice-President of Public Policy and Government Affairs for the Organization for International Investment.

Additionally, he served as a foreign policy aide to former U.S. Senator Chuck Hagel during his time as a senior member of the United States Senate Foreign Relations Committee. Mr. Lettieri is a graduate of Wake Forest University, where he studied political science and global commerce.

Also is Ms. Terri Ludwig, who is the Chief Executive Officer of Enterprise Community Partners, Incorporated, which is a national, non-profit, that creates affordable homes and strengthens communities across the United States.

From 2002 to 2009, Ms. Ludwig served as president and chief executive officer of the Merrill Lynch Community Development Co.

Prior to Merrill Lynch, she was the president and CEO of ACCION New York, the largest non-profit, microlender in the United States.

In 2011, Forbes Magazine named Ms. Ludwig to its first ever "Impact 30 List," a roster of 30 of the world's leading social entrepreneurs. Ms. Ludwig holds a Bachelor's Degree from the University of Illinois at Urbana-Champaign and a Master's Degree from Harvard University's John F. Kennedy School of Government.

And Mr. Maurice Jones is President and CEO of the Local Initiatives Support Corporation, LISC, a non-profit that connects public and private resources with struggling communities.

Immediately prior to joining LISC, he served as the Secretary of Commerce for the Commonwealth of Virginia. Mr. Jones also served as Deputy Secretary for the U.S. Department of Housing and Urban Department, HUD. Prior to that, he was Commissioner of Virginia's Department of Social Services and Deputy Chief of Staff to former Virginia Governor Mark Warner.

Mr. Jones earned a Bachelor's Degree from Hampden-Sydney College, a Master's Degree in International Relations from Oxford University, and in 1992, he graduated from the University of Virginia Law School.

We look forward to each of your testimony, each of your witnesses' testimony today. And with that, we'll begin with Mr. Lettieri. You're recognized for five minutes.

STATEMENT OF MR. JOHN LETTIERI, CO-FOUNDER AND PRESIDENT, ECONOMIC INNOVATION GROUP (EIG), WASHINGTON, DC

Mr. Lettieri. Well, thank you.

Chairman Paulsen, Ranking Member Heinrich, Members of the Committee, it's a pleasure to be with you today.

I'm the Co-Founder and President of the Economic Innovation Group, a bipartisan research and advocacy organization. EIG worked closely with the lead sponsors to help develop and champion the bipartisan Investing in Opportunity Act, which served as the basis for the Opportunity Zones provision in the Tax Cuts and Jobs Act of 2017. Since it became law, we've worked closely with a wide array of stakeholders nationwide to support the effective implementation of this new policy.

The Opportunity Zones initiative is the most ambitious Federal attempt to boost private investment in low-income areas in a generation, one with a potential to drive billions of dollars of new investment to these communities over the coming decade.

The fundamental purpose of this incentive is to encourage long-term equity investment. And in pursuing this goal, Congress established a framework flexible enough to support a broad array of investments and encourage creative local implementation.

I want to draw particular attention to two of its most important features. First, this is a highly flexible incentive, one that can be used to meet a wide range of needs in low-income areas. This structural flexibility extends to Opportunity Funds, the intermediaries that will raise and deploy capital into the zones, which can be structured to engage a wide variety of investors.

Second, this is a nationally scalable incentive. And by this—I mean—there is no fixed cap on the amount of investment that can

be channeled into Opportunity Zones, nor is there a limit on the number of zones that can receive investments in any given year.

This scalability derives from the fact that investors receive no up-front subsidy or allocation from the Federal Government. And these ingredients are essential, because they unlock the vast creativity and problem-solving potential of communities and the marketplace in ways that simply would not be possible under a more prescriptive framework. The unique structure of this incentive has the potential to unlock an entirely new category of investors and create an important new asset class of investments.

Our analysis of Federal Reserve data found an estimated $6.1 trillion of unrealized capital gains held by U.S. households and corporations as of the end of 2017. So even a small fraction of these gains reinvested into Opportunity Zones would constitute the largest economic development initiative in the country.

How were Opportunity Zones selected?

Well, Congress assigned Governors the critical role of selecting Opportunity Zones—empowering states to develop selection criteria in ways that reflected their unique local characteristics, while working within a broad national framework.

The result has been a vibrant nationwide effort involving thousands of State, local, and county officials, foundations and philanthropies, economic development groups, investors and entrepreneurs, and more.

The core challenge for Governors was identifying communities that struck the right balance between need and opportunity, places where this incentive could have the greatest impact. And as of this hearing, EIG has been able to collect and analyze data from 42 states, representing roughly 87 percent of the national total of designations, 27 million people reside in tracts selected thus far; 57 percent of whom are non-white, 23 percent of the tracts lie outside of a metropolitan area. And Governors have gone far beyond the statue in selecting for need. The designated tracts have an average poverty rate of nearly 31 percent, and a median family income equal to only 59 percent of the area median.

While some are concerned that governors would simply target already rapidly improving areas, less than 4 percent of the selected census tracts have experienced high levels of socioeconomic change from 2000 to 2016, according to data from they Urban Institute. In contrast, 69 percent of the population resides in an area that Treasury's CDFI Fund considers severely distressed.

So what should states do to make Opportunity Zones successful? While this is a Federal incentive, it's success in any given community will ultimately depend on State and local leadership. Every State needs a strategy to ensure strong coordination between the public, private, and philanthropic sectors.

Governors and mayors should build on the incentive in a variety of ways, including by ensuring their own State tax codes conform to the Federal incentive. Wherever possible, they should align workforce development programs to support local residents, ease restrictive land use regulations, reduce onerous occupational licensing burdens, and provide practical support to connect investors with communities.

For its part, Congress should move quickly to address technical corrections necessary to making Opportunity Zones work as intended, and the Administration should ensure every relevant agency is accountable to support the needs of Opportunity Zones in concrete and measurable ways.

Ultimately, the core measure of success is whether Opportunity Zones establish a stronger connectivity between communities and the equity capital needed to seed new industries, revitalize local assets, and improve access to opportunity.

I want to close with a note of cautious optimism. Implementation of Opportunity Zones is already bringing new energy, ideas, and much needed attention to one of this country's most vexing challenges. But while the scale of potential is enormous, it's important to underscore that Opportunity Zones are not guarantee zones. We must keep sight of the fact that reviving struggling communities is a long-term, complex undertaking, and the work is just beginning.

So I thank you for holding this hearing today, and I look forward to answering your questions.

[The prepared statement of Mr. Lettieri appears in the Submissions for the Record on page 39.]

Chairman Paulsen. Thank you, Mr. Lettieri.

And next we'll hear from Ms. Ludwig, you're recognized for five minutes.

STATEMENT OF TERRI MS. LUDWIG, CHIEF EXECUTIVE OFFICER, ENTERPRISE COMMUNITY PARTNERS

Ms. Ludwig. Thank you.

Chairman Paulsen, Ranking Member Heinrich, and Members of the Committee, good morning. Thank you for your leadership in convening this hearing.

Thoughtful bipartisan discussion on implementing Opportunity Zones is essentially so that this important new tax incentive fulfills its founding goal, to revitalize our Nation's communities and further economic growth.

I'm Terri Ludwig. I'm the CEO of Enterprise Community Partners, and I've worked in financial services, capital markets, real estate, and community reinvestment for 30 years.

Enterprise's perspective on Opportunity Zones is based on our deep expertise as a national leader in affordable housing and community development finance and specifically as an investor and lender deploying capital in communities.

For more than 35 years, Enterprise has amplified the impact of investment in homes and communities by engaging the right partners, directing public and private capital to the right places, and offering non-partisan guidance and support to government leaders. We've invested $36 billion in equity, grants, and loans, in all types of communities, in all 50 states. We've built or preserved 529,000 homes, helped create diverse thriving communities, and touched millions of lives.

We foster economic mobility and opportunity through a high-impact investment portfolio that includes not only affordable homes, but also health clinics, schools and access to healthy foods, and access to public transportation.

I'm honored to share Enterprise's views on realizing the public policy goal that gave rise to Opportunity Zones: bolstering inclusive, stainable economic growth. This new tax incentive has immense potential to transform communities, grow small businesses, and better residents' lives, provided that investments are aligned with local priorities and needs.

Enterprise has strong expertise in aggregating private capital and deploying it through programs like Low-Income Housing Tax Credit and New Markets Tax Credit. We're eager to realize the potential of Opportunity Zones to complement these established public-private partnerships.

Enterprise is exploring Opportunity Fund models that would foster inclusive economic growth and prosperity for residents and businesses. Our goal is to demonstrate that the capital can be deployed to deliver compelling financial returns and social returns.

Any fund we create would incorporate best practices drawn on our work over the past 35 years; these include investments that develop and preserve affordable housing, create living-wage jobs, support minority- and woman-owned businesses and expand transportation and infrastructure.

We've been working very closely with governors, mayors, investors, and community-based organizations on Opportunity Zones. We've gathered and shared data, disseminated critical information, and provided technical assistance.

And what we've seen is that while communities are excited about this catalyst for economic development, they're also concerned that private investment could unintentionally displace the very residents and businesses that the tax benefit is intended to support.

Enterprise believes that there is an important role for Federal, State, and local government to play in the implementation of this tax incentive. This will ensure that investments advance local policy priorities and needs and offer sustained benefit to all members of the community, not just a few. To support this, we offer two main recommendations for the effective implementation of Opportunity Zones.

First is promoting the transparency of the Opportunity Fund activities in order to drive accountability and assess impact on communities. Specifically, we recommend requiring that Opportunity Funds report to Treasury on transaction-level data and that this information be made available to the public. Doing so will allow Congress to evaluate whether the tax benefit is meeting its intended policy goals.

Second, the Department of Treasury should use its statutory authority, from Congress, to issue regulations to prevent abuse. Enterprise suggests that the definition of abuse includes investments that adversely affect low-income residents, for example, by eliminating affordable homes. Such guardrails will help ensure that current residents and benefits—and businesses benefit from economic growth in their communities. I've provided more detail on these recommendations in my written testimony and look forward to addressing those in Q and A.

To conclude, we are enthusiastic about the promise that Opportunity Zones hold for urban, rural, and all types of communities nationwide. If implemented with transparent reporting requirements

and an explicit commitment to prevent abuse, Opportunity Zones could have a transformative impact on distressed communities and, most importantly, on the lives of the people who live there.

Thank you for your willingness to openly explore the benefits and the risks of this new tax incentive. Enterprise would be pleased to work with you further on these issues and on our recommendations to realize the great opportunity inherent in Opportunity Zones.

[The prepared statement of Ms. Ludwig appears in the Submissions for the Record on page 47.]

Chairman Paulsen. Thank you, Ms. Ludwig.

Mr. Jones, you are recognized for five minutes.

STATEMENT OF MR. MAURICE A. JONES, PRESIDENT AND CEO, LOCAL INITIATIVES SUPPORT CORPORATION (LISC), NEW YORK, NY

Mr. Jones. Thank you.

Chairman Paulsen, Ranking Member Heinrich, and Members of the Committee. I'm pleased to join you this morning to discuss Opportunity Zones.

My organization, Local Initiative Support Corporation, or LISC, championed the Investing in Opportunity Act legislation that became the foundation for this initiative, and we are pleased that it was enacted last December as part of the Tax Cuts and Jobs Act.

Over the course of LISC's nearly 40 years of work, its comprehensive approach to community development and its broad national reach have made it a valuable leader in the fight to improve quality of life in communities across the country.

LISC's greatest success over these years has been working with underresourced communities and their residents to help them make progress. Today, the growing inequality, concentrated poverty, and racial inequity that our country is experiencing make the work that we and our partners do as urgent as ever.

LISC attempts to catalyze opportunity by working at the local level to foster resilient, safe, and healthy communities in which individuals have financial security, economic choices, and a high quality of life.

With roots that are local, a national breadth, and a comprehensive set of products and services, we fight to close the opportunity gap in America, through our strong network of over 2,300 community-based partners.

LISC often relies on public/private partnerships to engage in the type of comprehensive community development work that is needed in low-wealth communities. It's precisely because we've seen, firsthand, the impacts that tax incentives can have on spurring revitalization, most notably the Low-Income Housing Tax Credit and the New Markets Tax Credit, that we believe Opportunity Zones hold a great deal of potential.

We are planning to focus our Opportunity Zones investments in three areas where we see the greatest potential to benefit community residents.

First, we will provide growth capital for companies that are creating job opportunities for Opportunity Zone residents. We will inject equity capital to catalyze the growth of manufacturing, advanced manufacturing, healthcare, and companies in other growing

sectors that are providing quality job opportunities that are accessible to community residents.

Secondly, we will invest in new real estate developments and rehabilitation of existing underutilized buildings within targeted communities to attract businesses, bringing quality jobs to underinvested communities and their adjacent neighborhoods.

And, finally, we will increase the stock of quality affordable and workforce housing in Opportunity Zones. We hope to raise capital for these investments from mission-aligned investors, including corporations located in Opportunity Zones, and from the growing impact investment community, in particular, high-net-worth individuals, which would represent an entirely new pool of investor capital for community development finance.

Since there's no cap on the amount of investor capital that can be invested in Opportunity Funds, we believe that the Opportunity Zones incentive can spur billions in private investment activity in the country's most distressed census tracts and play a major role in closing the existing opportunity gap that is leaving these communities behind.

In particular, a large portion of our work occurs in rural communities, which are especially underinvested. So we are very pleased that preliminary results show that 22 percent, at least, of the Opportunity Zones will be in these very communities.

I would like to conclude my remarks by offering a few suggestions of how we can ensure that Opportunity Zones maximize prospects for investors, while simultaneously maximizing benefits for low-wealth communities and their residents.

First, I believe that Congress should consult closely with the Treasury Department during the next phase of rulemaking to identify whether there are areas that my require statutory fixes, particularly those that will provide clarity to investors and improve the flow of investments into Opportunity Zones.

Second, I believe the Treasury and the IRS should play a more active role in the implementation and administration of Opportunity Zones; specifically, we need regulations and guidance that not only provide investors with the clarity and certainty necessary to make investments in Opportunity Zones, but also protect against program abuse and help ensure the integrity of the program. They should also play a role in collecting and disseminating information about the activities of opportunity funds.

Finally, individual states and municipalities should work with the private sector to ensure that Opportunity Zone investments provide the most benefit to low-wealth communities and their residents.

I'd like to thank you for this opportunity, and I look forward to answering your questions. Thank you.

[The prepared statement of Mr. Jones appears in the Submissions for the Record on page 55.]

Chairman Paulsen. Thank you, Mr. Jones.

As we begin the questioning period, I just remind all Members to keep their questions to five minutes. And just let me begin. And I'll start with you, Mr. Lettieri, and we can just go right down the line.

But, you know, the inclusion of Opportunity Zones in the Tax Cuts and Jobs Act, it deserves more public attention. And a lot of our colleagues aren't fully aware of it, as well. Because it encourages private investment to flow into low-income communities selected by the states.

Now, I believe that Opportunity Zones hold huge and great promise to help those that are less fortunate and then achieve more self-sustaining economic development. And based on the testimony we've heard today, I think that my belief is well-grounded.

Let me just ask all of you this: What makes Opportunity Zones more likely to succeed than the location-targeted programs that have been used in the past for this type of goal? And also do you believe that there are other market oriented reforms at the state and the local level that enhance the chances of success?

Mr. Lettieri, do you want to begin?

Mr. Lettieri. Yes. Thank you for the question.

I'll focus on two primary areas. Opportunity Zones were designed as a compliment to other tools. It was designed to be a new and responsive tool in the broader tool kit for community development.

As I mentioned in my testimony, the fact that it is flexible to a wide variety of use cases to be able to support a wide variety of types of businesses, itself, is a major plus, because what we see in a lot of communities is a variety, a variety of needs. We've spent a lot of time analyzing the needs of distressed areas around the country. and no two communities look alike.

And so if you have a very narrow prescriptive use case on the front end, it means you're limiting the aperture of places that can really put that to use in the community.

And you see this reflected in the selection process, where governors have different needs in mind, State by State, as they go about the selection process, and they've emphasized different needs. For some, it's rural entrepreneurship; for some, it's affordable housing; for some, it's access to transit; for some, it's just new business formation, where a lot of the struggle continues to be for low-income areas. So that flexibility is key.

The scalability that I mentioned, as well. When you don't have a scarce resource to allocate, year by year, you're talking about something that can be nationally impactful simultaneously, without having to pick winners and losers on the front end, in terms of who can deploy the capital.

That's not to say that those models are useless; it's to say that they're not sufficient. And so having this alongside of those other types of tools is particularly powerful. And as I'm sure that others on the panel can speak to, the inner activity between Opportunity Zones and other tools could also be one of its strongest assets. The fact that it's flexible enough not to just meet a wide variety of needs, but to be compatible with a wide variety of other tools.

Chairman Paulsen. Yeah.

Ms. Ludwig.

Ms. Ludwig. Sure. I would echo that I support what was just said. And I believe that what does distinguish this from other programs is that inherent flexibility. And while we all appreciate the tools that are out there, I think it's very clear that the need is enormous.

And so I believe this is an additional tool which allows us the flexibility to invest in various asset classes, being able to also pool resources, not only just with a single investor, but being able to pool resources across asset classes and types of investors. And that would allow us to both diversify risk and opportunities and bring more private capital. And I also agree that with further guidelines, we believe a lot of this will pair with Low-Income Housing Tax Credits, New Markets, and essential tools like this, so.

Chairman Paulsen. And, Mr. Jones, you also, I think, mentioned about we want to prevent abuse and to have Treasury step in and offer some additional comments. But in knowing that the local flexibility is key, what are some other oriented reforms that State and local folks can do to measure——

Mr. Jones. Sure.

Chairman Paulsen [continuing]. Or enhancing the opportunity here?

Mr. Jones. Yeah. Let me answer both of your questions and just add I agree with what my colleagues have said. Two additional things; this is a focus on equity capital, and that is key for the places that we're trying to be of service to. We need grant capital, we need equity capital, we need debt capital. The exclusive focus here on trying to get more equity in these communities is a key additional attribute.

The second piece of it for me on the more likely key to success—and, by the way, I think the others are succeeding, as well. We just need more tools.

But the second piece of this is this focus on trying to bring in what is now an underperforming asset class in the community development space, and that's high-net worth individuals, folks who have capital gains to deploy here.

This—our largest incentive right now is probably the Low-Income Housing Tax Credit. That's a $9 billion industry. This is potentially 2, 3, 4, or 5 times greater than that.

At the State and local level, look, I think the biggest thing that I could see there that would be most helpful is making sure that the states work with municipalities and the private sector, to market these places that we're trying to get investments into.

This is not going to be an automatic piece here. We're going to have to work hard to market rural America so that folks know that there's both demand and investable opportunities there.

Chairman Paulsen. Great, thank you.

Mrs. Maloney, you're recognized for five minutes.

Representative Maloney. Thank you very much, Chairman Paulsen, for this is an incredibly interesting hearing.

The US economy is generally doing well and, for that, we should all be very, very thankful. But as many of us know, the economic recovery is not everywhere. There are parts of the country that are experiencing the benefits of the recovery and other parts of the country that are being left behind. And in these areas, unemployment is still high, and wages are stagnant.

In the area of New York that I represent, the geographical difference between the haves and the have-nots can be a couple of blocks. It can literally be across the street. So I am very drawn to the potential of Opportunity Zones to help close that gap between

these two very different worlds. And I welcome the application of a market mechanism to what has seemed like an intractable—problem for cities and states. This is an out-of-the-box idea that deserves very careful consideration.

Language establishing Opportunity Zones was inserted into the new tax law, and I wish we had had time to see this language and talk about it before it happened, particularly because the language that appeared in the final bill differed from what was introduced. But that's water under the bridge, and our job now is to explore the potential of these Opportunity Zones and to do all that we can to help reach their full potential.

My first question is for Ms. Ludwig. The bipartisan Investing in Opportunity Act or as Senator Scott said, "The American Act," is not anything, it's just for America, there is some text that is different from what Senators Scott and Cory Booker introduced. The section on a report to Congress, I'd like to thank Mr. Jones and Ms. Ludwig for mentioning in their testimony, that this language is missing from the final bill.

That section requires the Secretary of Treasury to submit a report to Congress on Opportunity Zones five years after enactment of the legislation. And I'll provide a bare-bones synopsis. I think it's important.

The original bills required an assessment of investments held by qualified Opportunity Zone Funds, the amount of assets in those funds. It also requires, and I quote, "The report shall also include an assessment of the impacts and outcomes of the investments in those areas on economic indicators, including job creation, poverty reduction and new business starts and other metrics as determined by the Secretary."

