To amend the Internal Revenue Code of 1986 to require reporting for qualified opportunity funds, to make modifications to opportunity zones, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Wyden 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 reporting for qualified opportunity funds, to make modifications to opportunity zones, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Opportunity Zone Reporting and Reform Act”.

4 SEC. 2. INFORMATION REPORTING ON QUALIFIED OPPORTUNITY FUNDS.

5 (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:

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"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 and the uniform resource locator (URL) for the website for such fund,

"(2) the value of all property held by the fund as of each date described in section 1400Z–2(d)(1),

"(3) the value of—

"(A) qualified opportunity zone stock held by the fund on each such date,

"(B) qualified opportunity zone partnership interests held by the fund on each such date,
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“(C) qualified opportunity zone business property held by the fund on each such date,
“(D) tangible property not described in subparagraphs (A), (B), or (C) and held by the fund on each such date, and
“(E) intangible property (including cash and cash equivalents) not described in subparagraphs (A), (B), or (C) and held by the fund on each such date,
“(4) the name, address, and taxpayer identification number of—
“(A) each corporation in which the qualified opportunity fund owns stock, and
“(B) each partnership in which the qualified opportunity fund owns a capital or profits interest,
“(5) with respect to each qualified opportunity zone business which is conducted by the qualified opportunity fund, by a corporation in which the qualified opportunity fund owns stock, or by a partnership in which the qualified opportunity fund owns a capital or profits interest—
“(A) the identity of the entity conducting the qualified opportunity zone business, and
“(B) each North American Industry Classification Code that applies to such trade or business,

“(6) with respect to each qualified opportunity zone business which is conducted by the qualified opportunity fund or by a corporation or partnership controlled by the qualified opportunity fund—

“(A) the value (as of each date described in section 1400Z–2(d)(1)) of—

“(i) the tangible property of such business, and

“(ii) the intangible property (including cash and cash equivalents) of such business, and

“(B) the average monthly number of full-time equivalent employees of such business during the reporting period,

“(7) with respect to each qualified opportunity zone business property held by the fund or by a corporation or partnership controlled by the qualified opportunity fund—

“(A) the qualified opportunity zone with respect to the property,

“(B) the date the property was acquired,
“(C) in the case of real property—

“(i) the square footage of such property,

“(ii) the number (if any) of residential units on the property, and

“(iii) the aggregate costs incurred with respect to such property related to—

“(I) land acquisition,

“(II) new construction, and

“(III) rehabilitation,

“(8) with respect to each person who has investments in the qualified opportunity fund during the reporting period—

“(A) the name and taxpayer identification number of such person,

“(B) the date or dates on which such investments were made, and

“(C) the total amount of such investments, 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) CONTROL.—The term ‘control’ has the meaning given such term under section 954(d)(3).

“(3) 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).

“(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) the date such investment was made in a qualified opportunity fund and the amount of such investment, including a separate statement of the amount of any such investments which are gain for which an election was made under section 1400Z–2(a)(1),

“(4) the date of the disposition of the investment, and

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

“(c) 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 following new section:
“SEC. 6726. FAILURE TO COMPLY WITH INFORMATION REPORTING REQUIREMENTS RELATING TO QUALIFIED OPPORTUNITY FUNDS.

“(a) In General.—If—

“(1) any person is required to file a return under section 6039K or a statement under section 6039L for any period, and

“(2) fails—

“(A) to file such return or statement on or before the required filing date, or

“(B) fails to include all of the information required to be shown on the return or statement or includes incorrect information,

such person shall pay a penalty of $10,000.

“(b) Reduction Where Correction in Specified Period.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date, the penalty imposed by subsection (a) shall be $250 in lieu of the amount determined under such paragraph.

“(c) De Minimis Errors.—If—

“(1) there are 1 or more such failures described in subsection (a)(2)(B) relating to an incorrect dollar amount, and

“(2) no single amount in error differs from the correct amount by more than $25,
then no correction shall be required, and, for purposes of this section, such return or statement shall be treated as having been filed with all correct required information.

