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TAX RELIEF AFTER A DISASTER: HOW INDIVIDUALS, SMALL BUSINESSES, AND COMMUNITIES RECOVER

HEARING

BEFORE THE

SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

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TAX RELIEF AFTER A DISASTER: HOW INDIVIDUALS, SMALL BUSINESSES, AND COMMUNITIES RECOVER

TUESDAY, NOVEMBER 18, 2014

U.S. SENATE,
SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:30 p.m., in room SD–215, Dirksen Senate Office Building, Hon. Robert P. Casey, Jr. (chairman of the subcommittee) presiding.

Present: Senators Schumer, Menendez, Bennet, Enzi, Roberts, and Thune.

Also present: Democratic Staff: Jennifer McCloskey, Staff Director for the Taxation and IRS Oversight Subcommittee. Republican Staff: Bart Massey, Minority Staff Director for the Taxation and IRS Oversight Subcommittee.

OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S. SENATOR FROM PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT, COMMITTEE ON FINANCE

Senator CASEY. Well, good afternoon. The hearing will come to order. This afternoon we convene the Senate Finance Subcommittee on Taxation and IRS Oversight to discuss an important topic: how the tax code can help areas recover and rebuild after major disasters.

I want to thank Chairman Wyden and Ranking Member Hatch for the opportunity to hold this hearing, and our subcommittee ranking member, Senator Enzi, who is sitting next to me up here. We are grateful he is with us. We have Senator Roberts and Senator Menendez. We will be joined by other Senators shortly. I also want to acknowledge Senator Schumer—who should be here later—for his leadership on this issue by way of legislation.

We know that natural disasters such as floods, hurricanes, and tornadoes can have a devastating impact on communities. We will hear a lot about that today from our witnesses.

I know that in Pennsylvania we have seen firsthand the tremendous impact, the horrific impact is probably a better way to say it, that flooding has had on our Commonwealth. In 2011, Hurricane Irene followed by Tropical Storm Lee caused the worst flooding in Pennsylvania in 40 years, since Hurricane Agnes in 1972. In 2012, of course, Hurricane Sandy caused even further and severe flooding across the State.

In the aftermath of these storms, I visited communities across our State and witnessed firsthand the impact of the devastation: flooded homes and businesses and severely damaged infrastructure. Overwhelmed local governments were the norm after those storms. To add on a personal note, I remember talking to a friend of mine, a lawyer in northeastern Pennsylvania, who was one of those confident tough guys, never in a bad mood, never down, a very strong person. I had never seen him in a vulnerable position. Because of what happened in the flooding, when his house was devastated and his family was adversely impacted, I walked up to say "hello" to him and to try to encourage him, and he just collapsed in emotion. That is the kind of impact it had.

Everywhere you would go—I know other Senators saw this—you would not even have to hear from the person; you could see it in their eyes, what happened to them. So, in addition to the physical devastation, the impact this had on people's lives in a very personal and substantial way will remain with us for a long, long time. I had never, ever seen that in my life up to that point, how horrific a natural disaster can be for an individual.

The Federal Government, fortunately, has a number of tools to help these communities in need. Today we are here to discuss one such tool: tax relief. While there are several permanent provisions in the code to assist in these situations, the reality is that we take a one-off approach in response to natural disasters.

For example, taxpayers were provided free housing in the aftermath of Hurricane Katrina and the Midwest tornadoes of 2007. They received additional tax exemptions for each victim they housed, but no similar relief was offered to those who housed victims of Hurricanes Sandy and Irene. Similarly, families affected by the Gulf Coast hurricanes in 2005 and Midwest storms in 2007 were eligible for additional tax credits for educational expenses, but victims of other major disasters, such as flooding in Pennsylvania in 2011 and 2012, did not receive comparable assistance.

This lack of consistency in our response is troubling. The Federal Government should have a fair and equitable approach. Today's hearing will offer us a much-needed opportunity to examine these policies. I look forward to taking a closer look at various types of relief, the benefits and drawbacks of temporary and permanent relief provisions, and ways we can improve the Internal Revenue Code on these issues.

Natural disasters can happen to any community. It is important that the Federal Government stand ready to help all communities rebuild from natural disasters.

[The prepared statement of Senator Casey appears in the appendix.]

Senator CASEY. At this time, I will yield to our ranking member, Senator Enzi.

OPENING STATEMENT OF HON. MICHAEL B. ENZI, A U.S. SENATOR FROM WYOMING

Senator ENZI. Thank you, Mr. Chairman, and thank you for holding this important hearing on how we can best help and support the efforts of small businesses, communities, and affected citizens to recover from disasters, primarily focusing on tax relief after the disaster.

For my part as a former Mayor and member of the State legislature and as an accountant, I well recall the challenges my hometown and surrounding communities had to face to recover from a variety of disasters. We needed to call on all of the resources we had available to bring our cities and towns back from those tragic experiences.