And, in short, it seems that the new tax law was missing the language requiring these reporting requirements. And I'd like to submit, with unanimous consent, that original language, into the record——

[H.R. 828 appears in the Submissions for the Record on page 64.]

Chairman Paulsen. Without objection.

Representative Maloney [continuing]. And ask Ms. Ludwig: As an advocate for affordable housing, can you tell me why you support strong reporting requirements and, in the best of all worlds, would you encourage Congress to pass a law mandating reporting requirements?

I know that it was in the conference report such language that does not have the force of law. I know that Treasury is very supportive, but we know that administrations change. It'd be good, I think, to have that concrete reporting language requirement for oversight and to prevent, as Mr. Jones mentioned, any type of fraud or abuse.

Your comments, please.

Ms. Ludwig. Yes. Thank you.

I would agree. I believe the conference report signaled that there was broad agreement on the need to, first of all, have reporting mechanisms, both for transparency, but also for the eventual ability to assess impact. And I think this is a program where there is tax benefit, and so I believe accompanying with that there should be the transparency and accountability that comes with this. I

think the conference report did a great job of outlining it. So I certainly support those impact measurements.

And I think the only way that we'll be able to look back and sit, as Senator Scott said, "a year from now, two years from now or five years from now" and determine the success of this program and hopefully the expansion of this and celebrate the success is by having the data to look at where we are.

Representative Maloney. Mr. Lettieri and Mr. Jones, do you agree with her statement to have it; yes or no, because I have a final question that is very important to me.

Would you support——

Mr. Jones. Yes, you need the information.

Mr. Lettieri. Yes.

Representative Maloney. Okay. Thank you.

In New York, the biggest way to impact economic develop has been transportation; the ability to move in and out of neighborhoods. If you have good transportation, i.e., subway, then it just explodes with economic development.

And would you support, Mr. Jones, given your background in this area, broadening this to include transportation?

I must say, I was very interested in President Trump's statements during the campaign on infrastructure support, which have not materialized in the budgets that we've had moving forward. So expanding this, would, if the mayor and the governors supported it as a major economic force, I just know from my experience in city government, State government, Federal Government, in terms of economic development, that has been the major force that has spurred small businesses, activity, economic growth——

Mr. Jones. Yes.

Representative Maloney [continuing]. Would you support expanding it to include infrastructure?

Mr. Jones. Absolutely. Infrastructure, transportation, and broadband in the rural areas.

Representative Maloney. Okay. That's great. I don't believe the current legislation allows that; is that correct?

Mr. Jones. Actually, I think it could.

Representative Maloney. It's not really—I think it could be——

Mr. Jones. It's not explicit, but it could. That could be an investment activity. Absolutely.

Representative Maloney. I'm very excited about it. Thank you, Senator Scott, for your leadership on it.

Chairman Paulsen. Thank you, Representative Maloney.

And Representative Handel, you're recognized for five minutes.

Representative Handel. Thank you, Chairman Paulsen. And thank you, Senator Scott, for your good work on this legislation.

I'm a former county commission chairman, so I'm very familiar with enterprise zones and the very real, positive impact that they can have, and this seems to be a very promising enhancement and an addition to that tool kit to help them in this front.

I want to talk, Ms. Ludwig, a little bit about affordable housing. As you know, since the mid-1980s, tax credits have been available for investments in low-income housing; yet, we still have a real gap there.

Can you talk a little bit about how you would characterize Opportunity Zones in relation to the Low-Income Housing Tax Credit?

Ms. Ludwig. Certainly. First, I would say, the need for affordable housing is enormous. And we're seeing, not only at the State, but also all the mayors we speak to, that's a number one concern for them.

So I would say, first of all, we need more resources. After tax reform, as we know, the Low-Income Housing Tax Credit lost value within that, given the tax rate. And so we will, by just nature, have 235,000 fewer homes being able to be created by the tax credit.

In the budget, there was an increase of 12.5 percent in the Low-Income Housing Tax Credit, but we in the would say we would like to continue to increase that tax credit to be able to meet those demands of affordable housing needs. It's our hope that the Opportunity Zone Funds can pair well with the affordable housing sector utilizing Low-Income Housing Tax Credits; however, I would say that we certainly need more clarity about what is an acceptable real estate investment and what is not.

It's our assumption that rental affordable housing today will be acceptable, but there's certainly the need to get more clarity to unlock the wallets of the investors we talk to. They're eager to get started, but they need more clarity on what's an acceptable investment.

Representative Handel. Thank you. To follow up on that, as we seek to deliver that greater clarity, are there any lessons learned from your work that we can take from the Low-Income Housing Tax Credit programs and do a better job through Opportunity Zones?

Ms. Ludwig. One of the things I think that is one of the best features of the Low-Income Housing Tax Credit is that it is essentially a pay-for-success model. First of all, private money puts their money in first. And then once units are built and it's occupied with people that are in need of affordable housing and qualify, then the government money flows.

Similarly, in Opportunity Zones, you're going to have private investors come in, and that's great to unleash that private capital. The reason that those private investors have been willing to do that in the Low-Income Housing Tax Credit is because it's predictable, it's clear, the reporting is there, and they have a long compliance and infrastructure that helps you know that "I'm investing in something that has a 15-year period of compliance, where I know I'm not only getting a very healthy financial return, but also my intended investment to create housing for social returns is getting done," which is why I think we need clarity on the reporting, as well as some of the guidelines.

Representative Handel. Okay. Thank you.

Mr. Jones, would you like to add anything to that?

Mr. Jones. I think what I would add is, that the Low-Income Housing Tax Credit, by itself, is not sufficient to generate the supply of affordable housing that we need. That's what you're seeing. And so the opportunity here is to bring in a whole new group of investors to affordable housing finance, through a new mechanism here that brings, hopefully, high net-worth individuals into the game.

Unless we get more investors in affordable housing, we will never be able to keep up with the supply needs. That's what you're seeing now, and that's why this is a real opportunity for us.

Representative Handel. All right. Great. Thank you.

And just one comment, I am very encouraged to hear the consensus around transparency and accountability so that we can really measure impact, because I've seen, first-hand, that some projects really work and some projects do not. And this is too great of an opportunity for Americans for us to mess it up on the early front with bad projects and we need to be really laser-focused on having the best possible projects come through on this.

So thank you, Mr. Chairman. I yield back, and thank you.

Chairman Paulsen. Thank you.

And Dr. Adams, you're recognized for five minutes.

Representative Adams. Thank you, Mr. Chairman. And thank you to Senator Scott and Senator Booker for your work on this issue and to individuals testifying today. Thank you so much for being here.

I believe that Opportunity Zones with the right oversight and guardrails have the potential to help underserved communities. I submitted eighteen census tracts to our governor in North Carolina, Governor Cooper, to be designated as Opportunity Zones.

I specifically targeted census tracts, in the 12th District, that had high unemployment rates, sometimes even those that tripled the national average; however, it's clear that there needs to be more accountability in how Opportunity Zones are implemented.

For example, the IRS recently announced that individual investors can become a qualified Opportunity Fund and can self-certify; thus, no approval or action by the IRS is required. To certify—to self-certify, a taxpayer merely completes a form, attaches that form to the taxpayer's Federal income tax return for the taxable year.

Ms. Ludwig, should Congress be concerned that rules like these can lead to abuse of Opportunity Zones and will not provide a positive impact to underserved communities?

Ms. Ludwig. I do think it's important for us to understand what is the intent behind an investor's interest in an Opportunity Zone Fund.

So I do think it is important, again, to keep the flexibility and the market-driven approach on this, which is different and distinctive. At the same time, demand a minimum level of accountability, particularly of investors to say what their intent and their intended investment practice will be.

Representative Adams. Thank you.

Franchises are also looking at the prospect of Opportunity Zones, and I'm eager to learn more about franchising and how franchising can accelerate business growth and local opportunity in the zones. I want to understand the prospects and the impact of franchises in areas that have high unemployment rates.

Nine of my district census tracts that I've submitted to Governor Cooper had unemployment rates higher than 12 percent. As a matter of fact, some go as high as 18 percent.

Can you tell us more about franchise businesses, that role, and the prospect of their success in Opportunity Zones, especially in Opportunity Zones with high unemployment?

And this question is for you, Mr. Lettieri.

Mr. Lettieri. Thank you for the question.

I see tremendous potential in the franchise sector for Opportunity Zones. And I think there's tremendous potential benefit for the communities as well. We all are familiar with examples of people who got their first step on the ladder of opportunity working at a franchise. And we've also seen in the franchise industry recently, tremendous growth in minority-owned franchise creation.

And so, I think, when you think about where the map of Opportunity Zones and the map of—and the categories of early investment models that can work and hit the ground running, I think the franchise sector offers a lot of hope there.

Here again, I think it's an opportunity to get folks who are in an industry that doesn't necessarily have anything to do with Opportunity Zones thinking about that map in a different way and targeting certain investments and new franchise openings in a way that coincides with Congressional intent here, in terms of the places that have been targeted.

So I think that's an area of a lot of potential. I hope we see more of that activity as the clarity comes through from IRS. And I think, in particular, the overlap of the goal for minority-wealth creation, targeting communities of color, as you mentioned, many of whom have very high unemployment rates. You have to have an asset class of both investments and businesses that offer an easy point of entry for people who may not be starting with the most skills, but this is a way for them to build skills, over time.

Representative Adams. Thank you.

The Low-Income Housing Tax Credit is a critical tool to develop and preserve affordable rental housing. We are in serious trouble in our community in Charlotte, so many folks who need it. I want to be sure that Opportunity Zones can be used in a complementary manner with the Low-Income Housing Tax Credit, and I'd like to ensure the maximum growth of affordable housing. So this is to Mr. Jones or anyone else who wants to answer that.

Mr. Jones. I think that's one of the big opportunities here. We're about to go down to Charlotte next week and we're there to announce a fund that will be designed to try to bring about the development of more affordable housing in the Charlotte area. Opportunity Zones are going to, hopefully, be a great tool in bringing investors to that fund.

Representative Adams. Great. And we look forward to working with you.

Ms. Ludwig.

Ms. Ludwig. Yes. And we were encouraged several of the states that we were working with said, "Let's be very intentional about even the selection of Opportunity Zones to make sure that as we do that, that we are setting very specific strategies at the local and State level to preserve affordable housing," which I think is a practice that needs to be widespread.

Representative Adams. Thank you.

Mr. Chairman, I'm out of time. Thanks very much.

I yield back.

Chairman Paulsen. Thank you.

Representative LaHood, you're recognized for five minutes.

Representative LaHood. Well, thank you, Mr. Chairman, for having this important hearing today. And obviously, these Opportunity Zones offer tremendous potential for our country, and I'm excited to hear the testimony here today and the different ideas. And Senator Scott, thank you for your leadership on this also.

Ms. Ludwig, in your testimony, you mentioned Enterprise is exploring Opportunity Fund models that would allow you to invest and promote economic growth. Can you explain how these specific models are composed and then what characteristics does an ideal investment opportunity have?

Ms. Ludwig. So thank you. We are at the beginning stages of creating funds. We're talking to investors and localities about, first of all, what the needs are, but certainly it's our hope that we will be able to create a fund that is very, certainly, first of all, real estate focused and, specifically, affordable housing. And also, we're talking to investors, for example, about adaptive reuse. So going in and taking old warehouse buildings and turning that into workforce housing or affordable housing. How do we make sure that we have that piece because that is one of the most basic primary needs of the folks that we serve, is to have affordable housing.

Secondly, we're working to consider exactly what is the kind of small business capital that's needed; is that early more catalyst money or is that growth capital?

And secondly, we also think it's important, we've heard from a lot of folks in smaller towns and in rural communities, that they also want to think about how they could couple that with an accelerator kind of function, because they want to be able to demonstrate to private investors that they cannot only catalyze new businesses but also support existing businesses, but have an accelerator kind of function attached to that.

So those are two areas that we're certainly looking at right now. But we hope that there will be other ways we can also support communities. So we're looking for further guidance regarding things like infrastructure in rural communities, water, sewer, infrastructure. We think about housing as infrastructure often, but we want to make sure that we can come up with acceptable uses, as my colleague said before; broadband, are there ways that we can support that through an investment vehicle?

And simply the one item that would help us be able to get into action about having capital flow, is certainty. Investors like certainty, to know exactly what qualifies and what doesn't, so that we can get out of the box with investment dollars.

Representative LaHood. Thank you for that.

Mr. Lettieri and Ms. Ludwig and Mr. Jones, we've heard a little bit about enterprise zones around the country, TIF districts. If we look at models or platforms around the country that have been examples of where this has worked, can you talk a little bit about that, maybe Mr. Lettieri or Ms. Ludwig, on—I mean, is there an example or a model that you can point to where this has worked very effectively, and particularly as we look at, you know, the components of distressed communities, no high school diploma, housing vacancy rate, adults not working, poverty rate where those statistics have been improved and we've done exactly what we want to do here?

Ms. Ludwig. Sure.

Mr. Lettieri. I think there are elements that have worked in a variety of different programs. What we've missed is, I think to Mr. Jones' point earlier, we really haven't had a robust equity investment incentive piece in previous attempts, and especially one that was coupled with the type of flexible use cases that we're talking about here.

When you talk about a wide variety of needs, if you have a narrow prescriptive policy on the front end, it's very hard for that to be malleable, especially over time, as communities change and develop and as the needs shift, hopefully as a result of success.

And so where you see in the more recent post-recession period where you've had dramatic turnaround and you look at cities like Detroit, there are a lot of challenges still in Detroit, but part of that turnaround, you have to ascribe to the catalyst of a major private investment initiative happening without even the benefit of a lot of Federal incentive that has helped to catalyze a wide variety of other activities, both philanthropic and private sector alongside of it.

And not every city has a motivated philanthropist or a motivated set of private investors who are already organized around that city. In fact, most places don't. That's the challenge.

And so when you're talking about aggregating the impact of thousands of investors from around the country and being able to direct that equity capital into prescribed areas where you knew the investors can count on the fact that there's intentionality, the governor has chosen these places, mayors have had input, stakeholders have come together. That's a signal to the marketplace that there's some kind of intentionality behind this particular place and presents a rallying opportunity.

And it's important here that what this offers is not for any individual investor to take on the risk by him or herself. This is about collectivizing the assets and the ingenuity of the private sector to apply to those challenges.

So that's really where I think this differentiates from past approaches. It's learned some lessons. And I think that's incorporated here, in terms of what you see with the structure of Opportunity Zones that you don't get as much of in other policies. That's the potential, is that you're aggregating, you're focusing, you're signaling to the marketplace that this is the right type of place to invest and you're going to have partners on the ground coming alongside of you because of that intentionality that the governors have selected.

Chairman Paulsen. Thank you.

Representative Delaney, you're recognized for five minutes.

Representative Delaney. Thank you, Mr. Chairman.

And I want to join with my other colleagues in thanking Senator Scott for his truly singular leadership on this very important piece of legislation. So thank you, Senator. And I also want to thank all of our witnesses here for their work in making this happen.

My first question is for Mr. Lettieri. When you think about what's happened, it seems like there's been a tremendous amount of interest among investors since this was passed into law. And so that's the good news, right? There's plenty of investors, whether they be very large private investment firms or entrepreneurs who

are looking at this. How much do you worry that there will be just a lack of deal flow coming out of these communities because that really seems like the bottleneck, whether there's actually enough technical expertise on the ground to produce the deal flow that all these investors are really looking for?

Mr. Lettieri. I think that's a great question. So among the things that would keep me up at night about this, this would be one of them, is that there's a reason that the economy is not working well in some places. There's both public and private sector neglect, in many cases.

And so, again, just the designation of Opportunity Zones is not enough to guarantee any kind of follow-on activity. That's why it's so important that, at the State and local level, you have real stakeholdership, on an ongoing basis, from governors and mayors to develop a strategy to partner with local foundations, philanthropies, business incubators, and others who can help to raise the stakes and elevate the potential deal flow.

So there's a lot of facilitation that's required in many places. And the harder hit the area, the more of that facilitation you're going to need. But what I'm confident in is that if you can get that type of local engagement going, that these are areas that are underinvested. There's a lot more potential than what the marketplace reflects.

Representative Delaney. So any ideas you have for us, obviously we'd love to hear them specifically.

Ms. Ludwig, when I think about turning around these areas, I've always thought about, kind of, a four-point strategy, this being one of them; the second being social impact bonds, pay for success, which I know you all are big champions of; the third being more infrastructure; and kind of the fourth is creating incentive for more demand in these markets.

And one idea I've worked on is dramatically expanding HUBZones, which basically creates an incentive for government contractors to locate in these Opportunity Zones, and I think the overlap will be very similar.

How do you think about that, in terms of these other programs, if we were to do more in those other three areas, recognize we got this done, how much of that would kind of accelerate the development of these Opportunity Zones?

Ms. Ludwig. Absolutely. I think it's going to take all of those things in some of the places that have been circled where they have very high poverty rates and need long-term investment. And so I feel very strongly that we're going to need one of the things that you're talking about, what you've seen is, public and private partnerships come together, in different formats, to bring that kind of capital and that long-term orientation to bear and understand that it's going to take different layers. It also takes a different set of assets.

So we talked a lot today about affordable housing, but it also takes schools, and it takes retail, and it takes a comprehensive approach. And so I think those different tools allow us to bring those together to really drive the impact.

Representative Delaney. Right. And I'd love to hear the different panelists follow up with us about how they think we could

create more incentives for government contractors to actually go in these places.

Mr. Jones, when I think about infrastructure, you talked a lot about the different kinds of portfolio of asset classes, if you will, that we could be putting in these markets, and I think you were really smart to emphasize how this is equity, which is ultimately what you need to expand the community, as opposed to just people kind of financing existing assets.

One of the things I'm focused on is infrastructure in these communities. But one of the issues with infrastructure, if I was thinking about investing in infrastructure, whether it be maybe broadband or even transportation, I'd probably come to the view that unless I was doing it in Puerto Rico, where the whole place is an Opportunity Zone, I would want to invest in an infrastructure kind of asset that would probably touch the Opportunity Zones, but touch other areas. Do you see what I mean?

So because just the way an infrastructure asset is rarely—again, Puerto Rico, where the whole island is an Opportunity Zones, so you could do any infrastructure there, and it would work. Do we need to do any correction to these rules, to allow someone who wants to come in and build rural broadband, but the way they're going to roll it out only touches the Opportunity Zones and not the rest, how's that going to work?

Mr. Jones. I think that's certainly worth looking at. Although, when I think about the need for, let's say, rural broadband, most of the census tracts that we're talking about are contiguous and would qualify.

Representative Delaney. Got it.

Mr. Jones. And so I think——

Representative Delaney. If you invest in that—if you invest in a company that's got its assets in an Opportunity Zone and not in an Opportunity Zone, but it has to roll out that way——

Mr. Jones. Right.

Representative Delaney [continuing]. Like, let's say a transportation asset or something like that, how is that going to work? Does anyone have a view as to—do you allocate part of the investment to the Opportunity Zone, or how does that the work?

Does anyone know?

Mr. Lettieri. Yeah. I mean, the statute requires the business to have substantially all of its properties in the zone or zones.

Representative Delaney. Like 90 percent of them.

Mr. Jones. It could be in multiple tracts that are all qualified, but the challenge of something that straddles——

Representative Delaney. That's what I'm getting at.

Mr. Jones. That really you're talking about—from a business standpoint, you're talking about either a spinning off of a subsidiary or a separate standalone entity. There may be a variety of models. But you're right, it's trickier when it comes to infrastructure, because of the cross-jurisdictional nature.

Representative Delaney. Yeah, because clearly, if you want to invest in infrastructure asset, it's probably going to have a very big footprint, and it's likely to be in and out of an Opportunity Zone. So any ideas you all have as to how to—because I think this is a

critical investment area we want to attract, how to fix that up, that would be great.

Chairman Paulsen. Well—and it's probably another example of an area whether you don't want to have the investment happening and then think that that's fraud or abuse or——

Representative Delaney. Right. no.

Chairman Paulsen. You have to have that tie-in, so the rules allow that. Thank you.

Representative Comstock, you're recognized for five minutes.

Representative Comstock. Thank you. Good morning and sorry I was running late. We had a women's veterans event this morning that our women's caucus was participating in.

I welcome our former Virginia commerce secretary, Mr. Jones. Thank you for being here today.

And I guess this is, I'm sure you're aware of our regional area in Virginia and Mr. Delaney's area in Maryland are under consideration for Amazon. And the Wall Street Journal recently reported that some large cities were denied by Amazon as a location for their second HUD quarters. And now some of them are planning improvements in response to better track firms in the future.