“(d) Penalty in Cases of Intentional Disregard.—If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

“(1) subsections (b) and (e) shall not apply, and

“(2) the amount of the penalty determined under subsection (a) shall be twice the amount which would be determined without regard to this paragraph.

“(e) Inflation Adjustment.—

“(1) In General.—In the case of any failure relating to a return or statement required to be filed in a calendar year beginning after 2020, each of the dollar amounts in subsections (a) and (b) 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.
“(2) Rounding.—The amount of any increase under paragraph (1) shall be rounded to the nearest multiple of $100 ($10 in the case of any increase in the amount under subsection (b)).”.

(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.”.

(b) Information Returns of Qualified Opportunity Funds Made Public.—

(1) Requirement to Disclose.—Subchapter B of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6104 the following new section:

“SEC. 6104A. PUBLICITY OF INFORMATION REQUIRED FROM QUALIFIED OPPORTUNITY FUNDS.

“(a) In General.—Each qualified opportunity fund shall make publicly available on the website specified in
section 6039K(b)(1) a copy of each information return filed under section 6039K(a) at all times during the 3-year period beginning on the last day prescribed for filing the return (determined with regard to any extension of time for filing).

“(b) EXCEPTIONS FROM DISCLOSURE REQUIREMENT.—The information made public under subsection (a) shall not include—

“(1) any taxpayer identification number included on the return,

“(2) the information described in paragraph (8) of section 6039K(b), and

“(3) such other information as identified by the Secretary to the extent the exclusion of such information is consistent with the purposes of this section.

“(c) QUALIFIED OPPORTUNITY FUND.—For purposes of this section, the term ‘qualified opportunity fund’ means a fund described in section 1400Z–2(d).”.

(2) PENALTY.—

(A) IN GENERAL.—Section 6685 of such Code is amended—

(i) by inserting “or the requirements of section 6104A” after “section 6104”, and
(ii) by striking “FOR CERTAIN TAX-

EXEMPT ORGANIZATIONS” in the head-
ing thereof.

(B) CONFORMING AMENDMENT.—The item
relating to section 6685 in the table of sections
for part I of subchapter B of chapter 68 of
such Code is amended by striking “for certain
tax-exempt organizations”.

(3) CLERICAL AMENDMENT.—The table of sec-
tions for subchapter B of chapter 61 of such Code
is amended by inserting after the item relating to
section 6104 the following new item:

“Sec. 6104A. Publicity of information required from qualified opportunity
funds.”.

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

SEC. 3. MODIFICATION OF TRACTS QUALIFIED TO BE DES-
IGNATED AS QUALIFIED OPPORTUNITY

ZONES.

(a) DISQUALIFICATION OF CERTAIN CENSUS
TRACTS.—

(1) CENSUS TRACTS WITH HIGH MEDIAN FAM-
ILY INCOME.—Paragraph (1) of section 1400Z–1(e)
is amended to read as follows:

“(1) LOW-INCOME COMMUNITIES.—
“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘low-income community’ has the same meaning as when used in section 45D(e).

“(B) EXCEPTION.—

“(i) IN GENERAL.—Such term shall not include any census tract if the median family income for such tract exceeds 120 percent of the national median family income (as determined based the most recent data published by the Bureau of the Census on the date of the enactment of the Opportunity Zone Reporting and Reform Act).

“(ii) SPECIAL RULE.—Clause (i) shall not apply to any census tract if—

“(I) the poverty rate for such tract is at least 20 percent, and

“(II) less than 10 percent of the population of such tract is enrolled in an institution of higher education (as defined in section 101 of the Higher Education Act of 1965).”.

(2) CONTIGUOUS CENSUS TRACTS.—Section 1400Z–1 of such Code is amended by striking sub-
section (e) and redesignating subsection (f) as subsection (e).

(b) TREATMENT OF PREVIOUSLY DESIGNATED TRACTS.—Section 1400Z–1 of the Internal Revenue Code of 1986, as amended by subsection (a)(2), is amended by adding at the end the following:

“(f) TREATMENT OF CERTAIN CENSUS TRACTS.—

“(1) IN GENERAL.—Except as provided in section 1400Z–2(d)(2)(D), any census tract (other than a census tract in Puerto Rico) which is not a low-income community and which was designated as a qualified opportunity zone before the date of the enactment of the Opportunity Zone Reporting and Reform Act shall not be treated as a qualified opportunity zone on or after such date of enactment.

