April 15, 2015

Senator Dean Heller
Senator Michael Bennet
Senate Committee on Finance
Community Development and Infrastructure Working Group

Dear Senators Heller and Bennet:

As leaders in the field of affordable senior housing, LeadingAge and SAHF appreciate the opportunity to provide comment to the Senate Committee on Finance regarding potential tax reform proposals and priorities.

For the past 50 years, LeadingAge's mission has been to make America a better place to grow old and we believe our members — not-for-profit providers of care and services — are the ones to make this happen. Never before has the need for a multispecialty, interdisciplinary approach to aging services more important than it is today.

Stewards of Affordable Housing for the Future (SAHF) represents eleven high capacity, mission-driven not-for-profit developers who are committed to long-term sustainable ownership and affordability of multifamily rental properties for low-income families, seniors, and disabled individuals. Since 2003, SAHF has promoted its members' shared notion that stable, affordable rental homes are critically important in people's lives. Together SAHF members provide homes to over 100,000 low-income households across the country.

Our primary concern related to tax reform relates to the Housing Credit, our nation's most successful affordable rental housing production tool. Since it was signed into law by President Reagan as part of the Tax Reform Act of 1986, the Housing Credit has resulted in the creation or preservation of over 2.7 million affordable homes by leveraging over $100 billion in private capital. In a typical year, the program supports roughly 96,000 jobs and adds approximately $3.5 billion in taxes and other revenues to local economies, according to the National Association of Home Builders. Both of our organizations are active members of the ACTION Campaign and endorse the recommendations of that coalition. We also have some additional recommendations for ways to make the Housing Credit more efficient and effective for nonprofit affordable housing developers and the low-income households that they serve.

Though the Housing Credit has provided affordable homes for millions of low-income households including many low-income seniors, the unmet need for affordable rental housing continues to far outstrip the available resources. An unprecedented 11 million renter households—more than one in four of all renters in the U.S.—spend more than half of their monthly income on rent, according to the Harvard University's Joint Center for Housing Studies (JCHS), leaving too little for other expenses like food, medical bills and transportation. The affordable housing crisis is especially acute among those with the lowest incomes. According to JCHS, in 2012 there were 11.5 million extremely low-income families (those with incomes below 30 percent of area median income (AMI)), but only 3.3 million housing units that were both available and affordable to them. This has created an affordable housing supply gap of 8.2 million homes just for the lowest income households, marking a 55 percent increase in this gap since 2000. For many properties operated by our members, the demand is well over three times the number of affordable apartments available.

Analysts expect an average of over 400,000 new renter households to enter the market each year for the next decade, many of whom will be low-income. The rental housing industry as a whole produces far fewer than this number of units each year, meaning that the gap in overall rental housing supply versus demand will only worsen. This factor alone will make it even more difficult in the immediate future and beyond for low-income renters to find suitable and affordable place to live as the competition for scarce rental housing becomes more acute. Meanwhile, we continue to lose affordable housing each year. Nearly 13 percent of the nation's supply of affordable housing – roughly 650,000 units – have been permanently lost from the stock of available housing since 2001 due to conversion to market rate rentals or condominiums, demolition or obsolescence. The net effect is that, according to JCHS, "the number of affordable units has stagnated over the past decade." Though the affordable housing industry develops nearly 100,000 new affordable rental units each year, it cannot keep up with the growing demand and the loss of supply for housing for low-income households.

It is critical that ***Congress preserve the Housing Credit*** in tax reform. Developing and preserving affordable homes for the growing population of cost-burdened low-income renters is not feasible without the Housing Credit, since the rents low-income households can afford are not high enough to cover the costs of building and maintaining properties. According to JCHS, to develop new apartments affordable to renter households working full-time and earning the minimum wage without the Housing Credit, construction costs would have to be reduced by 72 percent of the current construction cost average.