I mention that because I have always believed that responses to disasters should be guided and directed by those closest to the folks back home: their elected officials on the local and State level. They are the ones who know best how to respond to a disaster in a way that is both supportive of those affected and mindful of our limited financial resources.

Yes, I mentioned costs. It is a concept we need to keep in mind during our discussions. A sound response requires that we balance, on the one hand, our limited government resources with the needs of the communities on the other. We strive to preserve this equilibrium to make sure that the government, over time, can respond equitably to those who have suffered losses now, or will in the future, in a sustainable pattern.

We have all seen the faces of those who are in the midst of working to cope with a disaster. Heartbreaking as it is, we must not lose sight of the fact that, when we provide Federal tax relief for one affected region, all of the Nation's taxpayers ultimately help to pay for it. As a grandfather, it continues to concern me that my grandchildren might not have it as good as we have.

When the time comes for them to take their place as leaders of our country, my fear is that they will find themselves faced with a major disaster of their own. What will they find when they have to look at our rainy day fund? If we are not careful, there will be nothing in it but stacks of IOUs. Clearly we cannot allow that to happen.

That is why we need to use the financial aid we have in a very careful and judicious manner. We can no longer afford to spend more money than we have without a clear plan of action and an even clearer strategy to pay for our relief efforts. With that in mind, we should be certain that whatever tax changes for specific communities we consider should be based on three principles. First, the corresponding tax benefits should go to those who need them. Two, they should likely exist for a limited period of time. Three, they should come with standards of accountability so we can both track our expenses and monitor how they are being used, to evaluate their effectiveness.

We need to ensure that whatever help we provide does not evolve into a long-term subsidy that will be around long after the community has recovered from the emergency. We just do not have the funds necessary to make long-term or permanent commitments in response to emergency, short-term needs.

Back in 2008, Senator Max Baucus and I worked out a bipartisan agreement to have the Federal Government on course to be better prepared for weather-related disasters that hit our Nation's agriculture communities. Our agreement was designed to ensure the money would be in the hands of those affected by these disasters in a timely manner, which is why we placed this new program under the administration of the Agricultural Disaster Relief Trust Fund.

Congress reauthorized the program earlier this year. The reauthorization process is important because it gives us an opportunity to reevaluate the program's operation to ensure it is working as intended. Let us be sure, whether we are granting relief through the tax code, making an appropriation, or working on an assistance program, that the money we provide goes right into the hands of those who need it the most: the businesses and individuals who really need our help.

We must also work in concert with the affected States to ensure they are getting what they need—no more, no less. There must also be a plan in place to pay for it that will make these programs as budget-neutral as possible.

Thank you, Mr. Chairman, once again, for holding this hearing. I am looking forward to the testimony we will receive today that will help guide our efforts and provide us with a framework for our future work on this issue.

Senator CASEY. Senator Enzi, thank you very much.

[The prepared statement of Senator Enzi appears in the appendix.]

Senator CASEY. We are going to be doing introductions, and I will jump ahead a bit and turn to Senator Schumer for an introduction.

OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM NEW YORK

Senator SCHUMER. Well, thank you, and I appreciate the committee members. I want to thank you, Senator Casey and Senator Enzi, for organizing the hearing. I want to express my appreciation to Chairman Wyden for his interest in pursuing a package of permanent tax policy to help taxpayers facing the challenges associated with natural disasters like hurricane Sandy. I am hopeful that Senator Hatch will keep this issue on his agenda in the new year.

It is my pleasure to introduce one of our witnesses, a good friend of mine, a fellow elected official from New York City, Councilman Vincent Ignizio. I call him Vincenzo, but we won't do that here.

Councilman Ignizio was first elected to the New York city council in 2007. He now serves as the council's minority leader. Prior to serving on the city council, he was a member of the New York State Assembly, serving the South Shore of the great borough of Staten Island.

He has passed a record number of bills for a South Shore council member. He helped expand bus and train service in the area, cleaned up brownfields, and secured funding for autism treatment and research.

But most importantly for our discussion here today, Mr. Chairman and my colleagues, he has played a vital role in helping New York rebuild after the devastation of Sandy. In the aftermath of the storm, many New York City property owners who rebuilt or repaired their homes faced an increase in property tax bills because the repairs boosted their home's value. The Councilman successfully led efforts to ensure that those forced to repair their homes after Sandy were not hit with a property tax hike.

This tax abatement was absolutely critical to many families still trying to get back on their feet—who could otherwise be priced out of their own homes by doing simply what we hoped they all would do: rebuild. The policy change is going to make a difference.

But of course, there is much more to be done. Councilman, as we both know, 2 years after Sandy's devastation, many communities in New York, the resilient, are still living with the aftermath of the storm. Homeowners and businesses continue to rebuild and recover.

The Councilman and I are partnering to rebuild a seawall that helped to protect the Atlantic Village that was destroyed in the storm. Working together, we secured $60 million in HUD funding to build an offshore breakwater and living shoreline along the South Shore of Staten Island, and we will make sure that the project is built as soon as possible to provide storm mitigation for thousands of Staten Island residents.

