To amend the Internal Revenue Code of 1986 to require information reporting with respect to the qualified opportunity zone tax incentives enacted by the 2017 tax reform legislation, to require public reports related to such tax incentives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCOTT of South Carolina introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to require information reporting with respect to the qualified opportunity zone tax incentives enacted by the 2017 tax reform legislation, to require public reports related to such tax incentives, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improving and Reinforcing the Monitoring, Prevention, Accountability, Certification, and Transparency Provisions of Opportunity Zones” or the “IMPACT Act”.

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SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The 8,764 census tracts designated as qualified opportunity zones under section 1400Z-1 of the Internal Revenue Code of 1986 span across all 50 States, the District of Columbia, and 5 Territories and overwhelmingly represent communities that have been economically left behind as the American economy has surged forward.

(2) The average poverty rate of qualified opportunity zone residents is 28.9 percent.

(3) 71 percent of qualified opportunity zones meet the Treasury Department’s definition of “severely distressed”.

(4) More adults in qualified opportunity zones lack a high school diploma than have a four-year college degree.

(5) The Investing in Opportunity Act, which originally proposed opportunity zones, originally incorporated reporting requirements to evaluate the impact the incentive will have on designated communities and it is critical that Congress act to reinstate reporting requirements as soon as possible.

SEC. 3. INFORMATION REPORTING ON QUALIFIED OPPORTUNITY FUNDS.

(a) IN GENERAL.—
(1) Filing requirements for funds and investors.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039J the following new sections:

“SEC. 6039K. RETURNS WITH RESPECT TO QUALIFIED OPPORTUNITY FUNDS.

“(a) IN GENERAL.—Every qualified opportunity fund shall file an annual return (at such time and in such manner as the Secretary may prescribe) containing the information described in subsection (b).

“(b) INFORMATION FROM FUNDS.—The information described in this subsection is—

“(1) the name, address, and taxpayer identification number of the qualified opportunity fund,

“(2) whether the qualified opportunity fund is organized as a corporation or a partnership,

“(3) the value of the total assets held by the fund as of each date described in section 1400Z–2(d)(1),

“(4) the value of all qualified opportunity zone property held by the fund on each such date,

“(5) with respect to each investment held by the fund in qualified opportunity zone stock or a qualified opportunity zone partnership interest—
“(A) the name, address, and taxpayer identification number of the corporation in which such stock is held or the partnership in which such interest is held, as the case may be,

“(B) each North American Industry Classification Code that applies to the trades or businesses conducted by such corporation or partnership,

“(C) the census tracts in which the qualified opportunity zone property of such corporation or partnership is located,

“(D) the amount of the investment in such stock or partnership interest as of each date described in section 1400Z–2(d)(1), and

“(E) the value of property held by such corporation or partnership on each such date which is owned by such corporation or partnership,

“(F) the value of property held by such corporation or partnership on each such date which is leased by such corporation or partnership,

“(G) the approximate number of residential units (if any) for any real property held by such corporation or partnership, and
“(H) whether the approximate average monthly number of full-time equivalent employees of such corporation or partnership for the year is—

“(i) equal to or less than 25,

“(ii) greater than 25 and equal to or less than 50,

“(iii) greater than 50 and equal to or less than 75,

“(iv) greater than 75 and equal to or less than 100,

“(v) greater than 100 and equal to or less than 500,

“(vi) greater than 500 or equal to or less than 1,000, or

“(vii) greater than 1,000,

“(6) with respect to each item of qualified opportunity zone business property held by the fund—

“(A) the North American Industry Classification Code that applies to the trades or businesses in which such property is held,

“(B) the census tract in which the property is located,

“(C) whether the property is owned or leased,
“(D) the value of the property as of each date described in section 1400Z–2(d)(1), and
“(E) in the case of real property, number of residential units (if any),
“(7) whether the average monthly number of full-time equivalent employees of the qualified opportunity fund for the year is—
“(A) equal to or less than 25,
“(B) greater than 25 and equal to or less than 50,
“(C) greater than 50 and equal to or less than 75,
“(D) greater than 75 and equal to or less than 100,
“(E) greater than 100 and equal to or less than 500,
“(F) greater than 500 or equal to or less than 1,000, or
“(G) greater than 1,000,
“(8) with respect to each person who disposed of an investment in the qualified opportunity fund during the year—
“(A) the name and taxpayer identification number of such person,
“(B) the date or dates on which the investment disposed was acquired, and

“(C) the date or dates on which any such investment was disposed and the amount of the investment disposed, and

“(9) such other information as the Secretary may require.

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

“(1) IN GENERAL.—Any term used in this section which is also used in subchapter Z of chapter 1 shall have the meaning given such term under such subchapter.