So things like local transit, workforce training in particular, was a big thing. So as we tried to look particularly in the technology area in making sure what my constituent Steve Case calls "The rise of the rest." He's going round the country and really talking about we know we have talent out there in the technology area.

So is there a lesson? What are some of the best policies you're seeing in place, and how can this be used to get the 21st Century technology jobs into these distressed areas? Because often, whether it's cyber security or some of these other skills, you do not need to be going to college for four years, not that that's disqualifying in any means.

But Capital One has done some cyber security training programs with disadvantaged populations that have huge success in others. So how can we use the Opportunity Zones to capitalize in the area of technology for these populations?

Mr. Jones. So let me just start, and then my colleagues can chime in.

One of the things that Amazon has been asking about in all the places that it has been looking is: What's your plan to ensure that we have enough supply of housing, affordable housing?

And so, what you're finding is that these technology companies know that if they're going to attract and keep talent, and, frankly, if they're also going to keep goodwill in the places where they go, they've got to be concerned about things like housing and workforce training and transportation and their impact on them.

And so Opportunity Zones do provide a tool for places like Northern Virginia and Maryland and D.C. to actually collaborate on an affordable housing plan for an Amazon investment.

So, yeah, I think Opportunity Zones can definitely be one of these things that you use to make sure that you address those issues that now all these technology companies are having to wrestle with, particularly their impact on the cost of living in those places.

Representative Comstock. Right.

Ms. Ludwig. Thank you. Building on that, I completely agree that is of primary importance. And I would also say that it's our hope that Opportunity Zone Funds will be created to specifically help entrepreneurs that are bringing cutting-edge technologies to bear to change whether it's the effectiveness, the efficiency, the cost structure of the work that we do, the new ideas and the innovation that we think needs to be brought to bear, to help catalyze change in communities.

In order to do that, I think it's very important that we consider how we could use Opportunity Zones funding for minority-owned, for women-owned businesses, which as we know, have received just such a limited supply of equity capital. This is——

Representative Comstock. Particularly in the technology area.

Ms. Ludwig. Particularly in the technology area——

Representative Comstock [continuing]. Was 90, 95 percent white male.

Ms. Ludwig. Exactly. So how do we do that and use this in a way that catalyzes that kind of business and that innovation and creativity that is there that needs to be unleashed?

I also feel that it's an opportunity for folks who understand our communities deeply, to have them be part of those solutions and to give them capital to respond, which I think is the intent of this.

Mr. Lettieri. I want to build on that, because as you look at the map of Opportunity Zones, many of these places have anchor institutions, knowledge centers, universities that spin off commercializable technology and IP. It's just that it doesn't stay in the Opportunity Zones. It goes to the Bay area, to Boston, New York.

And part of that, a big part of that is proximity to funders. So now you have an asset class of investors who actually have an incentive to keep you in close proximity to the community and help you scale there.

One of the best things we can do for Opportunity Zones communities is to help infuse them with the technologies and industries of the future. We know that's where the economy's going. And if they're devoid of those types of industries, they're going to constantly be playing catch-up with the rest of the country.

Capital is a really important facilitator for that. And with that comes the stakeholdership of expertise and mentorship by investors, who then care not just about the business, but the community itself, because the two are so closely related.

So I think about a place like Johns Hopkins in Baltimore and the potential there, in the life sciences and technology arena, you have tremendous anchor institutions in places that have high need. I think making sure we get that connectivity right is one of the right potentials of Opportunity Zones.

Representative Comstock. Thank you. I see time is up here. So thank you.

Chairman Paulsen. Thank you Representative Comstock.

I know Senator Sasse just came in. Did you get yourself situated there?

Senator Sasse. It will take a little bit of time to get oriented.

Chairman Paulsen. And maybe as you just get oriented real quick, because you may be our final questioner here.

But real quick, I was going to follow up on some of what Representative Comstock was asking about. Are there other large investment—someone had mentioned—Ms. Ludwig, you had mentioned the funds. When will we know if the funds are emerging—or I can't remember who mentioned it—but when will we know if these funds are sort of beginning to—when they're out there?

You know, how long will it be before we sort of have a track record of, sort of, following when the funds are going to be materialized?

Ms. Ludwig. Sure. I'll ask my colleague to maybe talk on the technicalities of the timing. But I do think that given people are going to be self-certifying, we can't see that necessarily exactly.

What I would say is that we do see investors or folks that want investment, people that are starting to say—well, the investors, they want to be coming into funds. We're seeing that kind of activity today. And they're asking us, How can you help us to create a fund that would meet our needs, whether it's at the local level, national level, or State level?

Secondly, we're seeing people that are asking, "Does this investment meet those needs?" And they're trying to start to create their pipelines. Particularly in the rural areas, they're saying that in order to really compete, we know we're going to have to start developing pipeline very quickly to compete. And so that's what we're seeing already today. And it is our hope to be very soon starting to acquire assets that could go into a fund.

Chairman Paulsen. Mr. Lettieri, do you just want to add real quick?

Mr. Lettieri. I do. We're very early in the implementation process. So the fund creation is going to happen in waves, in my view. You're going to have some folks who, today, they know that their model works within the statute. They don't need a lot of additional clarity. They have knowledge of the deal flow in these communities. They can hit the ground running. I think the folks we have on this panel are great examples of tons of expertise in these communities. They know what types of needs are not being fully met, and they know the types of funders to target.

Then there's a second wave who are going to need a lot more clarity. We could have it in a couple months, but we don't have it today, from Treasury and the IRS. And as that comes in, a whole other wave, I think, a broader aperture of folks that may not traditionally be in community development may find their way into it as more clarity from the IRS comes through.

And then as the market matures over time and the infrastructure of Opportunity Zones that's created to facilitate that investment to elevate additional deal flow, then you'll see a third wave of investors emerge, as well.

So I think this is a long-term process. I think this year is going to be a critical period, as it always is for implementation. But the, if it goes well, I think you're going to see fund creation really into the outer years as more and more knowledge of things develops. In the investor community, only a small fraction of investors are even aware that this exists. So we won't really know the full answer to that until that awareness increases.

Mr. Jones. I would just add to what my colleague said. I think the other factor that will influence how quickly funds get up and running is how aggressive at the local level, again, states and other folks are out there promoting the zones, marketing these places as places where there's both demand and investable opportunities.

So what you may see in terms of speed of the development of funds may depend as much on how aggressive we are in states, as anything else. Because that said, at the end of the day, where the feet on the street will exist will be the dispositive issue on this.

Chairman Paulsen. Okay. Thank you.

Senator Sasse, you're recognized for five minutes.

Senator Sasse. Thank you, Mr. Chairman. Thank you to the three of you for being here.

Mr. Lettieri, I'd like to look at some of the issues behind—the broader need for these economic empowerment zones. In 2018, organization highlighted three particularly disturbing trends. First, the new start-up rate is at record lows, having dropped by 50 percent since the late 1970s.

Second, our committee is becoming more consolidated in larger firms. For example, the total number of firms in the U.S. from 2007 to 2014, despite population and economic growth, overall dropped by more than 180,000 firms.

And third, economic growth is largely clustered in the most populous metro regions in the country and incredibly unevenly distributed across the great Plains in the Midwest.

First, could you explain sort of the background story behind that third issue? Why is this consolidation happening?

Mr. Lettieri. Thanks for the question.

The consolidation is more a function of those major hubs being resilient than it is of them pulling away in real terms from everybody else on the creation side.

And by that I mean, the overall number of new business starts in the country has dropped dramatically, particularly with the onset of the Great Recession, and it has not rebounded. So the latest data that we have now shows almost no recovery in new business formation rates. So we're in uncharted territory on that front.

The places that have been the most resilient amidst that national decline have been the largest differentiation with the rest of the country. But it's not because they're doing better than ever, it's because everyone else is doing worse than ever, in terms of the creation side of the economy.

So that presents a real challenge for low-income areas. Obviously, they're among the hardest hit on the creation side of the economy. The new business formation rates there are particularly low. You see this as a regional story. The Midwest being one of those regions, whether it's cities or rural, you have particularly low formation rates.

And that's something that—it's obviously a bigger challenge than what this alone can solve. But a big part of the connective tissue is access to capital. And so we don't fully understand why it's happening, but it's unmistakable in the data. We're living in a very different environment, in terms of economic dynamism.

Senator Sasse. Would either of the other two of you like to add to that?

Ms. Ludwig. No.

Mr. Jones. I think the other piece to add to that is a lot of this clustering also reflects where the talent is right now—or let me put it another way: where the prepared talent is for the economic opportunities. And I know where we're working. We're working in places where 70 percent or so of our residents have high school diplomats or GEDs. But we are testing them when we're doing our workforce work, and what we're finding is 70 percent of them are, despite having those credentials, are probably—they have competences in literacy and math at the sixth to eighth grade levels.

So this goes back to a point we made early. For this to really work, it's not an isolated tool. Workforce development, economic development, these incentives have to come together to create a strategy for a particular place. And the most important strategy is get the talent prepared for the opportunities. You do that, and the opportunities will come to you.

Senator Sasse. And, Mr. Jones, if you were "King for a day," and you could a put a bunch of chips on one of three bets, K–12, educational preparedness, workforce training and redevelopment for people post age 18 or sort of mobility incentives to try to think about the inequality across geography, where would you spend most of your chips?

Mr. Jones. Now you're going to get me trouble, sir.

[Laugher.]

Senator Sasse. That is not my intent, Mr. Jones.

[Laugher.]

Mr. Jones. But I like the notion of being "King for a day."

[Laugher.]

I would put my——

Senator Sasse. It's way better than legislature.

[Laughter.]

Mr. Jones. Honestly, I would put my bet on preparing people for the 16 million middle-skilled jobs that this country has to fill between now and 2025 that require solid secondary education and post-secondary licenses and certifications and apprenticeships. That's where I would put my bet, because if you ask employers where they're having the hardest time filling jobs, and these are good-paying jobs, it's welders, it's coders, it's medical technicians, it's electricians it's plumbers, it's construction. That's where I would put my bet, because it's also quicker. And our need for a prepared workforce is today. And that is what's most needed for the competitiveness of the country.

So if I were king, that's where I'd put my bet.

Senator Sasse. Ms. Ludwig.

Ms. Ludwig. Yes, the king, the kingship. I would say that the——

Representative Comstock. Or the queenship will.

Ms. Ludwig. I was thinking queenship, but it felt strong.

You know, earlier in this testimony, we talked about one in five children in our country living in poverty, on average. And in many of the communities that were circled by the Opportunity Zones, it was three of ten or even half the children in poverty.

So I sit here today thinking that we need to pay it forward. We need to invest in education and workforce. And so, yes, we have to make our choices, but I think when I'm talking today to educators, they can't get their kids educated, because there's not enough housing. Doctors can't keep their patients healthy, because there's not enough housing and education.

These things all play together, so I do think that it's really important that we work with private sector, with the government to establish the public-private partnerships that recognize that these problems are connected, and we need to work together to drive outcomes in a really clear, comprehensive way.

And I think you've hit on some of the most important priority areas that we can invest in, and I think our future truly depends on it.

Senator Sasse. I won't try to get any of you in trouble on this by having to agree with me, but I think implicitly you're arguing, given that our entitlement programs are overwhelmingly focused on senior citizens and we have, compared to life expectancy, the earliest retirement of any in civilization ever.

There's some pretty serious misalignment between where we're investing and what we need. The Senate has just called a vote, and the Chairman is going to gavel me out, so thank you three for your work.

Ms. Ludwig. Thank you.

Chairman Paulsen. Thank you, Senator.

I'd like to thank all of you for taking the time to be here and appear before the Committee today. This testimony has been wonderful. And I just want to remind you that should Members wish to submit questions for the record, the hearing record will remain open for five business days. And with that, our Committee is adjourned.

Ms. Ludwig. Thank you.

Mr. Jones. Thank you.

[Whereupon, at 11:27 p.m., Thursday, May 17 2018, the hearing was adjourned.]

SUBMISSIONS FOR THE RECORD

I call this hearing to order.

Good morning and welcome to today's hearing on "The Promise of Opportunity Zones."

America's new economy is finally taking off. The Congressional Budget Office (CBO) now projects 3.3% growth for 2018, the highest annual growth rate since 2005, up from the meager 1.9% it estimated prior to the Tax Cuts and Jobs Act and regulatory reforms.

While all Americans benefit from faster growth, we can and should take special care of those communities who are in greater need of support.

Some communities, both urban and rural, are having a particularly difficult time.

The new tax law contains a provision that deserves more public attention, one that is designed to help lower-income areas.

The law provides a capital gains tax incentive to encourage long-term private investments in communities that have had difficulty attracting jobs and new businesses.

Unlike past targeted incentives, the areas are selected by governors, who know the unique needs of their communities, instead of by the Federal Government.

Opportunity Zones have been a bipartisan, bicameral initiative. The House author of the original legislation, the Investing in Opportunity Act, is former Representative Pat Tiberi, who chaired this Committee until January of this year. We are honored to have the Senate author with us today, Senator Tim Scott of South Carolina.

Opportunity Zones hold the promise of flexible, innovative solutions.

Flexibility is important because the reasons some areas lag economically vary across communities and regions.

A factory central to a town's economy may have closed, leaving workers searching for new skills and jobs, that is, if they haven't giving up entirely.

The area may have underperforming schools.

They may lack access to capital.

Excessive taxes and regulation may have made it difficult to start or maintain a business.

The community may be struggling with rampant drug and alcohol abuse.

This is why one-size-fits-all Federal spending programs or incentives to invest only in particular activities are not well suited to address each community's unique set of challenges.

This is also why Opportunity Zones, which allow the private sector and local communities to innovate and collaborate on the best solutions, have much greater potential for meeting those unique needs.

John Lettieri, one of our distinguished witnesses today, put it well in a recent op-ed in The Hill. He noted that previous location-targeted programs had an " . . . overly prescriptive, top-down approach that left no room for local experimentation."

Opportunity Zones, on the other hand, will bring, " . . . the best possible mix of investments in new and expanding businesses, infrastructure and energy projects, commercial real estate, affordable housing, and more."

Opportunity Zones also hold the promise of local knowledge and engagement. They are chosen by governors who know their communities well and not by Federal planners with a formula-based spreadsheet.

Across the country, there are about 8,700 Opportunity Zones.

My own State of Minnesota is hoping to attract additional long-term private investment into 128 census tracts recently selected as Opportunity Zones.

State and local leaders can also help their communities in thriving by collaborating and removing unnecessary barriers to starting a business, such as overly prescriptive occupational licensing or local zoning ordinances.

Opportunity Zones also hold the promise of access to a large amount of untapped capital. Investors who reinvest capital gains from another investment into these zones can temporarily defer taxes.

Investments are pooled in Opportunity Funds so that no single investor has to have specialized knowledge about how and where to invest since those decisions can be made by experts who manage the funds.

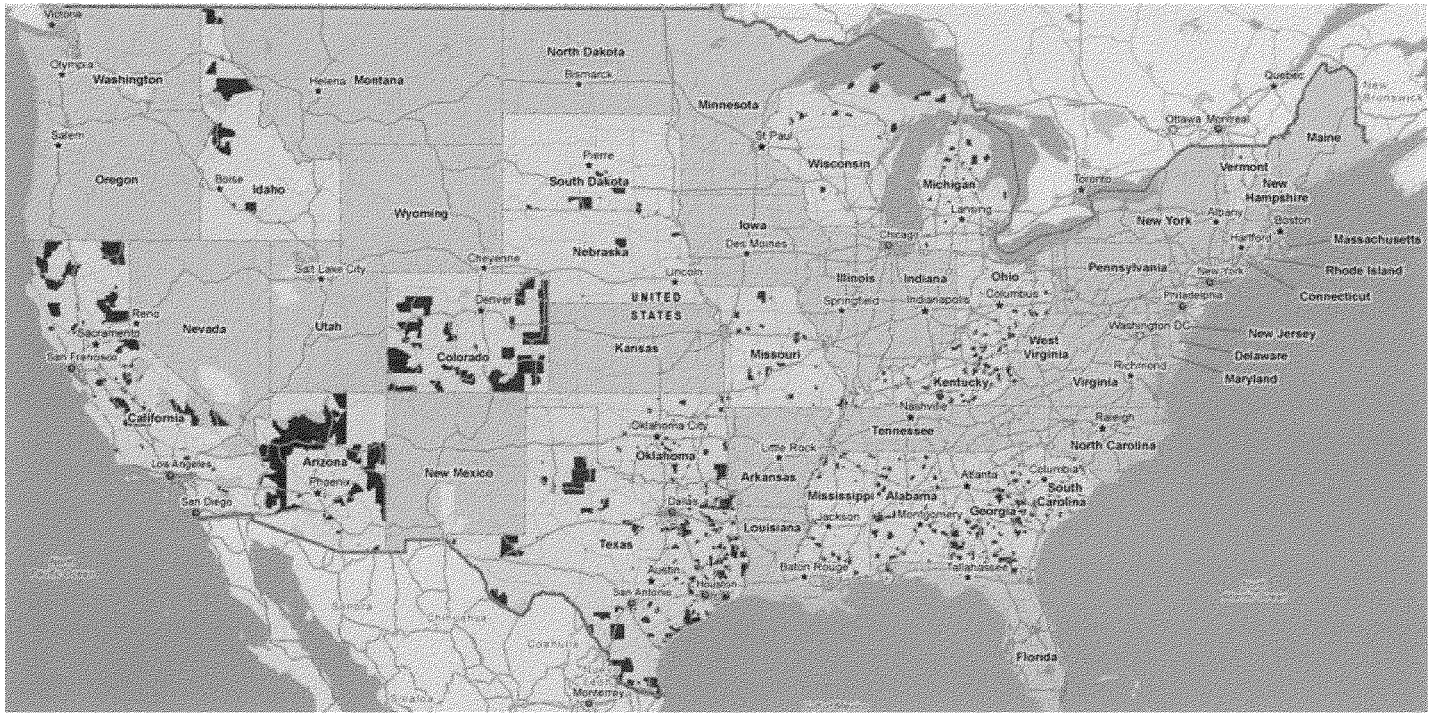
The longer investments are held in Opportunity Zones, the more the capital gains relief grows—a strong incentive to invest in a community for the long haul.

This also encourages fund managers to invest in enterprises that will yield the most success and prosperity for a community.

With an estimated $6 trillion in unrealized capital gains and no up-front State or Federal cost, the potential for investment flowing into struggling communities is almost limitless.

We have a highly knowledgeable panel of witnesses today who have been engaged in the Opportunity Zone initiative and whose observations and insights I very much look forward to hearing.

Before I introduce the witnesses, I now recognize our Ranking Member, Senator Heinrich, for his opening statement.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Jackson
Montgomery
Georgia
Texas
Louisiana
Baton Rouge
Austin
Houston
Tallahassee
San Antonio
Florida
Monterrey

PREPARED STATEMENT OF HON. CORY A. BOOKER, A U.S. SENATOR FROM NEW JERSEY

Thank you very much, Mr. Chairman.

The Opportunity Zones program, based on the Investing in Opportunity Act that I introduced with Senator Tim Scott in 2015, creates a powerful new tool for promoting lasting economic development in the places that need it most. The purpose of the legislation was ambitious: incentivize private investors to invest their inactive capital in high-impact projects in economically distressed communities—in places like Camden and Newark in my home State of New Jersey. In doing so, we can unleash a wave of transformative investment and revitalize hard-hit rural and urban communities across the country.

I'm grateful to the witnesses at today's hearing for participating in this initial review. Only with careful oversight can we ensure that this new tool is used to fulfill the important goals that Congress intended—to bring investment and opportunity to the hardworking Americans who live in economically distressed communities.

While some parts of the country have seen great economic gains in recent years, many communities have struggled, and the gains have been uneven. By many measures, the decade since the Great Recession has been the most geographically unequal economic recovery of the modern era[1]: from 2010 to 2016, metropolitan areas with more than a million residents accounted for two-thirds of the growth in the country's economic output, and almost three-quarters of net job creation nationwide.[2] Many smaller metropolitan areas and rural areas have seen much slower growth, or declines, in output and employment.[3] The economic pain has been especially acute in many smaller cities that were once powered by a strong manufacturing base, as well as in communities of color.[4] All told, today, one in six, or 50 million people, live in economically distressed communities.[5] These communities struggle with a lack of investment, business growth, and job growth, leaving millions of Americans unable to share in our national economic growth.

The Opportunity Zones program advances the fundamental ideal that every community should be able to realize its full entrepreneurial potential, and that as our economy grows, all Americans should benefit—not just those at the top. Today, American investors have trillions of dollars sitting on balance sheets in the form of unrealized capital gains that can be reinvested to stimulate growth in high-need communities. Through a set of targeted incentives, the program encourages re-investment of this inactive capital in high-impact projects in State-selected "Opportunity Zones," supporting new businesses, local infrastructure projects, construction or rehabilitation of facilities, and redevelopment of blighted properties in economically distressed communities.