“(2) REPLACEMENT ZONES.—

“(A) IN GENERAL.—A State may designate a low-income community as a qualified opportunity zone to replace a census tract the status of which as a qualified opportunity zone was terminated by reason of paragraph (1).

“(B) SPECIAL RULES.—For purposes of this subchapter—

“(i) the determination period with respect to a designation under subparagraph
(A) shall be the 90-day period beginning
on the date of the enactment of such Act,
as extended under subsection (b)(2), and

“(ii) the period for which any such
designation is in effect shall be the period
beginning with the date such designation
takes effect and ending with the last day
of the 10th calendar year beginning on or
after the designation date as a qualified
opportunity zone for the census tract
which it is replacing as such a zone by rea-
son of the termination under clause (i).”.

(c) TREATMENT OF EXISTING INVESTMENTS.—Sec-
tion 1400Z–2(d)(2)(D) of such Code is amended by add-
ing at the end the following new clause:

“(iv) Special rule for investments in certain census tracts.—

“(I) In general.—For purposes
of applying this paragraph, the use of
property in a qualified census tract
shall be treated as use of property in
a qualified opportunity zone if the
original use of such property occurred
before November 6, 2019, or in the
case of property acquired before such
date, the property was substantially improved before the close of the 30-month period beginning with the month of the acquisition.

“(II) Qualified Census Tract.—For purposes of this clause, the term ‘qualified census tract’ means any census tract which is not a low-income community and which was designated as a qualified opportunity zone before the date of the enactment of the Opportunity Zone Reporting and Reform Act.”.

SEC. 4. MAINTENANCE OF GEOGRAPHIC BOUNDARIES OF QUALIFIED OPPORTUNITY ZONES.

Section 1400Z–1(e) of the Internal Revenue Code of 1986, as redesignated by section 3(a)(2), is amended by adding at the end the following new sentence: “Such designation shall apply to the geographic area as in effect at the time such tract is designated without regard to whether adjustments are made to the boundaries of the census tract so designated.”.
SEC. 5. MODIFICATION OF PROHIBITION ON CERTAIN TYPES OF TRADES OR BUSINESS AS QUALIFIED OPPORTUNITY ZONE BUSINESSES.

(a) In General.—Section 1400Z–2(d)(3)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking “in section 144(c)(6)(B)” and inserting “subsections (a)(8)(B) or (c)(6)(B) of section 144 or section 147(e)”.

(b) Effective Date.—The amendment made by this section shall take effect on November 6, 2019.

SEC. 6. OTHER MODIFICATIONS RELATED TO QUALIFIED OPPORTUNITY FUNDS.

(a) Application of Qualified Opportunity Zone Business Rules to Trades or Businesses Conducted by Qualified Opportunity Zone Funds.—

(1) In General.—Section 1400Z–2(d)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) In General.—The term ‘qualified opportunity fund’ means any investment vehicle—

“(A) which is organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (other than another qualified opportunity fund) that holds at least 90 percent of its assets in qualified opportunity zone property, determined by the av-
erage of the percentage of qualified opportunity
zone property held in the fund as measured—
“(i) on the last day of the first 6-
month period of the taxable year of the
fund, and
“(ii) on the last day of the taxable
year of the fund, and
“(B) any trade or business of which is a
qualified opportunity zone business.”.

(2) EFFECTIVE DATE.—The amendments made
by this subsection shall take effect as if included in
section 13823 of Public Law 115–97.

(b) CLARIFICATION OF SUBSTANTIALLY ALL.—
(1) IN GENERAL.—Section 1400Z–2(d) of the
Internal Revenue Code of 1986 is amended—
(A) by striking “during substantially all”
each place it appears in paragraphs
(2)(B)(i)(III), (2)(C)(iii), and (2)(D)(i)(III)
and inserting “for not less than 90 percent”,
(B) by striking “substantially all of the
use” in paragraph (2)(D)(i)(III) and inserting
“not less than 90 percent of the use”, and
(C) by striking “in which substantially all”
in paragraph (3)(A)(i) and inserting “in which
not less than 90 percent”.