“(2) FULL-TIME EQUIVALENT EMPLOYEES.—The term ‘full-time equivalent employees’ means, with respect to any month, the sum of—

“(A) the number of full-time employees (as defined in section 4980H(c)(4)) for the month, plus

“(B) the number of employees determined (under rules similar to the rules of section 4980H(c)(2)(E)) by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120.
"SEC. 6039L. INFORMATION ON PERSONS INVESTING IN QUALIFIED OPPORTUNITY FUNDS.

“(a) In General.—Every taxpayer who makes an investment in a qualified opportunity fund shall provide an annual statement (at such time and in such manner as the Secretary may prescribe) containing the information described in subsection (b) with respect to each such investment.

“(b) Information From Investors.—The information described in this subsection is—

“(1) the name, address, and taxpayer identification number of the taxpayer,

“(2) the name and taxpayer identification number of the qualified opportunity fund in which the investment was made,

“(3) a description of such investment,

“(4) the date such investment was made,

“(5) the amount of short-term and long-term capital gains for which an election was made under section 1400Z–2(a)(1) for such investment,

“(6) in the case of any disposition of such investment during the taxable year—

“(A) a description of the investment disposed,

“(B) the date of the disposition, and
“(C) the amount of any previously deferred
short-term and long-term capital gain included
in income as a result of such disposition, and
“(7) such other information as the Secretary
may require.
“(e) Definitions.—Any term used in this section
which is also used in subchapter Z of chapter 1 shall have
the meaning given such term under such subchapter.”.
(2) Penalties.—Part II of subchapter B of
chapter 68 of the Internal Revenue Code of 1986 is
amended by inserting after section 6725 the fol-
lowing new section:
“SEC. 6726. FAILURE TO COMPLY WITH INFORMATION RE-
PORTING REQUIREMENTS RELATING TO
QUALIFIED OPPORTUNITY FUNDS.
“(a) Information Returns by Funds.—
“(1) In general.—In the case of any person
required to file a return under section 6039K fails
to file a complete and correct return under such sec-
tion the time and in the manner prescribed therefor,
such person shall pay a penalty of $500 for each day
during which such failure continues.
“(2) Limitation.—
“(A) IN GENERAL.—The maximum penalty under this subsection on failures with respect to any 1 return shall not exceed $10,000.

“(B) LARGE FUNDS.—In the case of any person the gross assets of which (determined on the last day of the taxable year) are in excess of $10,000,000, subparagraph (A) shall be applied by substituting ‘$50,000’ for ‘$10,000’.

“(3) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any failure relating to a return required to be filed in a calendar year beginning after 2020, each of the dollar amounts in paragraphs (1) and (2) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year determined by substituting ‘calendar year 2019’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(B) ROUNDING.—

“(i) IN GENERAL.—If the dollar amount in paragraph (1), after being increased under subparagraph (A), is not a multiple of $10, such dollar amount shall
be rounded to the next lowest multiple of
$10.

“(ii) Asset Threshold.—If the
$10,000,000 dollar amount in paragraph
(2)(B), after being increased under sub-
paragraph (A), is not a multiple of
$10,000, such dollar amount shall be
rounded to the next lowest multiple of
$10,000.

“(iii) Other Dollar Amounts.—If
any dollar amount in paragraph (2) (other
than the amount to which clause (ii) ap-
plies), after being increased under sub-
paragraph (A), is not a multiple of $1,000,
such dollar amount shall be rounded to the
next lowest multiple of $1,000.

“(b) Statements by Investors.—
“(1) In general.—If—
“(A) any person is required to file a state-
ment under section 6039L for any period, and
“(B) fails—
“(i) to file such statement on or be-
fore the required filing date, or
“(ii) fails to include all of the information required to be shown on the statement or includes incorrect information,
such person shall pay a penalty of $5,000.

“(2) Reduction where correction in specified period.—If any failure described in paragraph (1)(B) is corrected on or before the day 60 days after the required filing date, the penalty imposed by paragraph (1) shall be $500 in lieu of the amount determined under such paragraph.

“(3) De minimis errors.—If—

“(A) there are 1 or more such failures described in paragraph (1)(B)(ii) relating to an incorrect dollar amount, and

“(B) no single amount in error differs from the correct amount by more than $100,
then no correction shall be required, and, for purposes of this section, such statement shall be treated as having been filed with all correct required information.

“(4) Penalty in cases of intentional disregard.—If 1 or more failures described in paragraph (1)(B) are due to intentional disregard of the filing requirement (or the correct information report-
ing requirement), then, with respect to each such

failure—

“(A) paragraphs (2) and (3) shall not

apply, and

“(B) the amount of the penalty determined

under paragraph (1) shall be $25,000.

“(5) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any

failure relating to a statement required to be

filed in a calendar year beginning after 2020,

each of the dollar amounts in paragraphs (1),

(2), and (4) shall be increased by an amount

equal to such dollar amount multiplied by the

cost-of-living adjustment determined under sec-

tion 1(f)(3) for the calendar year determined by

substituting ‘calendar year 2019’ for ‘calendar

year 2016’ in subparagraph (A)(ii) thereof.