Now, as we implement the Opportunity Zones program, we must take appropriate steps to ensure that its incentives support projects that benefit the residents of economically distressed communities, in line with the legislative intent. In particular, the Treasury Department should use its regulatory authority to ensure that Opportunity Funds realize their potential to transform communities and benefit local residents. With appropriate guardrails, the Treasury Department can ensure that Opportunity Fund investments are targeted to truly high-need communities and in projects that support inclusive economic development.

The investment incentives created by this program represent a remarkable opportunity to catalyze entrepreneurship and promote long-term investment in economically distressed communities. I look forward to working with the Treasury Department, private investors, community leaders, and other stakeholders to ensure the Opportunity Zones program serves these crucial goals.

Thank you very much, Mr. Chairman.

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[1] Economic Innovation Group, *The New Map of Economic Growth and Recovery* (May 2016), *http://eig.org/recoverymap*.

[2] Mark Muro & Jacob Whiton, *Geographic Gaps Are Widening While U.S. Economic Growth Increases*, Brookings Institution (Jan. 23, 2018), *https://www.brookings.edu/blog/the-avenue/2018/01/22/uneven-growth*.

[3] Id.

[4] Alan Berube & Cecile Murray, *Renewing America's Economic Promise Through Older Industrial Cities*, Brookings Institution (Apr. 2018), *https://www.brookings.edu/research/older-industrial-cities*.

[5] Economic Innovation Group, *The 2017 Distressed Communities Index* 9 (2017), *http://eig.org/wp-content/uploads/2017/09/2017–Distressed-Communities-Index.pdf*.

PREPARED STATEMENT OF HON. MARTIN HEINRICH, RANKING MEMBER, JOINT ECONOMIC COMMITTEE

I'd like to thank Chairman Paulsen for holding today's hearing. I also want to recognize my colleagues Senator Booker and Senator Scott for their important work to create a new incentive to invest in communities with high poverty and persistent unemployment.

Mr. Chairman, my good friend Senator Booker couldn't be here this morning, but provided a statement and asked that it be entered into the record. It is good to have my colleague from South Carolina here with us today—Tim, I look forward to your testimony, and I want to thank you and Cory for your leadership on this issue.

Even today, more than 10 years after the recession began, the recovery still hasn't reached many communities—both rural and urban. In New Mexico, our statewide unemployment rate is almost 50 percent higher than the national average, and, in some areas, it's much higher.

Across the country, there are more than 50 million Americans living in distressed communities. There's enormous talent in these communities, but we've under-invested in it.

While the Chairman and I disagree on the underlying Republican tax bill, a partisan bill that continues to leave working Americans behind, we do agree that Opportunity Zones hold the promise to direct some much-needed financial investment to places like New Mexico.

Opportunity Zones are an important addition to the toolkit. They can support investments in affordable housing and small businesses while spurring job creation. And they can help lift living standards in neighborhoods across the country.

The new Opportunity Funds have the potential to attract high-net-worth investors who previously have not invested in low-income communities.

Thanks to the long bull market, many investors are sitting on substantial unrealized capital gains that we can put to work generating housing, jobs, and growth.

What distinguishes Opportunity Zones from other Federal efforts to stimulate growth in distressed communities, such as the New Markets Tax Credit, is flexibility.

There are few investment constraints. Funds can invest as much as they want. There is no competition to receive the benefit.

But with this flexibility, there is risk that the social impact will be not as great as we would like.

To achieve broad public benefits, projects should be part of a community strategy to create jobs, boost entrepreneurship, increase affordable housing, and promote economic development.

Investors should also tap the vast expertise that exists in the private, public, and non-profit sectors about how to make high-impact community investments. And we are fortunate to have some of that expertise here with us today.

I've seen firsthand the important work Enterprise and LISC, together with their partners, have done in New Mexico providing affordable housing and creating jobs in Catron, Gallup, Las Cruces, and in Santo Domingo Pueblo.

And, Opportunity Zones can help us do more.

Poverty is stubborn. One in five children grows up in poverty in this country, a number that hasn't moved much in a generation.

In New Mexico, three in ten children grow up in poverty, and in some of our counties, close to half of all children live in poverty.

Growing up poor has lasting impacts on a child's development, affecting success in the classroom and educational and employment outcomes later in life.

In addition to expanding proven credits and programs like the Earned Income Tax Credit and Head Start, we need new approaches.

Two-generation models can increase opportunities for families living in poverty by simultaneously targeting children and parents with programs and supports to boost economic security and improve the health and well-being of the whole family.

Opportunity Zones offer an additional path to spur economic development.

Before the new zones are implemented, we have time to think through some guardrails that can help ensure the intent of the legislation is realized.

We should monitor how much money is flowing where, who is making the investments, and what kinds of projects are being funded.

We need the engaged involvement of community development experts. The folks who do this important work every day see this as a tool that can be harnessed for social good, and their sustained engagement is critical.

We need to make sure that rural and tribal communities are getting a fair share of the funds. The designation of zones so far splits about 75/25 urban to rural.

That's a good start. But the key questions will be: are investments getting made in rural zones and on tribal lands, and what more can we do to assist these communities in building a pipeline of projects that get funded.

Ideally, I would like to see data collected on job creation, poverty reduction, and new business formation across zones. These numbers would tell us a great deal about the impacts of the newly created zones.

Ultimately, transparency wins the day. Knowing more allows us to do more.

Closely monitoring implementation and establishing appropriate guardrails either through rules or additional action by Congress can go a long way toward ensuring that Opportunity Zones bring new economic activity to communities who desperately need it.

This is big opportunity, let's seize it. Thank you to the witnesses for being here today. I look forward to your testimony.

STATEMENT OF HON. TIM SCOTT, A U.S. SENATOR FROM SOUTH CAROLINA

I want to first thank the Joint Economic Committee, Chairman Paulsen, and Ranking Member Heinrich for holding this important hearing.

Every day, we are seeing more and more great news about the current economic expansion in America, a trend that is breaking records and exciting economists and citizens alike.

This is currently the third-longest economic expansion since 1854, and on track to be the second-longest on record.

After a strong jobs report was released for the month of April, we should not only celebrate all of the exciting components of our booming economy, but also look forward to the continuation of this growth and success.

The Tax Cuts and Jobs Act, historic tax reform passed last December, gets much of the credit for the most recent economic upswing, and for good reason!

Unemployment continues to fall, and at 3.9 percent it is currently the lowest national unemployment rate we've seen in 17 years.

African-American unemployment is also at its lowest since 1972—more than four decades.

Similarly, job expansion continues, with more than 800,000 new jobs added since the passage of tax reform and more than one million Americans of working age reentering the work force in the past two years.

In response, wages are on the rise as well.

Because of tax reform, millions of Americans have seen increased benefits, higher wages, and bonuses.

We also got the news that of manufacturers surveyed by the National Association of Manufacturers, 72 percect say they plan to increase employee wages or benefits, and 77 percent plan to hire more workers.

This is in addition to the Small Business Optimism Index reaching record highs, and the number of small businesses reporting poor sales falling to a near record low.

And the best part—this is before many components of the tax reform package have truly kicked in.

This past Tax Day marked the last Tax Day under the old system—which means great news for American families next year.

And even as we speak today, the Treasury Department is working on the rules for a critical component of tax reform—the creation of Opportunity Zones.

Today, 52 million Americans live in distressed communities . . . and it is clear that, despite the economic gains we have made, too many families are still being left behind.

I grew up in one of those neighborhoods—places where hope has been lost, and too many think the lights have been turned off on a brighter future.

If we aren't finding ways to give these smart, hardworking folks a hand up, we simply aren't doing our job.

That's why I first introduced my Investing In Opportunity Act, or IIOA, and why I worked hard to ensure it was included in the Tax Cuts and Jobs Act.

The IIOA creates thousands of Opportunity Zones across the country.

What does that mean exactly?

Well, we have trillions of dollars in unrealized capital gains in this country—trillions of dollars sitting dormant.

By changing the way capital gains are treated, encouraging long-term investments in distressed communities in exchange for a break on capital gains taxes, we believe we will see hundreds of billions of private dollars invested in low-income communities.

Governors from across the country have now submitted their states choices for Opportunity Zones, and the Treasury Department is working its way through the submissions for approval.

This highlights a key component of these zones—they are led from the ground up. Communities, mayors and governors worked hard to identify where these dollars could do the most good—not someone here in Washington.

And, unlike other related attempts in the past to help these communities, Opportunity Zones don't create a new government bureaucracy, and we won't be tying more hands with red tape

The promise of these zones is immense, without question.

Small business owners and entrepreneurs will have more access to capital to make their dreams come true. Charter schools could find more funding at their fingertips to ensure every child has access to a quality education. Construction and infrastructure projects that have been waiting for years could finally be started and completed.

With the promise of long-term investment, those dollars will be staying in these communities, helping dreams come true

That's what we should be thinking about every day here in Congress . . . what can we do to restore hope in communities where it's been lost, and ensure the American Dream is accessible for every family across the Nation?

Opportunity Zones have so much potential, and I look forward to Treasury finishing the rules over the course of the next few months and getting this ball truly rolling.

TESTIMONY BEFORE THE JOINT ECONOMIC COMMITTEE OF THE UNITED STATES CONGRESS

JOHN W. LETTIERI
CO-FOUNDER AND PRESIDENT
ECONOMIC INNOVATION GROUP

"The Promise of Opportunity Zones"

May 17, 2018

Introduction

Chairman Paulsen, Ranking Member Heinrich, and members of the committee: it is a pleasure to be with you today.

I am the Co-founder and President of the Economic Innovation Group (EIG), a bipartisan research and advocacy organization. EIG helped to design and champion the *Investing in Opportunity Act*, legislation authored by Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Representatives Pat Tiberi (R-OH) and Ron Kind (D-WI). This legislation, which enjoyed broad bipartisan support, was the basis for the Opportunity Zones provision in the Tax Cuts and Jobs Act (TCJA) of 2017.

The Opportunity Zones initiative is the most ambitious federal attempt to boost private investment in low-income areas in a generation, one with the potential to drive billions of dollars in new private investment to struggling communities over the coming decade. Since Opportunity Zones became law, EIG has worked closely with state and local policymakers, community organizations, philanthropies, and leading investors to raise awareness, provide analysis, and gather feedback in support of timely and effective implementation nationwide.

In the testimony that follows, I will:

- Highlight key design features of the Opportunity Zones incentive;
- Provide an overview and analysis of the state selection process and outcomes;
- Underscore what states, cities, and the federal government should do to make Opportunity Zones successful; and,
- Address ways to define and measure success.

Key features of the Opportunity Zones incentive

The fundamental purpose of Opportunity Zones is to encourage long-term equity investments in struggling communities. In pursuing this goal, Congress established an incentive framework flexible enough to support a broad array of investments and encourage creative local implementation strategies. The unique structure – and equity focus – of this incentive has the potential to unlock an entirely new category of investors and create an important new asset class

of investments. Congress designed Opportunity Zones to complement existing community development programs while incorporating lessons learned from previous place-based efforts. I want to draw particular attention to two of its most important distinguishing features:

- First, it is a highly **flexible** incentive that can be used to fund an array of equity investments in a variety of different sectors. This is critical, because low-income communities have a wide range of needs, and Opportunity Zones at their best will recruit investments in a variety of mutually enforcing enterprises that together improve the equilibrium of the local community. The structural flexibility extends to **Opportunity Funds**, the intermediaries that raise and deploy capital into Opportunity Zones. These funds can be nimble in responding to market interest and opportunity, thereby widening the aperture of investors who can participate. And, because Opportunity Funds do not need pre-approval for transactions, the cost, complexity, and time needed to deploy capital should be lower than in other programs.

- Second, the incentive is nationally **scalable**. There is no fixed cap on the amount on capital that can be channeled to target communities via Opportunity Funds, nor is there a limit on the number of Opportunity Zones that can receive investments in any given year. This scalability derives from that fact that investors are incented to reinvest their own capital gains without any up-front subsidy or allocation. EIG's analysis of Federal Reserve data found an estimated $6.1 trillion dollars in unrealized capital gains held by U.S. households and corporations as of the end of 2017. Even a small fraction of these gains reinvested into Opportunity Zones would make it the largest economic development initiative in the country.

Flexibility and scalability are essential ingredients because they unlock the vast creativity and problem-solving potential of communities and the marketplace in ways that would not be possible under a more prescriptive policy framework. Congress and the Administration should do everything possible to preserve and enhance these features as implementation moves forward in the months ahead, including through technical statutory refinements that will help ensure strong uptake among a broad spectrum of investors.

How were Opportunity Zones selected?

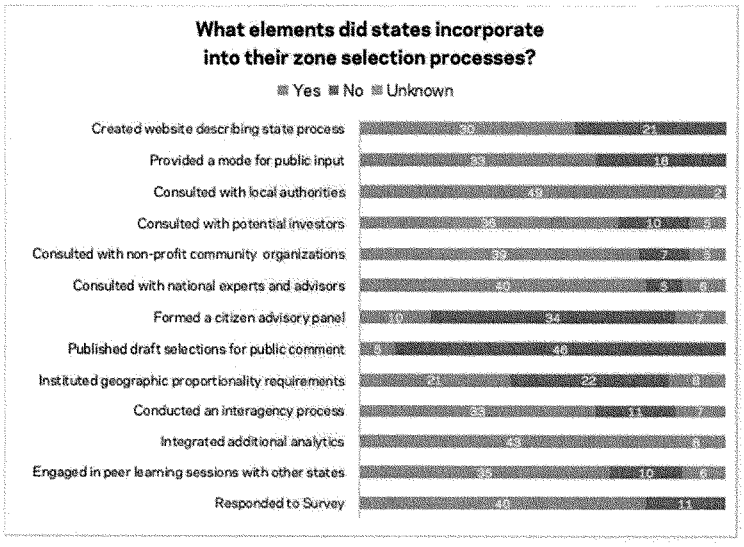
Congress gave governors of every state and territory the critical lead role of selecting Opportunity Zones. Under the statute, each governor was allowed nominate up to 25 percent of his or her state's low-income community census tracts to be designated as areas where the federal tax incentive will apply.

Low-income community census tracts are generally defined as places with poverty rates of at least 20 percent or median family incomes no greater than 80 percent of the surrounding area. Nearly 32,000 tracts meet this definition nationwide, totaling roughly 43 percent of all U.S. census tracts. Thus, governors had to narrow the pool of eligible tracts down to roughly 8,700 selections. In order to offer real-world flexibility in assembling meaningful zones, governors were permitted to substitute up to 5 percent of their nominated tracts with those that met a slightly lower need threshold, as long as the tracts were contiguous with other nominated low-

income community tracts. Governors were required to submit their nominations to the U.S. Department of the Treasury by April 20, and we now await the final tranche of certifications by the Secretary to complete the national map.

Congress sought to establish a national standard for Opportunity Zones while allowing local priorities to dictate the target communities. The resulting selection process was in keeping with the federalist spirit of the new law, as states went about identifying priorities, engaging stakeholders, and incorporating additional selection criteria in ways that reflected their unique local characteristics. The core challenge for governors was striking the right balance between need and opportunity. In response, they sought to identify highly distressed communities that demonstrated an absorptive capacity for new capital, strong anchor institutions, and connectivity to infrastructure and markets.

EIG recently surveyed state officials involved in designating Opportunity Zones. We have combined responses from 40 states with additional insights gleaned from conversations and online resources to build a thorough understanding of how states selected their zones.



States consulted heavily with their municipalities, counties, and local and regional economic development organizations to assemble their portfolios of Opportunity Zones. It appears that every state augmented the federal eligibility criteria with additional data analytics. Some, such as Colorado, Oregon, and Illinois developed sophisticated tools in-house while others, like Wisconsin and New Jersey, engaged outside experts to help identify optimal sets of tracts. Roughly half of states sought to distribute zones proportionally among eligible counties or

municipalities. Some, like Michigan and New York, particularly emphasized aligning Opportunity Zones with existing programs and investments.

States approached their designations with a variety of outcomes in mind. Several prioritized boosting entrepreneurship and new business formation. Colorado, for example, intends to combine Opportunity Zones with other state efforts to stimulate entrepreneurship and innovation in rural communities. Virginia partnered with the University of Virginia to develop an "Entrepreneurship Readiness Index" to identify low-income communities with strong human capital or entrepreneur support programs that were perhaps lacking in access to capital for startups—a gap Opportunity Zones is well-positioned to fill.

Other governors anchored their Opportunity Zone nominations around existing strategies for revitalizing historic downtowns and city centers. In Massachusetts, this meant that almost half of their Opportunity Zones are in the state's "Gateway Cities," midsize urban centers that anchor regional economies but have recently struggled to draw new investment. Vermont recognized an opportunity to revitalize its small town centers – vital community anchors in a relatively rural state. In fact numerous states embraced Opportunity Zones as a promising new lifeline for their rural communities. New Jersey emphasized access to transit, an important strategy for connecting workers to jobs, evident in the fact that nearly two-thirds of its Opportunity Zones are within half a mile of a transit station. Interagency working groups were common, such as Minnesota's effort to harness Opportunity Zones to upgrade and build new affordable workforce housing.

States also found many different ways to solicit public engagement. At least 34 states stood up a public comment portal for input. Some worked more closely with municipalities, giving them final approval. Indiana used an external advisory panel – comprised of representatives from community development and social services nonprofits, the Indiana Farm Bureau, and a former mayor – to vet selections alongside the governor's office and state agencies. Five states published their draft maps before submitting to Treasury for the public to weigh in. In the case of California, this led to the revision of fully one-fifth of its tracts before submission to Treasury.

There is no doubt that the passage of Opportunity Zones has already generated tremendous local interest and coordination across a variety of sectors. While we are still early in the implementation process, the high degree of engagement nationwide is itself an early milestone of success for this fledgling effort.

Now let's examine the selected tracts in greater detail.

What are the characteristics of the typical Opportunity Zone?

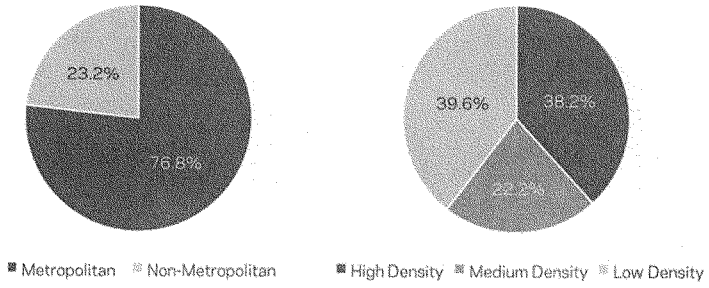
As of this hearing, EIG has been able to collect and analyze census tract-level Opportunity Zones data from 42 states representing 87 percent of the national total to be designated – a large enough sample size to draw general conclusions about Opportunity Zones as a geographic asset class.[1]

[1] This analysis excludes data from U.S. territories in order to focus exclusively on the 50 states plus the District of Columbia. Were the territories included, indicators of need within selected tracts would have been even higher.

- **Demographics:** Tracts selected thus far are home to more than 27 million people, 57 percent of whom are non-white (compared to 53 percent of the population in all low-income communities). States took special care to include tribal groups in their selections: 250 tracts contain American Indian Areas, and several states included explicit set-asides to ensure their inclusion.

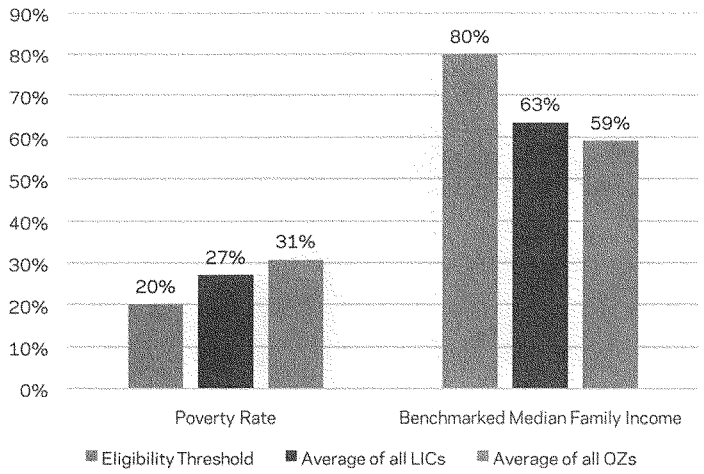
- **Neighborhood Change:** Some observers raised concerns over the possibility that governors would simply target already gentrifying areas. However, less than four percent of selected census tracts have experienced high levels of socioeconomic change from 2000 to 2016, according to a dataset developed by the Urban Institute. In fact, the average Opportunity Zone's housing stock has a median age of 50 years, more than ten years older than the U.S. median. As we will see below, the economic characteristics of selected areas do not lend themselves to widespread concern over gentrification or displacement of local residents.