TBR 66 781
(2) Effective date.—The amendments made by this subsection shall take effect as if included in section 13823 of Public Law 115–97.

certain property excluded from qualified opportunity zone business property.—

(1) In general.—Section 1400Z-2(d)(2)(D) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by inserting “(other than self-storage property, stadium property, or disqualified residential rental property)” after “tangible property”, and

(B) by adding at the end the following new clauses:

“(iv) self-storage property.—The term ‘self-storage property’ means property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property.

“(v) stadium.—The term ‘stadium property’ means any facility (or appurtenant real property) which, during at least 5 days during any calendar year, is

TBR 66 781
used as a stadium or arena for professional sports exhibitions, games, or training.

“(vi) Disqualified Residential Rental Property.—The term ‘disqualified residential rental property’ means any residential rental property unless 50 percent or more of the residential units of such property are both rent-restricted (within the meaning of section 42(g)(2)) and occupied by individuals whose income is 50 percent or less of area median income.”

(2) Effective Date.—The amendments made by this subsection shall take effect as if included in section 13823 of Public Law 115–97.

(d) Treatment of Leased Property.—

(1) In General.—Section 1400Z-2(d)(2)(D)(i)(I) of the Internal Revenue Code of 1986 is amended by inserting “or under a lease (other than a lease from a related person) entered into after December 31, 2017,” after “December 31, 2017,”.

(2) Effective Date.—The amendment made by this subsection shall take effect as if included in section 13823 of Public Law 115–97.
(e) Correction Relating to Original Use of Qualified Opportunity Zone Business Property.—

(1) In general.—Section 1400Z-2(d)(2)(D)(i)(II) of the Internal Revenue Code of 1986 is amended by striking “in the qualified opportunity zone”.

(2) Effective date.—The amendment made by this subsection shall take effect as if included in section 13823 of Public Law 115–97.

(f) Modification of Determination of Substantial Improvement of Qualified Opportunity Zone Business Property.—

(1) In general.—Section 1400Z–2(d)(2)(D)(ii) of the Internal Revenue Code of 1986 is amended by inserting “(including land)” after “adjusted basis of such property”.

(2) Effective date.—The amendment made by this subsection shall take effect as if included in section 13823 of Public Law 115–97.

SEC. 7. PUBLIC LIST OF QUALIFIED OPPORTUNITY FUNDS.

The Secretary of the Treasury (or the Secretary’s delegate) shall maintain and make publicly available on the Internet and at the offices of the Internal Revenue Service—
(1) a list of investment vehicles that are certified as qualified opportunity funds (as defined in section 1400Z–2(d)(1) of the Internal Revenue Code of 1986) pursuant to the rules established under section 1400Z–2(e)(4)(A) of such Code, and

(2) the name, address, and the uniform resource locator (URL) for the website for such fund.

SEC. 8. GAO REPORT.

(a) In General.—Not later than each applicable date, the Comptroller General of the United States shall submit to Congress a report on the effectiveness of the provisions of subchapter Z of chapter 1 of the Internal Revenue Code of 1986 in achieving the policies of such provisions.

(b) Matters Included.—The reports submitted under subsection (a) shall include an analysis of—

(1) the distribution of investments of qualified opportunity funds among qualified opportunity zones,

(2) the distribution of such investments across different industries or investment purposes,

(3) the impact of the designation of an area as a qualified opportunity zone on—
(A) economic indicators, including employment, new business start-ups, and poverty reduction,
(B) housing costs, and
(C) income distribution among residents of such zones,
(4) the economic benefits provided by such designations compared to economic costs, and
(5) to the extent practicable, the impact of the provisions of such subchapter Z on low-income communities that have not been designated as qualified opportunity zones.

c) Definitions.—

(1) Applicable date.—The term “applicable date” means—
(A) the date that is 5 years after the date of the enactment of this Act, and
(B) the date that is 10 years after the date of the enactment of this Act.

(2) Other terms.—Any term used in this section 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.