In addition to the need to preserve the Housing Credit generally, it is important to ***protect the fundamental components of the program*** and not impose new limitations on eligible activities. This applies to the 9 percent credit, the 4 percent acquisition credit, and the non-competitive 4 percent credit currently allocated by states in coordination with state-issued, tax-exempt private activity housing bonds. All these components of the Housing Credit have been critical resources for our members to deliver high-quality affordable housing to low-income households. Given the unique housing markets and needs of each state, each of these components of the Housing Credit program – the 9 percent allocated credit, the 4 percent acquisition credit and the 4 percent non-competitive credit used for eligible affordable properties – are critical to addressing states' affordable housing needs.

We endorse the ACTION Campaign's call to ***increase Housing Credit resources*** by an amount that makes significant progress towards meeting the affordable housing needs of low-income families. Additional Housing Credit resources would make financing available for many critically needed affordable housing developments that are not built each year because of the scarcity of Housing Credits. State Housing Credit allocating agencies typically receive applications requesting two to three times as many Housing Credit resources as the agencies have to allocate, and many more developers with worthwhile development proposals do not even apply because the competition for Housing Credits is so great.

We also support the Campaign's recommendation to ***create a permanent minimum 9 percent credit rate for new construction and substantial rehabilitation, as well as a minimum 4 percent rate*** for acquisition and for non-competitive credits used for eligible affordable projects. Recognizing the impact of declining interest rates on the program, Congress temporarily enacted a minimum 9 percent credit rate in 2008, which expired as of the end of 2014 despite strong bipartisan support for its extension. Congressional action is needed in order to create permanent minimum credit rates that allow states to allocate credits more effectively and enable more worthy developments to be financially feasible.

Because of constrained affordable housing resources, it is more difficult to make apartments affordable to households at the lowest end of the income spectrum without additional subsidy. We recommend giving states and developers the ***option of allowing income averaging within properties***, which would allow the 60 percent of AMI ceiling to apply to the average of all apartments within a property rather than to every individual Housing Credit apartment. The maximum income for any Housing Credit unit would be limited to 80 percent of AMI, consistent with long-standing federal affordable housing policies. For example, a unit restricted to households earning 40 percent of AMI could be paired with another for a household earning 80 percent of AMI. Income averaging would preserve rigorous targeting while providing more flexibility and responsiveness to local needs. Depending on market conditions, the higher rents that households with incomes above 60 percent of AMI could afford also have the potential to offset the lower rents that households below 40 or 30 percent of AMI could afford, allowing developments to maintain financial feasibility while providing a deeper level of affordability.

Under current law, most Housing Credit properties serve renters with incomes up to 60 percent of AMI and rents are comparably restricted. However, this requirement has made it hard to support developments serving a mix of low income levels. The challenges are especially acute in sparsely populated rural areas where the small target market creates development challenges, economically depressed communities pursuing mixed-income revitalization strategies, and high-cost markets, where it is extremely difficult to target apartments to the lowest-income tenants without additional subsidy and where even households at 80 percent of AMI have difficulty finding rental housing that they can afford.

We also strongly support recent proposals to allow states to ***convert a portion of their private activity bond capacity into additional nine percent credit authority***; to ***provide a clear option for nonprofit sponsors to purchase properties from limited partners for a specified price at the***

end of the tax credit compliance period in order to promote long-term affordability; and to ***allow states to issue four percent credits without requiring the actual issuance of state tax-exempt bond financing*** (which is not cost effective and creates additional transaction requirements in the current financing climate);

As Congress considers tax reform, it is important to take into account the impacts that broader tax policy changes could have on the Housing Credit and maintain a program structure that continues to encourage investor interest in the Credit. In particular, we recommend that Congress ***maintain the current 27.5 year depreciation period*** for Housing Credit properties, and also ***make any other adjustments necessary to offset the impact of a lower corporate tax rate*** on the Housing Credit.

We appreciate your consideration of our comments and look forward to working with you to promote an even stronger Housing Credit through tax reform. If you have any questions, please contact Toby Halliday at [redacted] or Niles Godes at [redacted]

Cc: Senator Orrin Hatch
Senator Ron Wyden