- **Population Density:** 23 percent of the tracts lie outside of a metropolitan area, making them slightly more rural than the low-income communities as a whole. In terms of the *zip code* in which tracts lie, Opportunity Zones are nearly evenly split at 38 percent in high density (urban) areas and 40 percent in low density (rural) ones, with the remainder located in medium density (suburban) communities.



- **Poverty Rate:** The designated tracts have an average poverty rate of nearly 31 percent – well above the 20 percent eligibility threshold and nearly four points higher than all low-income communities as a whole. Even when adjusting for areas with high populations of college students that can sometimes skew data, selected tracts still show an average poverty rate of 30 percent.

- **Median Family Income:** Median family incomes also show that the selected tracts skew toward places of higher need: The average Opportunity Zone has a median family income equal to only 59 percent of its area median – significantly lower than the 80 percent eligibility threshold.



- **Severely Distressed Areas:** Fully 69 percent of the population in Opportunity Zones resides in a census tract that is considered "severely distressed," generally defined by the Treasury's CDFI Fund as places that have poverty rates of at least 30 percent, unemployment rates at least 1.5 times the national rate, or median family incomes lower than 60 percent of the area median. More than 95 percent of Florida's 427 nominated tracts qualify as severely distressed.

- **Adults Not Working:** In the average selected tract, 38 percent of the prime age population is not working – nearly 10 points higher than the U.S. as a whole.

Governors clearly went beyond the statutory threshold for targeting high-need communities in their zone designations. But how did they do in identifying areas of opportunity? Here again, there is evidence that governors struck a thoughtful balance. 76 percent of selected tracts are located within zip codes that experienced at least some level of employment growth from 2011 to 2015,[2] and 66 percent of selected tracts are in zip codes with an increased number of business establishments over the same period.

What should states and cities do to make Opportunity Zones successful?

There is a reason this policy is called "Opportunity Zones" instead of "Guarantee Zones." While Opportunity Zones is a federal incentive, its success in any given community will ultimately depend on state and local leadership.

[2] As of the time of drafting, 2015 was the most recent year for which zip code level data was available from the U.S. Census Bureau.

First and foremost, every state needs a strategy to ensure strong coordination between the public, private, and philanthropic sectors. Some areas are naturally better positioned to attract and absorb investment than others. Areas with fewer advantages – particularly non-metropolitan rural areas – may require greater engagement from the public and philanthropic sectors to see long-term success. Educational institutions, community organizations, foundations, major local employers, small business support centers – all of these and more must be recruited into a coordinated effort to build local capacity. And since most equity investors are disconnected from low-income communities, local leaders must be especially proactive in ensuring investors are aware of local assets, partners, and opportunities. This is an area where collaboration with the philanthropic sector could be particularly meaningful.

Governors should ensure their state tax codes conform with the Opportunity Zones incentive so as not to disadvantage local investors and communities (as New York has already done). And while private investment is a key ingredient of any healthy economy, capital incentives alone can only achieve limited results. States should work to align workforce development programs to help local residents take advantage of new employment opportunities, ease restrictive land use regulations that prevent inclusive growth, and reduce onerous occupational licensing burdens. And every governor should ensure strong accountability and coordination by designating a senior official as the point person for Opportunity Zones.

Lastly, since Opportunity Funds are the essential intermediary in connecting the capital and the communities, some public sector entities may want to establish their own funds dedicated to serving specific localities or pursuing certain policy objectives. I believe such public-private models will become a key part of the broader ecosystem in many local markets.

Next steps for Congress and the Administration

Congress and the Administration should look for creative ways to enhance the success of Opportunity Zones, but two immediate issues come to mind. First, as Treasury and the Internal Revenue Service moves forward with implementation in the coming months, Congress should move quickly to address a small number of key statutory technical corrections necessary to making Opportunity Zones work as originally intended. Among these are issues related to the time Opportunity Funds have to deploy capital into the zones, the ability to recycle capital returned to a fund back into Opportunity Zones without penalty to its investors, and the manner in which certain definitions are applied in the statute. Delaying or failing to enact such corrections will inhibit investor uptake and limit the scale of impact in communities. Second, in addition to timely implementation by Treasury, I urge the President to pursue an aggressive interagency effort to ensure every relevant agency is made accountable to support the needs of Opportunity Zones communities in measurable ways (e.g., SBA loan guarantees, EPA brownfield cleanup funding, EDA grants, etc.), particularly in identifying and rewarding state and local best practices that can serve as models for other communities nationwide.

How should we measure and define success?

Every community has different needs, assets, and challenges. Just as it would be wrong to impose a one-size-fits-all approach to how the Opportunity Zones incentive should be put to

local use, it would also be wrong to evaluate every community against the same metrics. Given the flexibility and scalability I mentioned earlier, one national measure of success is in the *variety* of positive outcomes achieved over time. If Opportunity Zones works as intended, we should see a vibrant ecosystem of Opportunity Funds created – from large national funds, to small and middle market funds focused on specific regions, to sector-specific funds, and so on. Additionally, we should see those funds helping communities tackle a wide range of issues, including revitalizing downtown districts, boosting local entrepreneurship, establishing specialized funds to target rural development challenges, commercializing technology around local knowledge centers, and more. I believe this incentive could be particularly impactful in "second tier" cities, particularly in the Midwest and Northeast, where the need for property improvements and business creation is high, and where we often see entire contiguous downtown areas designated as Opportunity Zones.

Above all, the core measure of success is whether Opportunity Zones establishes a stronger and broader connectivity between communities and the equity capital needed to seed new industries, revitalize local assets, fuel innovation, and improve access to opportunity.

While the scale of potential impact is enormous, I want to underscore that the Opportunity Zones incentive is not the solution for every local financing need, let alone every broader issue facing low-income communities. Opportunity Zones provides a tool – potentially a very powerful one – but it is not a panacea. We must keep sight of the fact that reviving struggling communities is a long-term, complex undertaking. That is why measurement and transparency are key. States should be proactive in making data about their Opportunity Zones available to investors, researchers, and the general public. Every state should create an online portal where information on local priorities, qualified investments, and complementary state and local programs can be found. Additionally, in the conference report accompanying the TCJA, Congress outlined a worthy framework for Treasury to use in tracking and evaluating Opportunity Zones investment activity and its impact in local communities. Such data would help researchers and policymakers better understand how to iterate and improve incentive models and local strategies in the future.

Conclusion

When I testified before this committee last year on ways to boost economic opportunity in the United States, I urged Congress to take a more ambitious and experimental approach to tackling complicated issues. It is exciting to be here a year later as the country embarks on the implementation of Opportunity Zones, which is already bringing new energy, ideas, and much-needed attention to one of the nation's most vexing challenges. The past economic development toolkit clearly has not worked for the tens of millions of Americans living in communities where the American Dream feels unattainable. Congress has responded with a bold new idea. You placed confidence in governors, in mayors, in community organizations, in investors and entrepreneurs to come together in support of people and places our economy has left behind. This is, indeed, a rare opportunity to lift thousands of communities and improve millions of lives. But the work is just beginning. I urge you to remain committed to the task of making Opportunity Zones a success.

Thank you, and I look forward to answering your questions.

Testimony of Terri Ludwig
Chief Executive Officer
Enterprise Community Partners
Before the Joint Economic Committee

"The Promise of Opportunity Zones"
May 17, 2018

Chairman Paulsen, Ranking Member Heinrich and members of the Joint Economic Committee, thank you for the opportunity to testify on the Opportunity Zones provision that was included in the Tax Cuts and Jobs Act of 2017.

I am Terri Ludwig, chief executive officer of Enterprise Community Partners (Enterprise). Enterprise is a proven and powerful nonprofit that improves communities and people's lives by making well-designed homes affordable. For over 35 years, we have increased the impact of investment in affordable homes by engaging the right partners, directing private and public capital to the right places, and working with government leaders to offer nonpartisan advice and support. Nationwide, Enterprise has invested $36 billion in equity, grants and loans to help build or preserve nearly 529,000 affordable homes in diverse, thriving communities in all 50 states. Last year we invested $7.2 billion, resulting in the creation or preservation of more than 26,000 affordable homes, almost 35,000 workforce homes, and 35 million square feet of commercial space. I have spent the past 30 years working in financial services, real estate, social sector and entrepreneurial leadership. My career has focused on creating opportunity in lower-income areas: at Accion I led the then-largest U.S. microfinance program, which brought affordable small business loans to entrepreneurs, and I was president and CEO of Merrill Lynch's community reinvestment business unit.

Enterprise builds much more than just housing. We build vibrant communities. We know that access to the social determinants of health can influence an individual's trajectory in life, which is why our investment portfolio also includes health clinics, schools and access to healthy foods and public transportation. Together with safe, decent, affordable quality housing, these are the attributes of economic mobility and opportunity. We have touched millions of lives through our work – in urban, rural and all other types of communities – but there is more to be done. We know that the zip code in which a person lives can still affect the life they can have.

I am honored to share with the committee our thoughts on how the public policy goals that gave rise to the creation of Opportunity Zones – bolstering inclusive economic growth – can be realized. My testimony includes:

- An overview of the work we have been doing to ensure that Opportunity Zones are successfully utilized.
- Feedback from communities throughout the nation.
- Recommendations for implementation of Opportunity Zones.

Like a number of members of this committee, Enterprise supported the Investing in Opportunity Act (IIOA, S. 293), the bipartisan legislation that introduced the Opportunity Zones concept. We endorsed the bill because we recognized the tremendous need for additional investment in the communities we serve.

When IIOA was introduced in the 115th Congress, the original co-sponsors – Senators Tim Scott (R-SC) and Cory Booker (D-NJ) and Congressmen Pat Tiberi (R-OH) and Ron Kind (D-WI) – issued the following statement:[i]

"Too many American communities have been left behind by widening geographic disparities and increasingly uneven economic growth. We come from different parties and regions, but share the common conviction that all Americans should have access to economic opportunity regardless of their zip code. The Investing in Opportunity Act will unlock new private investment for communities where millions of Americans face the crisis of closing business, lack of access to capital, and declining entrepreneurship. American ingenuity has never failed us, and with this bill, we will dramatically expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most."

In the Tax Cuts and Jobs Act, the Opportunity Zones tax incentive was designed to facilitate *"new channels for investment in small businesses, supporting entrepreneurs, developing blighted properties, investing in local infrastructure projects, and other activities to create new opportunities for local residents."* Its graduated tax benefit structure is designed to incent long-term private investment in designated distressed communities (Qualified Opportunity Zones) through newly authorized investment vehicles called Opportunity Funds. Opportunity Funds provide an alternative to assets subject to capital gains. If an investor reinvests unrealized capital gains into an Opportunity Fund, they are eligible to receive a tax deferral, reduction in tax liability, and a tax exemption based on the length of time invested in the Opportunity Fund. We are pleased to add this tax incentive to our toolkit of proven affordable housing and community development programs. According to the Economic Innovation Group, there is an estimated pool of $6 trillion in unrealized capital gains[ii], and given that the Opportunity Zones tax benefit is not capped, it has the potential to become the nation's largest tool for economic development.

In order to achieve the intent of IIOA – *"expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most"* – it is critical that Opportunity Zones are implemented in a way that truly bolsters inclusive economic growth in urban and rural communities alike. A recent study by the Urban Institute, "Inclusive Recovery in US Cities," found that, "economically healthy cities tend to be more inclusive than distressed ones,"[iii] underpinning the importance of ensuring that current residents and businesses in Qualified Opportunity Zones are able to realize the benefit of Opportunity Fund investments. Housing affordability and job availability were among the indicators Urban Institute considered in its set of inclusion metrics. All types of communities, from urban to rural, need affordable housing and access to jobs that pay a living wage. Given how important these and other related issues are to inclusive growth, we believe that investments in Qualified Opportunity Zones can, when carefully implemented, provide sustained community benefits for existing residents and businesses.

Fostering Successful Utilization of Opportunity Zones

As a national leader in the field of affordable housing and community development finance, Enterprise knows well the value of public-private partnerships that encourage investment activity that would not occur without incentives, or seed funding from the government. We have deep

expertise in aggregating private capital and then deploying those funds in programs such as the Low-Income Housing Tax Credit[iv] and New Markets Tax Credit[v]. These two proven public-private partnerships exemplify how patient, long-term capital enables and encourages inclusive communities where housing is affordable across a broad income range and local businesses can expand their operations. Similarly, there is strong potential to utilize Opportunity Zones in a way that transforms communities and residents' lives when investments are aligned with local priorities and needs.

Since the passage of the Tax Cuts and Jobs Act at the end of 2017, we have been working with governors, mayors, investors, community-based organizations and others to gather and share data, disseminate critical information, identify emerging best practices and provide technical assistance on the implementation of Opportunity Zones. For example, we created free, customizable online maps to identify which Census tracts would be eligible for selection, overlaid with the availability of existing community development resources. Through the use of our Opportunity360 data and mapping tool,[vi] we are working closely with communities to provide them with in-depth analysis and help them understand the potential uses and benefits of this new way to invest in communities.

Enterprise is exploring Opportunity Fund models that would allow us to invest in and promote the activities that foster inclusive economic growth by promoting the availability of affordable homes and living-wage jobs. Our vision for the successful implementation of Opportunity Zones would include many of the same best practices that we have seen in our affordable housing and community development work over the past 35 years. These include investments that develop or preserve affordable housing, create and retain jobs that pay a living wage, support minority/disadvantaged/women-owned businesses, and increase transportation options and the overall infrastructure needed to increase access to opportunity for all community members. Our commitment to transparency and impact measurement will apply to any Opportunity Fund we may create, and our hope is to demonstrate that capital can be deployed successfully to deliver compelling financial returns *and* social benefits.

Feedback from Communities

Enterprise began developing and distributing resources and tools on Opportunity Zones in January 2018. Our online mapping tool has been accessed a total of more than 37,000 times by users in every state in the nation, including state and local government officials who said it informed their Opportunity Zone nominations. Enterprise hosted three free webinars to provide additional information about Opportunity Zones; collectively they garnered 2,500 registrants from across the country. Through these activities, we have learned a lot from our current partners, and been introduced to many new ones. I would like to share some of these observations with you today.

Many communities are looking to this new tax incentive as a catalyst for economic revitalization, and Enterprise is thrilled to have the opportunity to work alongside our partners as we consider how to most effectively deploy capital into these newly designated Opportunity Zones. In Minnesota, for example, we provided data and technical assistance to help the state Department of Employment and Economic Development understand the relationship between eligible tracts and other federal place-based investment programs, so the state could better focus its designations in places where Opportunity Zone investments could best align with other public priorities.

Other communities, however, have expressed concerns that additional private investment without an explicit commitment to benefiting local residents and businesses could unintentionally displace the very residents and businesses that Congress is seeking to support through this new tax benefit. In Oregon, we assisted members of the governor's team in incorporating a measure of housing stability into their process, allowing them to focus on areas where residents were less likely to be displaced by increasing land values as a result of investments.

In these and other cases, we are seeing local communities work to determine what is best for them. In fact, Enterprise applauds the flexibility of this tax incentive and its responsiveness to local needs and priorities and is excited about the potential for additional investment in our nation's distressed communities.

At the same time, the risk of not meeting the intended goal of inclusive economic growth that benefits existing residents and businesses also must be considered. For this reason, we urge that optimism be balanced with a sense of caution. This tax incentive – and the funds that will be created as a result – must be developed carefully and with attention to the long-term goals of communities, and with an eye towards potential negative unintended consequences. In particular, we believe that there is an important role for government to play – at the federal, state, and local level – to ensure that these investments advance local policy priorities and that their benefits are fully realized by all members of a community receiving the investment, not just a few. For instance, a central feature of Colorado's process for Opportunity Zone nominations was community engagement, as the state carefully solicited input prior to selecting their tracts. And in Michigan, the state housing finance agency is exploring innovative ways to incentivize affordable housing development in designated Zones.

Recommendations for Implementation

Enterprise and our partner organizations are eagerly waiting for the U.S. Department of Treasury and the Internal Revenue Service to release additional guidance on certifying and structuring Opportunity Funds. We have identified two primary sets of issues that we believe will be critical to focus carefully on moving forward: promoting the transparency of Opportunity Fund activities, and ensuring accountability and preventing abuse in implementation. I want to share more about those here.

Promote Transparency to Ensure Accountability and Evaluate Impact. In the Conference Report that accompanied the Tax Cuts and Jobs Act, Congress clearly directed Treasury to report back on the use Opportunity Funds. To do so, Treasury must be able to collect and share data from the start. Due to the foregone revenue associated with the Opportunity Zones tax benefit, Enterprise believes that Opportunity Funds should be required to report specific investment activity to ensure accountability of federal resources. Because this tax benefit specifically incents investment in distressed communities, it is important that information is made publicly available so that stakeholders, including members of Congress, can evaluate the impact that these investment funds have on local residents and businesses.

The Conference Report included the following guidance related to annual reporting requirements:

> *The Secretary or the Secretary's delegate is required to report annually to Congress on the opportunity zone incentives beginning 5 years after the date of enactment. The report is to include an assessment of investments held by the qualified opportunity fund nationally and at the State level. To the extent the information is available, the report is to include*

> *the number of qualified opportunity funds, the amount of assets held in qualified opportunity funds, the composition of qualified opportunity fund investments by asset class, and the percentage of qualified opportunity fund investments. The report is also to include an assessment of the impacts and outcomes of the investments in those areas on economic indicators including job creation, poverty reduction and new business starts, and other metrics as determined by the Secretary.*

Enterprise appreciates the guidance laid out in the Conference Report because it could allow Treasury, Congress and stakeholders to understand how the investments are impacting the local economy, community and residents. As Treasury and IRS consider additional guidance and clarification, Enterprise specifically recommends that Opportunity Funds be required, at a minimum, to report:

- Who the fund manager is.
- The state in which the fund is registered.
- Transaction-level information, such as the Zone(s) in which the fund has invested, how much the fund has invested, and in what the fund has invested (i.e. real estate, business, etc.).

And to provide an additional degree of public accountability, Enterprise recommends that Treasury make this information publicly available and allow stakeholders to comment on a fund's investments.

This transparency is in line with the original intent of IIOA and will allow Congress to evaluate the efficacy and impact of the tax benefit in meeting its intended policy goals, and thus make an informed decision about the future extension or expansion of Opportunity Zones.

Ensuring Accountability and Preventing Abuse in Implementation. Opportunity Zones have the potential to catalyze investment in affordable housing, businesses that create living-wage jobs, public transportation, and other necessities for sustainable and prosperous communities. At the same time, our collective vision for Opportunity Zones cannot be realized without practical guardrails that help to ensure that the residents and business owners currently living in newly designated Qualified Opportunity Zones in fact benefit from the resulting economic growth. In the Tax Cuts and Jobs Act, Congress gave the implementing agency the authority to promulgate regulations to prevent abuse:

> *The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including: (A) rules for the certification of qualified opportunity funds for the purposes of this section, (B) rules to ensure a qualified opportunity fund has a reasonable period of time to reinvest the return of capital from investments in qualified opportunity zone stock and qualified opportunity zone partnership interests, and to reinvest proceeds received from the sale or disposition of qualified opportunity zone property, and (C) rules to prevent abuse.*

Therefore, we recommend that the Department of Treasury issue regulations to prevent abuse not only to ensure that tax benefits inure to investments consistent with good public policy, but also lead to a direct and sustained benefit for the residents and local businesses in the census tract at the time it was designated as an Opportunity Zone.

Because Opportunity Zones provide a federal tax benefit for investing in some of the nation's most vulnerable communities, Enterprise believes that it is critical that these investments benefit the communities that they are impacting. Every community has its own challenges, so "direct and sustained" benefits will look different across geographies, and state and local governments will need to consider policies and programs that fit their needs. However, Enterprise believes it is important for the federal government to explicitly prevent Opportunity Fund investments that would disproportionately harm low-income residents and local businesses.

For example, we recommend that Treasury prohibit abusive investments that result in the net elimination of affordable housing (housing that is affordable to residents earning up to 120 percent of Area Median Income) because housing affordability is vital to achieve the intent of the IIOA. The definition of abuse should also include the refinancing of existing projects. We believe that investments that do not result in new activities or harm low- and modest-income residents will be contrary to our collective public policy goals. We urge the use of notice-and-comment rulemaking to allow affected communities to participate in identifying practices that would constitute abuse.