“(B) ROUNDING.—The amount of any in-

crease under subparagraph (A) shall be round-

ed to the nearest multiple of $100 ($10 in the

case of any increase in the amount under para-

graph (2)).”.

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart A of

part III of subchapter A of chapter 61 of such
Code is amended by inserting after the item relating to section 6039J the following new items:

“Sec. 6039K. Returns with respect to qualified opportunity funds.
“Sec. 6039L. Information on persons investing in qualified opportunity funds.”.

(B) The table of sections for part II of subchapter B of chapter 68 of such Code is amended by inserting after the item relating to section 6725 the following new item:

“Sec. 6726. Failure to comply with information reporting requirements relating to qualified opportunity funds.”.

(4) Effectiveness.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(b) Reporting of Data on Opportunity Zone Tax Incentives.—

(1) In General.—As soon as practical after the date of the enactment of this Act, and annually thereafter, the Secretary of the Treasury, or the Secretary’s delegate (referred to in this section as the “Secretary”), in consultation with the Director of the Bureau of the Census and such other agencies as the Secretary determines appropriate, shall make publicly available a report on qualified opportunity funds.

(2) Information Included.—The report required under paragraph (1) shall include the following information:
(A) The number of qualified opportunity funds.

(B) The aggregate amount of assets held in qualified opportunity funds.

(C) The aggregate amount of investments made by qualified opportunity funds in qualified opportunity fund property across each industry class under the North American Industry Classification Code.

(D) The percentage of census tracts designated as qualified opportunity zones that have received qualified opportunity fund investments.

(E) For each census tract designated as a qualified opportunity zone, whether the average monthly number of full-time equivalent employees of qualified opportunity zone businesses for the preceding 12-month period is—

(i) equal to or less than 25,

(ii) greater than 25 and equal to or less than 50,

(iii) greater than 50 and equal to or less than 75,

(iv) greater than 75 and equal to or less than 100,
(v) greater than 100 and equal to or less than 500,

(vi) greater than 500 or equal to or less than 1,000, or

(vii) greater than 1,000.

(F) The percentage of the total amount of investments made by qualified opportunity funds in—

(i) qualified opportunity zone property which is real property, and

(ii) other qualified opportunity zone property.

(G) For each census tract, the aggregate approximate number of residential units for investments made by qualified opportunity funds in real property.

(H) The aggregate amount of investments made by qualified opportunity funds in each census tract.

(3) ADDITIONAL INFORMATION.—

(A) IN GENERAL.—Beginning with the report submitted under paragraph (1) for the 6th year after the date of the enactment of this Act, the Secretary shall include in such report the impacts and outcomes of a designation of a cen-
sus tract as a qualified opportunity zone as measured by economic indicators, such as job creation, poverty reduction, new business starts, and other metrics as determined by the Secretary.

(B) Semi-decennial information.—

(i) In general.—In the case of any report submitted under paragraph (1) in the 6th year or the 11th year after the date of the enactment of this Act, the Secretary shall include the following information:

(I) For each census tract designated as a qualified opportunity zone, a comparison (based on aggregate information) of the factors listed in clause (ii) between the 5-year period ending on the date of the enactment of Public Law 115-97 and the most recent 5-year period for which data is available.

(II) For each census tract designated as a qualified opportunity zone, a comparison (based on aggregate information) of the factors listed
in clause (ii) for the most recent 5-
year period for which data is available
between such census tract and any
census tract that was a low-income
community eligible to be designated as
a qualified opportunity zone but was
not so designated.

(ii) FACTORS LISTED.—The factors
listed in this paragraph are the following:

(I) The unemployment rate.

(II) The number of persons
working in the census tract, including
the percentage of such persons who
were not residents in the census tract
in the preceding year.

(III) Individual, family, and
household poverty rates.

(IV) Median family income of
residents of the census tract.

(V) Demographic information on
residents of the census tract, includ-
ing age, income, education, race, and
employment.
(VI) The average percentage of income of residents of the census tract spent on rent annually.

(VII) The number of residences in the census tract.

(VIII) The average value of residential property in the census tract.

(IX) The number of affordable housing units in the census tract.

(X) The number and percentage of residents in the census tract that were not employed for the preceding year.

(XI) The number of new business starts in the census tract.


(4) PROTECTION OF IDENTIFIABLE RETURN INFORMATION.—In making reports required under this subsection, the Secretary shall establish appropriate procedures to ensure that any amounts reported to do not disclose taxpayer return information that can
be associated with any particular taxpayer or competitive or proprietary information.

(5) DEFINITIONS.—Any term used in this subsection which is also used in subchapter Z of chapter 1 of the Internal Revenue Code of 1986 shall have the meaning given such term under such subchapter.