These are the priorities that Enterprise is committed to achieving through our own work in distressed communities, and we encourage federal policy mechanisms to ensure that other stakeholders also address the needs of the communities in which they are investing.

Conclusion

Enterprise is eager to add Opportunity Zones to our industry's toolkit of affordable housing and community development resources, and we applaud the committee for convening this hearing to consider how to most efficiently implement this new tax benefit. If implemented with transparent reporting requirements and an explicit commitment to prevent abuse – and in doing so, connecting local residents to opportunity – Opportunity Zones could have a transformative impact in distressed communities nationwide.

Thank you for your efforts to ensure that distressed communities receive critical private investment capital. Enterprise would be pleased to work with you on implementing our recommendations and discussing these issues further.

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[i] Opportunity Zones were introduced in the 115th Congress through the Investing in Opportunity Act (S. 293 and H.R. 828), bipartisan legislation sponsored by Senator Tim Scott (R-SC), Senator Cory Booker (D-NJ), Congressmen Pat Tiberi (R-OH) and Congressman Ron Kind (D-WI). The concept for the Investing in Opportunity Act was introduced by the Economic Innovation Group, a bipartisan public policy organization that combines innovative research and data-driven advocacy to address America's most pressing economic challenges.

On February 2, 2018, Senator Scott, Senator Booker, Rep. Tiberi and Rep. Kind released a statement about the enactment of Opportunity Zones in the Tax Cuts and Jobs Act of 2017. Citing the challenges created by closing businesses, lack of access to capital, and declining entrepreneurship, these elected officials highlighted the potential for Opportunity Zones to "expand the resources to restore economic opportunity, job growth, and prosperity for those who need it most."

Enterprise supports the expansion of resources to address these challenges. We also believe that affordable housing and local businesses are critical for successful community development and prosperous neighborhoods, and we encourage lawmakers to commit to these community assets while implementing Opportunity Zones.

[ii] The Economic Innovation Group estimates that there is $6 trillion in untapped capital gains being held in stocks and funds. Opportunity Zones make it possible to reinvest this capital into communities that need it the most.

[iii] New research from the Urban Institute reports on trends in economic health and inclusion across many cities, including within a smaller subset of cities that have experienced an economic recovery. The researchers identify key lessons and common building blocks that can support progress on inclusion during a city's economic recovery.

[iv] The Low-Income Housing Tax Credit (Housing Credit) is the nation's primary tool for developing and preserving affordable rental housing. Since 1986, it has financed three million affordable rental homes, supported 3.4 million jobs annually, and generated $323 billion in local income nationwide.

Congress reaffirmed the Housing Credit's role in the tax code by preserving it in the Tax Cuts and Jobs Act of 2017. However, as a result of the corporate tax rate being lowered from 35 to 21 percent, investor demand for the Credit has decreased, which has impacted the amount of equity in the Housing Credit market. As a result, accounting firm Novogradac & Company estimates that approximately 235,000 fewer affordable rental homes will be produced over the next decade. Given that over 11 million households already pay more than half of their income on rent, this reduction production will exacerbate the vast and growing affordable housing crisis nationwide.

Congress made an important down payment on the Housing Credit in the Consolidated Appropriations Act of 2018 by enacting a temporary, 12.5 percent expansion of the Housing Credit for four years (2018-2021) and the new permanent option for income averaging in Housing Credit developments. Novogradac & Company estimates that this temporary expansion will result in the production of approximately 28,400 affordable rental homes over the next decade.

Enterprise applauds Congress for enacting these critical provisions to strengthen and expand the Housing Credit. While this is an important step forward, the country still faces a reduction in affordable housing production because of the lower corporate tax rate. Enterprise encourages Congress to enact the Affordable Housing Credit Improvement Act (S. 548), bipartisan legislation sponsored by Senate Finance Committee Chairman Orrin Hatch (R-UT) and Senator Maria Cantwell (D-WA). This bill would increase Housing Credit allocation authority by 50 percent, phased-in over five years, and would enact nearly two-dozen other provisions to strengthen the Housing Credit. The 50 percent cap increase would allow for the

production or renovation of approximately 400,000 affordable rental homes over the next decade, which would fully make up for the reduced production resulting from the Tax Cuts and Jobs Act.

[v] The New Markets Tax Credit (NMTC) is an effective, targeted and cost-efficient financing tool that increases the flow of capital to businesses and low-income communities by providing a modest tax incentive to private investors. Since it was authorized in 2000, NMTC has leveraged nearly $80 billion in total capital investment to businesses and revitalization projects in communities with high rates of poverty and unemployment. NMTC has also generated more than one million jobs. This successful public-private partnership exemplifies how patient capital can directly benefit low-income residents, communities, and local businesses in urban and rural areas.

Congress reaffirmed the importance of NMTC by preserving the Credit in the Tax Cuts and Jobs Act of 2017. Enterprise applauds Congress for recognizing the value of this proven and effective community development tool. However, NMTC authorization expires at the end of 2019 unless Congress extends the Credit. Enterprise urges Congress to enact the New Markets Tax Credit Extension Act of 2017 (S. 384, H.R. 1098), bipartisan legislation to permanently extend NMTC.

[vi] Through our Opportunity 360 platform, Enterprise Community Partners created a specific data and mapping tool to specifically help states and others interested in Opportunity Zone eligibility to determine which tracts in their state or region are eligible. The tool also depicts how eligible tracts relate to other federal programs and designations, including Low-Income Housing Tax Credit developments, New Markets Tax Credit projects, Choice Neighborhoods, Empowerment Zones, and others.

TESTIMONY BEFORE THE JOINT ECONOMIC COMMITTEE OF THE UNITED STATES CONGRESS

MAURICE A. JONES
PRESIDENT AND CEO
LOCAL INITIATIVES SUPPORT CORPORATION (LISC)

May 17, 2018

Introduction:

Chairman Paulsen, Ranking Member Heinrich, and members of the Committee:

I am pleased to be able to join you this morning to discuss Opportunity Zones. LISC championed the Investing in Opportunity Act (IIOA) legislation that became the foundation for the Opportunity Zones initiative, and were pleased to see this enacted in December of 2017 as part of the Tax Cuts and Jobs Act (TCJA).

Based largely on LISC's experience working in low income communities, and our deployment of private sector capital through tax credit investments like the Low Income Housing Tax Credit and New Markets Tax Credit, we believe the Opportunity Zones initiative has tremendous potential to attract new investment capital into low income urban and rural communities. Though still early in the implementation phase, there is already great energy in the community development sector in support of this program. We are pleased that all states and territories have elected to identify Opportunity Zones, and that they generally appear to have targeted geographic areas that are in need of incentives for investment.

That being said, we know there is much uncertainty ahead. Congress may need to adopt some technical corrections to ensure better program outcomes. The Treasury Department and the Internal Revenue Service (IRS) must enact regulations and guidance that not only provides investors with the clarity and certainty necessary to make investments in Opportunity Funds, but also protects against program abuse and helps ensure the integrity of the program. Finally, it will be necessary for states, localities and community development practitioners to work together to identify a largely untapped network of investors and to help steer this capital to communities of opportunity, so that the Opportunity Zones initiative lives up to its great promise.

Background on LISC

The Local Initiatives Support Corporation (LISC) is a national non-profit Community Development Financial Institution (CDFI) that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity — good places to work, do business and raise children. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; technical and management assistance; and policy support.

LISC has local programs in 31 cities, and partners with 86 different organizations serving over 2,000 rural counties in 44 states throughout the country. Over the course of LISC's nearly 40 years of work, its comprehensive approach to community development and its broad national reach have made it a unique and valuable leader in the fight to improve quality of life in communities across the country. LISC's greatest success over these years has been working with under-resourced communities and their residents to help them get ahead. Today, the growing inequality, concentrated poverty and racial inequity that our country is experiencing make the work that we and our partners do as urgent as ever before.

An opportunity gap – reflected in disparities in health and wellbeing, employment, wealth and financial security, and overall quality of life – is increasingly dividing America, both urban and rural communities alike. This opportunity gap does not stem from any single root: it arises from imbalanced access to basic needs like safety, housing and healthcare, as well as inequality of educational and economic opportunities. To address such complex problems requires a set of equally multi-dimensional tools and strategies.

LISC believes that catalyzing opportunity involves working at the local level to foster resilient, safe and healthy communities and towns in which individuals have financial security, economic choices and a high quality of life. With our deep local roots, national breadth, and comprehensive set of products and services, we fight to close the opportunity gap in America through our strong network of over 2,300 community-based partners.

LISC's use of Community Investment Tax Credits

As one of the largest national nonprofit housing and community development organizations in the country, LISC often relies upon public-private partnerships to engage in the type of comprehensive community development work that is needed in low-income communities. Two of the most critical federal tools that support our efforts are the Low Income Housing Tax Credit (the Housing Credit) and the New Markets Tax Credit (NMTC).

Since these programs were established in 1986 and 2000, respectively, they have become an integral component of efforts to support affordable housing development and, as importantly, the revitalization of the surrounding neighborhoods. Driven by the private sector, the federal investments made into these programs by way of tax expenditures have paid strong dividends by sparking investment in areas that would otherwise be overlooked.

The Housing Credit has financed the development of approximately 3 million affordable homes across the nation with projects in every state, leveraged more than $100 billion in private capital, and helped to create well over 3 million jobs in the construction and property management industries.[1] It is the country's most successful affordable housing production program.

LISC, through its subsidiary the National Equity Fund (NEF), is one of the nation's largest syndicators of Housing Credits. To date, NEF has invested $14.4 billion in more than 2,500 housing properties, creating approximately 166,600 affordable homes for low-income families in 47 states, and spurring the creation of an estimated 203,300 jobs. In recent years, LISC has been able to use the credit to support disaster recovery efforts, a veterans housing initiative, and an initiative to link housing to critical community health services.

NMTCs are the perfect tool to complement the work we've been doing in support of affordable housing. LISC believes that housing is just one component of vibrant communities; that residents also need to have access to good jobs, a thriving retail environment, and critical community services such as childcare, education, and health care. With NMTCs, LISC has revitalized commercial corridors and fueled commercial and retail jobs; funded new and expanded community facilities supporting jobs in the fields of education, healthcare and childcare; and redeveloped industrial brownfields to return land to productive use for offices, warehouses and new manufacturing ventures.

LISC has placed $963 million of NMTC investments in 118 different businesses and real estate projects, supporting $2.5 billion in total project costs. These funds have helped to develop or rehabilitate over 600 units of housing and 9.5 million square feet of commercial and community space, and have supported the creation or retention of 20,000 jobs.

It is precisely because we've seen first-hand the impacts that tax incentives can have on spurring community revitalization that we are convinced of the potential held by the Opportunity Zones initiative – not as a replacement for these programs, but as a valuable new tool that can attract new investor capital.

The Promise and Potential Perils of Opportunity Zones

The Opportunity Zones initiative is unlike the Housing Credit and NMTC program in several ways. First, the main source of investment capital is likely to be high net worth individual investors, as opposed to the financial institutions that are the primary investors in the other community development credits. This means that an entirely new pool of investor capital can be attracted to community development finance through Opportunity Zones. Second, there is no "cap" on the amount of investor capital that can be invested in Opportunity Funds, meaning that the program has the potential to shift massive amounts of new investor capital into low-income communities. And third, there are no designated agencies (e.g., the state Housing Finance Agencies, the Treasury Department's CDFI Fund) pre-approving projects or business plans,

[1] "Low Income Housing Tax Credit Impacts in the United States", Affordable Rental Housing ACTION: http://www.rentalhousingaction.org/files/National%20Fact%20Sheet.pdf

which should significantly lower transaction costs and expedite investments into these communities.

Yet there are potential negative outcomes that may occur as well. For example, the way the incentive is structured, investors will get a modest return through deferral of initial capital gains taxes, but a potentially huge return with the forgiveness of any additional capital gains that result upon exit from the Opportunity Fund investment. This means investors may be incentivized to seek out the deals with the highest long term yields, which may not be the projects that bring about the most impact for the community or its residents. And without any Federal or state agencies overseeing the selection of projects and investment plans, there is no direction to necessarily pursue higher impact community development investments. Additionally, one could potentially see this program leading to displacement of lower income community residents, either because the neighborhoods themselves get "overheated" with investment capital, or because the structure of the incentive rewards investors seeking the higher yields offered by market rate or even luxury housing.

It is LISC's intent to design an Opportunity Zone investment plan that will attract capital from impact investors throughout the country while maximizing the benefits for low-income communities and their residents. We are planning to focus our Opportunity Zone investments in three areas where we see the greatest potential to benefit community residents:

1. Operating businesses – providing growth capital for companies that are creating job opportunities for Opportunity Zone residents. We will inject equity capital to catalyze the growth of manufacturing, health care, and other companies in growing sectors that are providing quality job opportunities that are accessible to community residents.

2. Business infrastructure – investing in new real estate developments and rehabilitation of existing underutilized buildings within targeted communities to attract businesses, bringing quality jobs to underinvested communities and their adjacent neighborhoods.

3. Affordable housing – increasing the stock of quality affordable and workforce housing in Opportunity Zones

We will raise capital from mission-aligned investors including the corporations located in Opportunity Zones that we are already targeting for investment, high net worth individuals sourced through our community foundation relationships, and the growing impact investment community. With strong continued leadership from Congress and the implementation of our recommendations herein, we believe that the Opportunity Zones incentive can spur billions in private investment activity in the country's most distressed census tracts and play a major role in closing the existing opportunity gap that is leaving these communities behind.

Opportunity Zone Implementation to Date

LISC has been very pleased with the initial response to the Opportunity Zones initiative from state and local practitioners, as well as the community development industry. There has been a tremendous amount of interest from various parties in learning about this new program. It is our

understanding that all 50 states and the US territories have submitted their Zone designations to the Treasury Department, and while we are still awaiting Treasury's approval for about half of these submissions, the ones that have been approved and publicly identified suggest that the states and territories are treating this initiative thoughtfully, and are by and large doing a good job of identifying their Zones.

Specifically, as reported by the Treasury Department's CDFI Fund, the Zones that had been approved as of April 18, 2018 (encompassing 4,831 census tracts in 24 states and territories) had an average poverty rate of 35%, significantly higher than the minimum rate of 20% required by the statute. These tracts also had an unemployment rate that was, on average, 78% higher than the national average. States also did a good job dispersing their Opportunity Zones, with 22% of the census tracts located in rural communities.

With respect to the Treasury Department's implementation of Opportunity Zones, however, we do have some early concerns. Specifically, in regards to the Opportunity Zone approvals, while we appreciate Treasury's desire not to slow down the process with a lengthy review, we believe that there was an opportunity missed by Treasury to engage in more than just the straightforward mechanical exercise in which they've chosen to engage. Specifically, the Conference Report that accompanied Tax Cut and Jobs Act (Report 115-466) required that Governors provide particular consideration to areas that:

a) *are currently the focus of mutually reinforcing state, local or private economic development initiatives to attract investment and startup activity;*

b) *have demonstrated success in geographically targeted development programs such as promise zones, the new markets tax credit, empowerment zones and renewal communities; and*

c) *have recently experienced significant layoffs due to business closures or relocations.*

To this end, we recommended to Treasury that each state be required to submit a brief narrative explanation demonstrating the extent to which the Opportunity Zones they have designated satisfy one or more of these three considerations. We felt that that this would have at least served as a reminder to States of the factors that Congress had intended them to consider, and remain disappointed that Treasury didn't choose to pursue this approach.

We also are concerned with early indications that the Treasury Department intends to take a minimalist approach to its next phase of administrative oversight, which is the certification of Opportunity Funds. Specifically, the IRS recently released an Opportunity Zones Frequently Asked Questions document stating that Opportunity Funds will self-certify --- that "no approval or action by the IRS is required."

The concept of certification of Opportunity Funds by the Treasury Department was a rare instance of an element of the Opportunity Zones legislation that was not drawn from the initial HOA proposal – but rather was added into the Opportunity Zone provision during the enactment of the TCJA. We believe it was the intent of Congress to at a minimum create a safeguard

against potentially bad actors abusing the program, but also to potentially offer Treasury a mechanisms for screening Opportunity Funds in an even more substantive manner; as evidenced by the fact that the TCJA's accompanying Conference Report stated that *"the certification process for a qualified opportunity fund will be done in a manner similar to the process for allocating the new markets tax credit."*

New Markets Tax Credits are allocated through an annual competitive application process, one which helps ensure that the most qualified entities are provided with credit allocations, and that the scarce credits are directed to the highest and best uses. While it is not feasible to hold competitions among Opportunity Funds in the manner that entities apply for NMTCs, Treasury could certainly consider employing some of the best practices from its NMTC review process into its Opportunity Fund certification review. For example, through the NMTC allocation process, entities are encouraged to commit to more rigorous outcomes as a condition of receiving an allocation, and then are held to these commitments as part of their allocation agreement. These include, among others:

- targeting investments in areas of severe economic distress;
- offering below-market rates and terms to their borrowers;
- investing more than the minimally required 85% of the NMTC investment proceeds into their low income communities;
- financing (if applicable) affordable housing; and
- making "innovative" investments, including investments in small businesses.

In addition to these provisions, which become a compliance requirement of the NMTC allocation agreements, applicants also receive higher scores for being able to demonstrate a likelihood of achieving significant community impacts, such as: creating high quality jobs; providing goods and services to low income community residents; financing minority-owned businesses; and ensuring environmentally sustainable outcomes.

As noted previously, LISC does not suggest imposing a competitive scoring and selection process on the certification of Opportunity Funds. This would be an unwise use of resources (both Federal and private sector) and would cause considerable delays in program implementation. In addition, this program needs to be flexible and attuned to market to be able to attract capital gains investors. However, as provided for in the Conference Report, we do think it would be appropriate for the Treasury Department to require Opportunity Funds to identify, at the time of certification, at least one outcome from a list of desirable outcomes that they will commit to achieving with their investments.

The desirable outcomes could be drawn from the NMTC selection items above, or could be broadened to include additional items that may be more relevant to the intentions of the Opportunity Zone program; for example, providing working capital and equipment capital to start-up businesses. Applicants would indicate their chosen outcomes through self-certifications at the time of the certification application, which could then be reviewed during a compliance audit after the investments have been made.

Recommendations

As noted earlier, the Opportunity Zone initiative is still very early in its program implementation phase. While it is notable that Opportunity Zone designations have been submitted by all states and territories, and that final approvals are expected by the end of this week, this only marks the end of the first phase. As detailed further below, this needs to be followed up with continued oversight and support from Congress; timely guidance and/or rulemaking by Treasury to ensure that the objectives of the program are being met; and significant involvement from states and municipalities to attract investment capital into their designated Opportunity Zones.

1. **Congress should consult closely with the Treasury Department during their next phase of rulemaking, to identify whether there are areas that may require statutory fixes.**

   For example, there may be some barriers to making equity investments in businesses through the Opportunity Fund structure. A traditional private equity fund holds and liquidates investments at different times over a number of years and the proceeds from the disposal of each investment are distributed to its investors, or recycled into substitute investments. Under this traditional private equity arrangement, it is unclear how an investor could attain the ten-year benefit of gain exclusion on the sale of qualified opportunity zone property, since any gains realized by the Opportunity Fund when it liquidates an investment will be taxed to the Opportunity Fund (in the case C-corporation) or will flow-through to the individual investors in the Opportunity Fund (in the case of a partnership).

   In other words, there does not appear to be a readily available mechanism for reinvesting capital without triggering a tax event. Congress may need to provide relief for gains realized on the sale of an appreciated qualified opportunity zone property before the end of a taxpayer's 10-year holding period, provided that the proceeds of a sale are reinvested in replacement projects within a reasonable period.

   Another area where a technical fix may be useful relates to the timing of investments, and the requirement that 90% of Opportunity Fund investments be made in qualifying businesses in Opportunity Zones. Specifically, in the case of real estate investments, consideration should be given to allowing Opportunity Funds to invest in projects as certain construction benchmarks are met, perhaps over a 24 month investment period.

   These are but two examples of where a technical fixes may be necessary. Others are likely to arise as the IRS begins writing regulations. It is important that the IRS and Congress communicate on these issues.

2. **Treasury and the IRS should play a more active role in program implementation and administration.** Treasury has thus far not shown an inclination to get involved in any aspect outside of the technical guidance, despite implicit, if not explicit, authority to do so. Our recommendations for Treasury and the IRS are as follows:

a. Ensure a more robust certification of Opportunity Funds. The certification of the Opportunity Funds can still be done through a self-certification form, but the form should include a series of certifications and assurances to weed out potential bad actors, and as discussed earlier, should identify prospective community development outcomes that the Opportunity Fund anticipates achieving.

b. Certify the Opportunity Funds prior to investments being received and placed. It would appear as though the IRS does not intend to collect any information about the Opportunity Funds until investments have been made. We believe that Treasury should at least play some role in vetting these funds. Additionally, this would allow Treasury to collect baseline information about the organizations (e.g., the markets they intend to serve; the types of businesses in which they intend to invest) that could then be used to create a clearinghouse that investors and businesses could access to identify opportunities for investments in their markets.

c. Collect and disseminate data from the Opportunity Funds. The Treasury Department ideally will collect significant data from the Opportunity Funds, not just to ensure program compliance, but also to be responsive to the type of report that was envisioned in the Conference Report that accompanied the TCJA:

> *The Secretary or the Secretary's delegate is required to report annually to Congress on the opportunity zone incentives beginning 5 years after the date of enactment. The report is to include an assessment of investments held by the qualified opportunity fund nationally and at the State level. To the extent the information is available, the report is to include the number of qualified opportunity funds, the amount of assets held in qualified opportunity funds, the composition of qualified opportunity fund investments by asset class, and the percentage of qualified opportunity zone census tracts designated under the provision that have received qualified opportunity fund investments. The report is also to include an assessment of the impacts and outcomes of the investments in those areas on economic indicators including job creation, poverty reduction and new business starts, and other metrics as determined by the Secretary.*

We recommend that this information be collected by the Treasury Department on an annual basis via an electronic portal. While it may take some time for the Treasury Department to set up these systems, Opportunity Funds should be made aware of the data points that Treasury intends to collect at the time they are certified; ideally by including these data points as part of the certification form.

d. Solicit public comments on IRS rulemaking. In order to identify potential regulatory issues that need further clarification, IRS should move quickly to develop an Advanced Notice of Proposed Rulemaking or similar vehicle for collection of public input; rather than waiting to identify such issues after the drafting of a proposed rule, especially given the need for funds to invest in projects in 2019 in order to get the full benefits of the reduction in capital gains by 2026.

3. **States and municipalities should work with private sector partners to tap into new pools of investor capital (e.g., through private wealth managers), and should also make best efforts to steer Opportunity Zone investments into business and projects that will provide the most benefit to low income communities and their residents.** In addition to helping tap a pool of socially-responsible investors, states could create their own incentives for such investments. States could, for example, provide state tax incentives alongside the Opportunity Zone incentives, but only for projects that it deems will satisfy critical community development objectives (e.g., start-up capital to small businesses; business creating quality jobs; development of affordable housing; development of community facilities; etc.). Similarly, states could align existing development programs with Opportunity Zone geographies. For example, to help ensure the production of affordable housing in these geographies, state housing finance agencies could, through their Qualified Allocation Plans, state a preference for housing credit developments to be located in Opportunity Zones; and could also direct their Housing Trust Fund dollars and HOME dollars to projects in Opportunity Zones.

Conclusion

We believe the Opportunity Zones initiative has tremendous potential to attract new investment capital into low income urban and rural communities. Though still early in the implementation phase, there is already great energy in the community development sector in support of this program. With strong continued leadership from Congress and the implementation of our recommendations herein, we believe that the Opportunity Zones incentive can spur billions in private investment activity in the country's most distressed census tracts and play a major role in closing the existing opportunity gap that is leaving these communities behind.

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115TH CONGRESS
1ST SESSION

H. R. 828

To amend the Internal Revenue Code of 1986 to provide for the deferral of inclusion in gross income for capital gains reinvested in opportunity zones.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2017

Mr. TIBERI (for himself, Mr. KIND, Mr. MEEHAN, Mr. NEAL, Mr. RENACCI, Mr. AGUILAR, Mr. SMITH of Missouri, Ms. SEWELL of Alabama, Mr. PAULSEN, Ms. DELBENE, Mr. REICHERT, Mr. COOPER, Ms. JENKINS of Kansas, Mr. MOULTON, Mr. STIVERS, Mr. LARSON of Connecticut, Mr. LANCE, Mr. POLIS, Mr. SENSENBRENNER, Mr. KHANNA, Mr. RODNEY DAVIS of Illinois, Mr. YODER, Mr. KILMER, Mr. ROUZER, Mr. SOTO, Mr. MARCHANT, Mr. BLUMENAUER, Mr. UPTON, Mr. HIMES, Mr. COLLINS of New York, Mr. O'HALLERAN, and Mr. PERRY) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide for the deferral of inclusion in gross income for capital gains reinvested in opportunity zones.

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 "Investing in Opportunity Act".

1 "(3) REASONABLE CAUSE EXCEPTION.—No
2 penalty shall be imposed under this subsection with
3 respect to any failure if it is shown that such failure
4 is due to reasonable cause.".
5 (b) BASIS ADJUSTMENTS.—Section 1016(a) of such
6 Code is amended by striking "and" at the end of para-
7 graph (36), by striking the period at the end of paragraph
8 (37) and inserting ", and", and by inserting after para-
9 graph (37) the following:
10 "(38) to the extent provided in section 1400Z–
11 2(b).".
12 (c) REPORT TO CONGRESS.—The Secretary of the
13 Treasury, or the Secretary's delegate, shall submit a re-
14 port to Congress on the opportunity zone incentives en-
15 acted by this section beginning 5 years after the date of
16 enactment of this Act and annually thereafter. The report
17 shall include an assessment of investments held by quali-
18 fied opportunity funds nationally and at the State level.
19 To the extent such information is available, the report
20 shall include the number of qualified opportunity funds,
21 the amount of assets held in qualified opportunity funds,
22 the composition of qualified opportunity fund investments
23 by asset class, the percentage of qualified opportunity zone
24 census tracts designated under subchapter Z of the Inter-
25 nal Revenue Code of 1986 (as added by this section) that

1 have received qualified opportunity fund investments. The
2 report shall also include an assessment of the impacts and
3 outcomes of the investments in those areas on economic
4 indicators including job creation, poverty reduction, and
5 new business starts, and other metrics as determined by
6 the Secretary.

7 (d) CLERICAL AMENDMENT.—The table of sub-
8 chapters for chapter 1 of such Code is amended by adding
9 at the end the following new item:

"SUBCHAPTER Z. OPPORTUNITY ZONES".

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

○

RESPONSE FROM MR. LETTIERI TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR KLOBUCHAR

RURAL ECONOMIC RECOVERY

In Minnesota, a large number of the communities eligible for designation as Opportunity Zones are rural. While the rural economy is doing well in many parts of Minnesota, I am still seeing challenges, and I know that other states are seeing these challenges too. You have noted that rural areas may require greater engagement from the public and philanthropic sectors to benefit from the Opportunity Zone designation.

- **How can we best foster this engagement between the public sector, the philanthropic sector, and private investors and entrepreneurs in rural areas?**

Fostering engagement between sectors begins with strong State and local leadership. State and local leaders were heavily engaged in the designation process for Opportunity Zones; now the task is to ensure the momentum carries forward into the next phase as communities seek to recruit new investment. In particular, mayors and governors in rural areas must lead by engaging a broad set of stakeholders and institutions to develop the strategies necessary for long-term success in their Opportunity Zones. In the end, Opportunity Zones are only a tool, and they will be most effective in communities that root them into broader economic development strategies.

There are also insights and complementary resources to glean from other Federal programs that can help inform and expand the impact of Opportunity Zone strategies in rural America, including:

- State Small Business Credit Initiative (SSBCI) venture capital program;
- Department of Commerce's Office of Innovation and Entrepreneurship, Regional Innovation Strategies program;
- USDA Rural Business Investment and Rural Business Development programs; and
- Small Business Administration Small Business Innovation Research (SBIR), Small Business Technology Transfer (STTR), and Small Business Investment Company (SBIC) programs.

See also the new MOU between the U.S. Department of Agriculture and the Small Business Administration on collaboration for investment in rural areas: *www.usda.gov/media/press-releases/2018/04/04/usda-and-sba-join-forces-help-businesses-rural-america*.

- **What else can be done to foster economic development in rural areas?**

Rural America needs greater support for entrepreneurs in order to reverse the sharp decline in new business formation seen in rural communities since the Great Recession. As a background resource, I would like to refer you to testimony I gave before the Senate Committee on Small Business and Entrepreneurship on April 26, 2017, on the subject of rural entrepreneurship, which touched on a number of issues that are relevant in the context of Opportunity Zones (available here: *http://eig.org/news/u-s-senate-committee-small-business-entrepreneurship-hearing-challenges-opportunities-running-small-business-rural-america-2*.

More generally, I would put forward three categories to help organize how we think about fostering rural economic development: capacity, connectivity, and capital.

Capacity: Improving a local economy requires growing the capacity of the local labor force, and that means investing in education and training services to make sure businesses have access to sufficient talent pools that can drive productivity and innovation. The educational attainment gap between metropolitan and non-metropolitan areas is growing. It will be very hard to establish new and lasting foundations of rural prosperity in a human capital-driven economy if this trend continues.

Connectivity: Any local economy's success depends greatly on connectivity and integration into the broader regional and national economies. Rural areas often face additional challenges due to their physical isolation as well as a lack of basic ingredients, such as high-speed internet connectivity, that many places take for granted. Thus, Federal policies that promote connectivity to markets, capital, and expertise can play an important role in boosting the viability of businesses in rural areas.

Capital: Opportunity Zones focus specifically on unlocking equity investment, which is needed to drive development of high-growth potential companies that can help bring the innovation, diversification, and expansions needed to strengthen

rural communities. However, a strong, diversified economy requires more than one type of financing, and rural areas in particular may struggle to access the full capital continuum amid declines in community banking and other financial sector developments. Programs that help fund and support expansion of financing by community banks and credit unions, such as the Community Development Financial Institutions (CDFIs) program, can help to fill that gap and ensure more local businesses have access to the capital that they need, helping to fortify local economies.

SUPPORT SERVICES AND CLUSTERING

Entrepreneurs and economists frequently talk about the "clustering" effect that leads start-up ventures to concentrate in particular geographic areas such as Silicon Valley. These favored locations then develop the social capital and support services necessary to sustain an entrepreneurial economy.

- **How might the Opportunity Zone program catalyze the development of an entrepreneurial economy in rural areas that currently lack such support services?**

While we should be very careful not to define success in rural economies—particularly low-income rural communities—against the performance of innovation clusters like Silicon Valley, some common lessons do apply. One lesson is that there is no substitute for the benefits of a diverse and entrepreneurial local economy. Opportunity Zones can help support rural entrepreneurs in a variety of ways, including by attracting equity investors directly into new and growing businesses, as well as by financing rural business incubators and accelerators that help provide essential support infrastructure in a local startup ecosystem. Here again, mayors and governors can play a key role in providing complementary resources and incentives to help bolster the impact of the Federal incentive in achieving entrepreneur-friendly local outcomes.

- **Since the Opportunity Zone program allows prospective investors to invest in any zone across the Nation without regard to the investor's physical location, are you concerned that the zones may compete against each other in such a way that the rural zones are left behind?**

Places are already in competition for capital and talent, and such competition need not be a race to the bottom. Instead, Opportunity Zones can provide a healthy catalyst to improve local economic development policies and practices, and spur innovative approaches that put local assets to better use. In spite of national headwinds, many of the most dynamic and prosperous places in the country are, in fact, rural communities, and they provide important lessons for rural Opportunity Zones.

Opportunity Zones are a powerful tool that can mobilize a new array of investors and a much larger scale of investment in low-income communities nationwide, but the incentive alone is not a substitute for a sound local economic development strategy.

RESPONSE FROM MS. LUDWIG TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR KLOBUCHAR

LOW-INCOME HOUSING TAX CREDIT

The Low-Income Housing Tax Credit (LIHTC, pronounced Lie-Tech) is our Nation's primary method of subsidizing the creation of low-income housing and new accounts for the approximately 90% of all affordable rental housing created in the United States today. This past March, I was pleased to join my colleagues in leading a successful 12.5 percent expansion of the credit for the next four years. Since the Opportunity Zones program targets capital gains taxes, it seems likely that real estate will be a natural investment target for program investors. In Minnesota, we've seen recent investment concentrated on luxury units rather than middle-class or affordable housing.

- **How do you expect the new Opportunity Zones program to interact with the LIHTC program? Do you believe that the two programs will help support and reinforce each other? Is there a possibility of interference between the two programs?**

Senator Klobuchar, thank you for this question. Enterprise Community Partners has strong expertise in aggregating private capital and deploying it through programs like the Low-Income Housing Tax Credit, and we applaud the 12.5% expansion of the Housing Credit through 2021. We are eager to realize the potential of Opportunity Zones to complement proven public-private partnerships like LIHTC.

While we are still waiting for additional Opportunity Zones guidance from Treasury and the IRS with clarification about the types of investments that are eligible, it appears that all rental real estate, including residential real estate, located in Opportunity Zones will constitute an eligible investment.

Given that the lower corporate tax rate from the Tax Cuts and Jobs Act of 2017 has reduced investor demand for the Housing Credit and therefore equity in the LIHTC market, Opportunity Zone investments offer the potential to fill a gap in critical equity investments in LIHTC projects.

We believe that Opportunity Zones should be able to pair with the Housing Credit. The 15-year Housing Credit compliance period lines up well with the long-term incentives of Opportunity Zones.

In particular, Opportunity Zones present potential to fill in the "missing middle" of the financing stack for middle-income housing (60–120% of Area Mean Income). This offers critical opportunity for those who do not qualify for low-income housing but still struggle to find housing they can afford, such as our Nation's teachers, firefighters, and nurses.

- **What can be done to ensure that investment income in Opportunity Zones helps address rather than exacerbate the affordable housing crisis?**

Thank you for this question. Through our work on Opportunity Zones with governors, mayors, investors, and community-based organizations, Enterprise Community Partners has seen that, while communities are excited about this potential catalyst for economic development, they are also concerned that private investment could unintentionally displace the very residents and businesses that the new tax incentive is intended to support. This is why we recommend that Treasury have guidelines to ensure that investments in designated Opportunity Zones offer sustained benefit to all members of the community.

Specifically, we recommend requiring that Opportunity Funds report to Treasury on transaction-level data and that this information be made available to the public. These steps will promote the transparency of Opportunity Fund activities, drive accountability, and allow for assessment of whether the tax benefit is meeting its intended policy goal of bolstering inclusive, sustainable economic growth.

Secondly, we believe that Treasury should use its statutory authority from Congress to issue regulations to prevent abuse. We suggest that the definition of abuse include investments that adversely impact low-income residents, including investments that result in net loss of affordable homes.

These guardrails for the implementation of Opportunity Zones will help ensure that current residents and businesses benefit from resulting economic growth.

For our part, Enterprise is committed to working with State and local governments to implement policies and programs suited to local needs. Drawing on our 35 years of expertise in affordable housing and community development finance, we are exploring Opportunity Fund models that would foster inclusive, sustainable economic growth and prosperity for residents and businesses. Any fund we create would incorporate best practices drawn from our work—including investments that create opportunity by developing and preserving affordable housing, creating living-wage jobs, supporting minority- and women-owned businesses, and expanding transportation and infrastructure.

RESPONSE FROM MS. LUDWIG TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR HEINRICH

1) What do the designations tell us so far? Which indicators tell us whether governors chose areas that would most benefit from Opportunity Zones? For New Mexico, how do the economic conditions of designated Opportunity Zones compare to conditions in eligible, non-designated tracts?

Senator Heinrich, thank you for these questions.

What do the designations tell us so far?

There has been tremendous variety in the places that have been designated as Opportunity Zones. Some Opportunity Zones are characterized by large populations of impoverished residents, while others have a broader mix of income levels. There

are Opportunity Zones that continue to struggle with long-term economic challenges, and others that are already on an upward economic trajectory. Some have sizable anchor institutions—hospitals, universities, etc.—while others do not. There are Opportunity Zones in cities of every shape and size, in suburbs, rural areas and tribal communities. They exist in communities with all levels of local government capacity, leadership and formal business community organization.

Some of this variation is undoubtedly due to the differences in strategies that states chose to employ in nominating zones. But one common tendency we observed among many states was the need to make nominations reflect a variety of place types. In some cases, this meant ensuring that each county had at least one Opportunity Zone in it. In others, this meant ensuring that rural or tribal communities were represented in the process. Whatever the strategy, the design of the Opportunity Zones nomination process led many (if not most) states to adopt an approach favoring variety rather than focusing on a single metric or dimension (e.g., choosing the tracts with the largest number of Opportunity Fund-eligible investments in them).

We do not yet know how this variety may affect Opportunity Fund portfolios. Certainly, it means there will be a wide variety of possibilities for investments, including investment strategies favoring real estate improvements and those that focus on business investments. But the variety of places that have been designated as Opportunity Zones and the uncertainty surrounding Opportunity Fund investment profiles will pose a significant challenge for states and larger municipalities who hope to align Opportunity Fund investments with local business and community development needs. It will also be difficult to identify coherent strategies that apply across Opportunity Zones in larger jurisdictions—strategies such as coordinated public investments or State/local tax incentives that work well in one Opportunity Zone may not work well in another with different conditions. Instead, the needs and investment opportunities in each Opportunity Zone will need to be considered and understood. Given the nearly 8,800 Opportunity Zones that have been designated, this will take time and resources that states and municipalities may not be prepared or able to invest on the timescale needed to coordinate well with Opportunity Fund investments.

We continue to analyze these census tracts to better inform an investment strategy, but it is clear that there will not be a one-size-fits-all approach to Opportunity Zones.

Which indicators tell us whether governors chose areas that would most benefit from Opportunity Zones?

The answer to this question will be highly dependent on the types of investments Opportunity Funds end up pursuing and in which Opportunity Zones these investments are made. In general, we believe that access to affordable housing, access to jobs that pay a living wage, sufficient transportation options, and good health and education outcomes are critical metrics that indicate the overall well-being of a community. The potential benefits of Opportunity Fund investments will depend on the alignment of the investments with the needs in the Opportunity Zone. There is no single set of metrics that will tell us which Opportunity Zones stand to benefit the most from general investments.

For example, Opportunity Funds emphasizing affordable housing creation and preservation may provide the greatest benefit in areas where real estate values are already high or expected to grow. Opportunity Funds focusing on real estate investments may provide greater benefits to local residents through returns to increased land and home values in Opportunity Zones with greater homeownership rates. Investment portfolios focusing on businesses expected to create additional jobs may provide greater benefits where there are more residents with relevant skills or where robust workforce development programs exist.

However, we expect much of the activity in Opportunity Zones will be influenced by:

1) the ability of individual businesses and landowners to create attractive investment options; and

2) the leadership and institutional capacities at the neighborhood and local government levels to ensure that Opportunity Fund investments are aligning with other neighborhood and community development strategies.

This means in part that the degree of benefit to Opportunity Zone communities will be driven by factors that are not reflected in the demographic and economic indicators we typically use to assess communities.

For New Mexico, how do the economic conditions of designated Opportunity Zones compare to conditions in eligible, non-designated tracts?

Overall, eligible Low-Income Communities in New Mexico that were not designated as Opportunity Zones have similar characteristics to the Low-Income Communities that were designated as Opportunity Zones. They have similar racial profiles, similar home values, and similar levels of renter cost burden. That said, there are a few key differences between designated tracts and "eligible but not designated" tracts in New Mexico:

1. New Mexico Opportunity zones have higher poverty rates than eligible but not designated Low-Income Communities (23% and 16%, respectively).
2. New Mexico Opportunity Zones have lower median family incomes than eligible but not designated Low-Income Communities ($56,000 and $62,000, respectively).
3. The designation strategy in New Mexico favored tracts with more jobs—the average New Mexico Opportunity Zone has more than 2.5 times the number of jobs of the average eligible but not designated Low-Income Community.
4. New Mexico Opportunity Zones have a greater presence of affordable housing—51% of New Mexico Opportunity Zones contain Federally supported affordable housing units compared to 42% of eligible but not designated tracts.
5. A greater-than-proportional share of tracts that intersect with tribal areas were designated (29% of designated tracts intersect compared to 21% of eligible but not designated Low-Income Communities).

2) What Federal, State, or local policies would ensure there is a pipeline of startups and small businesses ready to take advantage of equity capital investments incentivized under this provision?

State, regional and local governments can play a pivotal role in steering investments towards the Opportunity Zones and projects that best serve the community's identified needs. For example, governments may consider:

1. Establishing a government-run Opportunity Fund. Many governments have existing ties with the financial sector and are ready to engage investors and fund managers. Moreover, some cabinet level agencies are well-adept at managing large funds and financing the types of projects that may qualify for Opportunity Fund investments. This demonstrated experience and track record of responsible financing and underwriting could attract additional investors.
2. Developing and implementing a process for collecting and preparing a project pipeline for potential investors. Having a portfolio of projects to share with investors demonstrates an ability to deploy capital quickly—a key component of the tax incentive. For example, the State's Housing Finance Agency or Labor Department would be well-positioned to develop a pipeline of affordable housing developments or new business start-ups, respectively, that are ripe for investment and meet investment requirements.
3. Engaging philanthropy, the health care sector, and other key stakeholders who can provide additional financial incentives to de-risk Opportunity Fund investments. Governments can also play a key role in mitigating risk to investors by contributing or matching their own dollars, for example, through existing programs that provide small business loans or gap financing for affordable housing.
4. Evaluating the tax code, including any State-level capital gains tax, to determine whether any additional tax relief can be provided to attract investors while also steering Opportunity Fund investments toward identified projects. For example, a State could provide additional tax relief to investors who invest in a government-run Opportunity Fund or whose dollars are used to finance affordable housing.

Because Opportunity Zones are a market-driven tax incentive it will be critical for State and local governments to incent investment in Opportunity Zones that may struggle to attract private capital.

At this point, however, the biggest barrier for this capital is the uncertainty around eligible investments. Treasury should provide clarifying guidance and examples around investing in rental real estate, health care facilities, schools, infrastructure, and other critical resources. This will provide the needed certainty for State and local governments to recruit specific investments best-suited for their population and economy.

RESPONSE FROM MR. JONES TO QUESTIONS FOR THE RECORD SUBMITTED BY REPRESENTATIVE MALONEY

1) Managers of Opportunity Zone funds presumably would want to maximize profits. What financial incentives do they have to invest in affordable housing vs. other real estate investments? What would be needed to steer Opportunity Zone funds to affordable housing?

The Opportunity Zone program provides an incentive for private investors to invest funds in businesses and real estate projects in low-income communities, without distinction as to the type of business or project funded. As with any investment, we anticipate that investors in Opportunity Funds will evaluate businesses, housing, and economic development projects based on return and product type, with a typical investor looking for a higher rate of return and a standard level of risk.

We think that the Opportunity Zone incentive can be an effective tool for financing affordable housing, particularly housing targeting families between 60–100% of median income in high-cost markets. Many of these families are considered "severely rent burdened"—paying more than 50% of their income in rent each month. We think the program can attract investors for this needed middle income housing.

It may also be possible to use Opportunity Zone incentives to target housing serving families lower down on the income ladder, but this will likely involve twinning the Opportunity Zone incentives with other Federal, State or local resources, or further tax abatement. Investing in affordable housing for families making less than 60% of area median income is most frequently done through the Low Income Housing Tax Credit, which has been a highly successful program. Current LIHTC investments are generally held by investors (frequently regulated financial institutions that are seeking Community Reinvestment Act considerations) who may or may not be able to utilize Opportunity Zone tax benefits. However, with the added benefits of the deferral and reduction in capital gains taxes, it is expected that a LIHTC project twinned with Opportunity Zone benefits may provide higher yields and bring some new investors to the table.

To attract investors in Opportunity Zone projects that are targeted to affordable housing, particularly for those on the lower end of the income spectrum, there will need to be additional sources of subsidized capital. We believe that it will be incumbent upon states and localities to incentivize these investments. For example, states and localities could design companion incentives (tax or otherwise) to enhance the returns on affordable housing located in Opportunity Zones, thereby attracting more Opportunity Funds to invest in affordable housing. States and localities can also steer resources such as HOME funds and CDBG funds to projects in Opportunity Zones that meet certain affordability requirements, or provide tax abatement in return for targeting units for 80% and below AMI families.

2) Are you concerned that the Opportunity Zone program could lead to increased gentrification? What kind of oversight is needed to make sure that Opportunity Zone spending benefits residents of the targeted census tracts?

The way the Opportunity Zone incentive is structured, investors will get a modest return through deferral of initial capital gains taxes, but a potentially huge return with the forgiveness of any additional capital gains that result upon exit from the Opportunity Fund investment. This means investors may be incentivized to seek out the deals with the highest long-term yields, which may not be the projects that bring about the most impact for the community or its residents. And without any Federal or State agencies overseeing the selection of projects and investment plans, there is no direction to necessarily pursue higher-impact community development investments. One could therefore see this program leading to displacement of lower-income community residents, either because the neighborhoods themselves get "overheated" with investment capital, thereby lowering the supply of "naturally occurring affordable housing" or because the structure of the incentive rewards investors seeking the higher yields offered by market rate or even luxury housing.

We believe that the Treasury/IRS could play a more significant role in oversight of the program, in order to mitigate against these kinds of outcomes. We believe it was the intent of Congress to at a minimum create a safeguard against potentially bad actors abusing the program, but also to potentially offer Treasury a mechanism for screening Opportunity Funds in an even more substantive manner; as evidenced by the fact that the TCJA's accompanying Conference Report stated that "the certification process for a qualified opportunity fund will be done in a manner similar to the process for allocating the new markets tax credit."

New Markets Tax Credits are allocated through an annual competitive application process, one which helps ensure that the most qualified entities are provided with credit allocations, and that the scarce credits are directed to the highest and best

uses. While it is not feasible to hold competitions among Opportunity Funds in the manner that entities apply for NMTCs, Treasury could certainly consider employing some of the best practices from its NMTC review process into its Opportunity Fund certification review. For example, through the NMTC allocation process, entities are encouraged to commit to more rigorous outcomes as a condition of receiving an allocation, and then are held to these commitments as part of their allocation agreement. These include, among others:

- targeting investments in areas of severe economic distress;
- offering below-market rates and terms to their borrowers;
- investing more than the minimally required 85% of the NMTC investment proceeds into their low-income communities;
- financing (if applicable) affordable housing; and
- making "innovative" investments, including investments in small businesses.

In addition to these provisions, which become a compliance requirement of the NMTC allocation agreements, applicants also receive higher scores for being able to demonstrate a likelihood of achieving significant community impacts, such as: creating high-quality jobs; providing goods and services to low-income community residents; financing minority-owned businesses; and ensuring environmentally sustainable outcomes.

As noted previously, LISC does not suggest imposing a competitive scoring and selection process on the certification of Opportunity Funds. This would be an unwise use of resources (both Federal and private sector) and would cause considerable delays in program implementation at a time when Treasury needs to move quickly to publish regulations and guidance to provide investors with certainty that their investments in Opportunity Funds will qualify for the tax incentive.

However, as provided for in the Conference Report, we do think it would be appropriate for the Treasury Department to require Opportunity Funds to identify, at the time of certification, at least one outcome from a list of desirable outcomes that they will commit to achieving with their investments. The desirable outcomes could be drawn from the NMTC selection items above, or could be broadened to include additional items that may be more relevant to the intentions of the Opportunity Zone program, for example, providing working capital and equipment capital to start-up businesses. Applicants would indicate their chosen outcomes through self-certifications at the time of the certification application, which could then be reviewed during a compliance audit after the investments have been made.

RESPONSE FROM MR. JONES TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR KLOBUCHAR

BROADBAND DEPLOYMENT

The promise of the Opportunity Zone program is to bring private investment capital to areas of our country that have been left behind. For this laudable goal to be achieved, these distressed areas need to have the basic infrastructure in place to support private economic activity. I believe broadband deployment is the infrastructure challenge of our generation. As co-chair of the Senate Broadband Caucus [with Senators Capito, King, Heinrich, and Boozman], I believe we must also provide direct Federal investments in rural communities to close the digital divide.

- **How will improving access to rural broadband foster economic opportunity in Opportunity Zones?**

LISC believes that access to broadband is critical to the economic health of rural communities, particularly those that have struggled with disinvestment and have been, or are likely to be, designated as Opportunity Zones. Businesses everywhere today need access to the internet to reach customers and sell their products. It is increasingly difficult, if not impossible, to attract businesses, retain businesses, or grow businesses in areas that lack access to fast and reliable internet services.

There is clearly a digital divide when it comes to rural versus urban communities. According to the Federal Communications Commission, approximately 98% of the U.S. population living in urban areas has access to both high-speed terrestrial and mobile services, as compared to just under 69% of the U.S. population in rural communities, and just under 64% of the population living on tribal lands. This translates into about 14.5 million families in rural and tribal communities that do not have access to both broadband services.

Communities that do not have broadband services are certainly going to have trouble competing for investments from the private sector, both in isolation and with incentives such as Opportunity Zones. Having access to broadband is critical for the long-term success of businesses operating in rural communities. In a recent webinar hosted by the National Telecommunications and Information Administration (NTIA) of the Department of Commerce, Lionel "Bo" Beaulieu, Director of Purdue University's Center for Regional Development, cited research studies that have shown a positive relationship between rural broadband adoption and:

- economic growth (Steinberg, 2009);
- attraction of new firms (Kim and Orazem, 2017);
- retention and growth of existing small businesses (Shideler and Badasyan, 2012);
- increase in annual value-added sales (Canzian, Poy, and Schuller, 2015);
- higher individual incomes (Whitacre, Gellardo, and Stover, 2014); and
- higher number of entrepreneurs (Conley and Whitacre, 2016).

The broader health of communities can also be improved with access to broadband. The NTIA reports that "going digital" can save schools as much as $600 per year per student on textbooks, that "telehealth" reduces hospital admissions by 25% and decreases length of stays by 59%, and that access to broadband increases home values by 3.1%.

In short, it is very hard for communities to succeed in attracting private sector investments, and in reaching their full economic and quality of life potential, without access to reliable broadband internet.

- **What role does Federal support play in promoting broadband deployment in rural areas?**

As is often the case with major infrastructure investments, the Federal Government plays a critical role in promoting broadband deployment in rural areas. There are many Federal programs that directly finance the development of broadband infrastructure, including multi-billion dollar programs administered by the United States Department of Agriculture (e.g., Telecommunications Infrastructure Loans and Loan Guarantees; Rural Broadband Access Loans and Loan Guarantees) and the Federal Communications Commission (e.g., Connect America Fund). Equally as important, there are numerous other programs at these and other agencies that focus not only on infrastructure, but also on adoption, digital literacy, public access, research and planning, as well as some targeting specific sectors (health, libraries, schools, etc.). It is important that the Federal Government continue to strongly support and robustly fund all of these initiatives to ensure that rural communities can compete for investments and attract high-quality jobs.

WORKFORCE DEVELOPMENT

Even if investment capital were to flow into distressed communities, businesses and new ventures would not be able to expand or start without the ability to find workers. I hear from companies throughout Minnesota that report they can't fill job openings, especially for more technically demanding trades and professions. We've got to address this skills gap by strengthening our technical education and by helping young women and men decide early to pursue training that will equip them for jobs in the manufacturing sector.

- **How should we do that? What role should the Federal Government play?**

LISC believes that, first and foremost, the Federal Government can join the private sector in encouraging students (and their parents), as well as members of the workforce, to pursue jobs and careers in the manufacturing and advanced manufacturing sectors. We need to increase demand for these jobs. The Federal Government definitely has a role to play here.

LISC is acutely aware of the difficulties that businesses and certain industries have in recruiting talent to fill positions. Research indicates that 53% of all jobs in today's labor market are middle skilled, and only 43% of U.S. workers have the appropriate training to fill the available positions—according to the National Skills Coalition; in Minnesota those numbers are 50% and 45%, respectively. This is a formidable challenge, but it is not insurmountable. As outlined below, we believe that there are several things that the Federal Government can do to help address this issue.

Fully Fund Workforce Innovation and Opportunity Act (WIOA) Programs

Congress should adequately fund our nation's workforce system by robustly funding the WIOA Title I programs, including increasing the funding for WIOA adult education grants and the WIOA career and technical education State grants. These essential programs and funding streams form an infrastructure that provides people with fundamental career services, education and training, and supports necessary to get good jobs and stay employed. WIOA programs are inextricably linked to the skills conversation because they are often the systemic points of entry for the talent we are interested in routing to middle-skill, living-wage careers.

Support Policies That Incorporate Proven Innovations in Contextualized Skills Training

The Federal Government should find ways to incentivize states and localities to adopt innovative approaches to contextualized skills training for the hard-to-serve/hard-to-employ population. Skills gaps often prevent unemployed or underemployed residents from accessing training and credentialing programs that can lead to living-wage jobs.

At LISC, we believe that a solution lies in bundled/integrated career service delivery and matching employers in need of workers with a specific skill set to job seekers who have been trained in those skills. A little more than a decade ago, LISC began supporting Financial Opportunity Centers (FOCs)—which provide employment and career counseling alongside one-on-one financial coaching and education and low-cost financial products that help build credit, savings, and assets. They also connect clients with income supports like food and utility assistance. The cornerstone of the FOC model is providing these services in an integrated way, rather than as stand-alone services, and with a long-term commitment to helping clients reach their goals.

Our Bridges to Career Opportunities (BCO) model builds upon the FOC model and helps individuals ramp up foundational literacy and math skills, get technical training, and pursue certifications for a particular industry while receiving supports like financial coaching to set long-term goals and help manage expenses during training. These programs connect clients to "middle skills" jobs with a career pathway, and help local employers staff up with employees who can get the job done. By blending this training with financial coaching, clients take the reins of their economic and professional lives.

Our FOC and our BCO work was scaled and replicated thanks to a Social Innovation Fund (SIF) award from the Corporation for National and Community Service (CNCS). Although SIF funding has been eliminated in the past two fiscal years, we encourage Congress to find ways to fund pilots that support data-driven innovation in the ever-evolving workforce sector. Additionally, we encourage Congress to adopt policies that create a workforce system that supports vulnerable populations as they attempt to upskill. Robustly funding the SNAP Employment and Training Program in the Farm Bill—with an emphasis on innovation as opposed to dated work requirements—and updating the Temporary Assistance for Needy Families Program (TANF) support contextualized skills training is highly encouraged.

Align Career Pathways and Postsecondary Educational Systems

We need to more thoughtfully align our workers and community college students to the business sector. There are a few legislative proposals that support this alignment. The Perkins Career and Technical Education Act should be reauthorized and updated so that secondary and postsecondary Career and Technical Education (CTE) programs support local workforce development strategies. If adopted, the JOBS Act (S. 206) would allow Federal workers to use Federal Pell grants to pursue industry-specific credentials. Legislative action in these two areas are just the beginning of potential opportunities to support new approaches in postsecondary education. Additionally, we encourage you to look at the proposals outlined in the National Skills Coalitions 2018 Skills for Good Jobs Agenda. There is significant overlap with LISC's emerging policy agenda in the workforce space, and the National Skills Coalition is a trusted partner and ally in this work.

Support Policies That Fund and Incentivize Apprenticeships

Contextualized skills training should also be supported via apprenticeships. LISC is a participant in the Campaign to Invest in America's Workforce (CIAW) coalition and would like to echo CIAW's recommendation to increase the $95 million investment in apprenticeship programs at the Department of Labor. Additionally, there are several pending authorization bills that provide a framework and resources for incentivizing apprenticeship opportunities:

- The bipartisan PARTNERS Act (H.R. 4115) supports partnerships between businesses and other local workforce stakeholders to help small- and medium-sized businesses develop and run work-based learning programs;
- The BUILDS Act (S. 1599) leverages new funding for construction-related projects and requires the Secretary of Labor to award grands for promoting industry or sector partnerships to encourage industry growth and competitiveness and improve worker training, retention, and advancement; and
- The Investing in American Workers Act (S. 2048) would incentivize employers to dedicate more resources to worker training. This legislation creates a tax credit to benefit employers who demonstrate a commitment to upskilling their workers. Employers who invest more capital in training in one year than they have in the previous three years would be eligible for a tax credit that equals 20% of their increased spending.

These are just a few examples of opportunities to incentivize apprenticeships.

- **Is there a way to encourage investors in Opportunity Zones to invest in workforce training programs that will help the local workers?**

While it may be challenging for the Opportunity Zones investments themselves to be focused on workforce training programs, given the structure of the tax incentive, we do believe that opportunity funds may look to invest in businesses that provide training and upskilling products and services at competitive rates to enterprises already present in, or willing to locate to, an Opportunity Zone. Furthermore, we believe that there can be opportunities to align workforce programs and incentives with Opportunity Zone investments.

For example, one such area that may be worth exploring, on the Federal level, is aligning Opportunity Zones with the Work Opportunity Tax Credit (WOTC). As you know, WOTC is a Federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barriers to employment. Currently, residents living in Empowerment Zones and rural Renewal Communities are included in the criteria for WOTC target groups. We should explore whether adding residents from Opportunity Zones to the designated target groups provides any benefit, and consider revising WOTC to incentivize employers to invest in contextualized skills training. Similarly, on the local level, we may also want to encourage Workforce Investment Boards (WIBs) to align their activities with businesses located in, or seeking to locate in, Opportunity Zones.

In the meantime, LISC is looking for other ways to bring our workforce training initiatives into Opportunity Zones. For example, due in part to the FOC/BCO funding and capacity-building support that LISC has provided to Community Action Duluth, the City of Duluth, and its partners, Community Action Duluth and SOAR Career Solutions, were recently awarded a $326,216 State of Minnesota Department of Energy and Economic Development Pathways to Prosperity grant to fund healthcare and construction training to serve low-income people, people of color, those with criminal records, and those with disabilities. This work is being done with a strong focus on bringing private sector employers to the table to help build skills and career opportunities. We are hoping to align these kinds of efforts with businesses located in Opportunity Zones.

In Saint Paul, the Port Authority is currently working with the East Side Employment Exchange (which includes several of LISC's FOC/BCO partners), Metro State University, Saint Paul College, and others on workforce development efforts. The Port owns a number of the East Side Opportunity Zone properties that are ready for larger employers with workforce needs. The Port could potentially play a financing role in the development of these opportunities within Opportunity Zones, and the philanthropic/corporate funders are seeking to accelerate the alignment with workforce investments.

RESPONSE FROM MR. JONES TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR HEINRICH

1.) What can be done to boost capacity in rural communities and on tribal lands to help these areas attract investment and realize the benefits of Opportunity Zones? Are there strategies for State and local governments or community organizations to generate greater deal flow to rural and tribal areas?

A key to boosting capacity in rural communities and on tribal land in order to help these areas attract investment and realize the benefits of Opportunity Zones is to invest in and support the community-based organizations (CBOs) that work in and near Opportunity Zones. These CBOs are familiar with the demands of their

communities and regions and understand where opportunities lie to meet those demands. Focused capacity building tools ensure a CBO can drive activity and maximize the benefits of an OZ designation.

At LISC, through its national program Rural LISC, we provide a trifecta of capacity building tools to rural CBOs: technical assistance, low-cost and patient capital, and targeted grant investments to help build capacity within rural communities. LISC's approach is to:

- Develop the leadership capacity of rural CBOs to advance the work on the ground;
- Work with and through rural CBOs in underinvested communities to provide residents with the skills and credentials to compete successfully for quality income and wealth opportunities;
- Invest in businesses, housing and other community infrastructure to catalyze economic, health, safety and educational mobility for individuals and communities;
- Strengthen existing alliances while building new collaborations to increase the impact and progress of people and places; and
- Drive local, regional and national policy and system changes that foster broadly shared prosperity and well-being through advocacy, in partnership with rural CBOs.

A prime example of the power of building rural capacity is evident in rural New Mexico. Rural LISC has provided partner organization Tierra del Sol Housing Corporation with $383,129 in capacity building grants, $220,000 in zero predevelopment financing, and $400,000 in low-cost loans in recent years. This investment has resulted in 436 affordable homes built. Tierra del Sol has been able to leverage that investment from LISC at a rate of 23:1, securing $23 million in additional funds to further their work in New Mexico. Rural CBOs are masters at leveraging funding, when provided with opportunity and predevelopment financing.

The role of the Federal Government in supporting capacity building programs for CBOs cannot be overstated. Two of the most critical programs for this purpose are HUD's Section 4 Capacity Building for Community Development and Affordable Housing Program ("Section 4"), which includes a rural set aside; and the USDA's Rural Community Development Initiative (RCDI). These programs provide funding to support the growth and sustainability of non-profit housing and community development organizations, and can be used to help rural non-profits secure the staffing or technical assistance needed to be competitive in attracting investments into Opportunity Zones.

However, as effective as they are, these programs can only satisfy a very small portion of the needs of rural non-profit CBOs. State and local governments should consider funding capacity building efforts to help bridge the gaps of Federal funding. State and local governments can also encourage and support greater project generation by directing their resources such as CDBG and State housing funds to proposed Opportunity Zone projects. Finally, local governments must recognize the need and value of investing time and streamlining entitlements for opportunity zone deals, to ensure proposed developments are not bogged down or lost due to lengthy entitlement processes and extensive regulations.

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