Although the Federal and State Governments continue to provide this vital relief, many businesses and homeowners have taken on substantial debts of their own to rebuild, plan for the future, and protect against future storms. While homes on Staten Island are no longer literally underwater, many families remain financially underwater.

So it is imperative that we provide tax relief for these families, similar to what has been provided for those impacted by past storms like Katrina and the 2008 floods in Iowa. I look forward to working with my colleagues in this committee to secure it.

Vincenzo, Councilman, I appreciate that you are taking the time to be with us. The Councilman is a Republican. I am a Democrat. We have worked very closely together over the years, and I hope that can be a metaphor for the new Congress on this bill and on many other things that we want to do to help our constituents.

Thank you, Mr. Chairman. I thank my colleagues for letting me introduce Councilman Ignizio.

Senator CASEY. Thank you, Senator Schumer. I will do a few introductions. I will turn to Senator Bennet to do an introduction as well.

The first witness, Mayor Andy Berke of Chattanooga TN, was first elected Mayor of Chattanooga in March 2013—I hope I have that right—after serving in the State Senate of Tennessee for almost 6 years. He was born and raised in Chattanooga. Mayor Berke has shed light on the impact of natural disasters on local municipalities, and we are grateful that you are here. I do not know if you get the prize for traveling the furthest, but we are grateful for that.

Next, I would like to introduce a Pennsylvanian, Chairman of the County Commissioners of Bucks County, Robert Loughery. Bucks County is one of our major counties in Pennsylvania, one of the largest population centers in our State in southeastern Pennsylvania and suburban Philadelphia. The Chairman was first elected to the board of Bucks County Commissioners in 2011, and was unanimously named Chairman in 2012, 2013, and 2014. That is not easy to do. He also brings to the panel substantial private-sector as well as public-sector experience in economic development. So, Mr. Chairman—I told you I would call you that today—we are grateful you are here. Thanks for appearing.

Next we will turn to Senator Bennet for an introduction.

OPENING STATEMENT OF HON. MICHAEL F. BENNET, A U.S. SENATOR FROM COLORADO

Senator BENNET. Thank you, Mr. Chairman. I have a chance to introduce a great Coloradan. I want to thank you for holding this hearing.

We all know that natural disasters can be completely devastating to communities. We faced that in Colorado last fall when our State saw catastrophic flooding following record rainfall.

In September 2013, communities across Colorado received more rain in 1 week than normally falls in an entire year. The rainfall caused widespread flooding across a large area from Colorado Springs all the way up to Fort Collins. Ten lives were tragically lost, and 11,000 people were evacuated from their homes.

In the end, more than 1,500 homes and 200 commercial buildings were destroyed. Infrastructure all across the region, including roadways, irrigation ditches, and water reservoirs, was also severely damaged. In total, the devastating floods caused upwards of $3 billion in damage for Colorado.

Sean Cronin, whom we are lucky to have with us today, is the executive director of Colorado's St. Vrain and Left Hand Water Conservancy District. He saw this damage firsthand, because the St. Vrain River and Left Hand Creek drain in the front range of the Rocky Mountains near Longmont in Boulder.

During these floods, these rivers abandoned their channels, destroying their landscapes and any infrastructure that stood in the way. Sean witnessed this devastation, and he has been on the front lines helping communities ever since.

For his flood recovery efforts, he recently received the Colorado Foundation for Water Education's Emerging Leader award. So, Mr. Chairman, I am very proud to welcome Mr. Cronin here to the committee and to thank you again for holding today's hearing.

Senator CASEY. Senator Bennet, thank you very much. Two more introductions, then we will turn to Senator Roberts, and then we will have our testimony.

Next we have Steve Ellis, who is vice president of Taxpayers for Common Sense, by the acronym TCS. Mr. Ellis serves as a leading media and legislative spokesman for TCS. In addition to overseeing several of the organization's programs, he is an expert in several fields including earmarks, flood insurance, and Federal disaster assistance programs. Prior to joining TCS in 1999, he served as an officer in the U.S. Coast Guard and received both the Coast Guard Commendation Medal and the Coast Guard Achievement Medal. So, we are grateful you are here, Mr. Ellis. Thanks very much.

Finally, we have Troy Lewis. Troy is chairman of the Tax Executive Committee at the American Institute of Certified Public Accountants, known as AICPA. Like our ranking member, Senator Hatch, Mr. Lewis is a resident of Utah, owning a small accounting firm in Draper, UT and serving as vice president at Heritage Bank, a community bank in St. George, UT. Mr. Lewis has testified before the Finance Committee previously and brings over 20 years' experience in performing tax-related work for small businesses and individuals. Thank you for being here.

Senator Roberts?

OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR FROM KANSAS

Senator ROBERTS. Well, thank you, Mr. Chairman, for your leadership in holding this very timely committee meeting, and thanks to Senator Enzi and all concerned. And thank you to the witnesses for taking time out of your valuable schedule to be here.

I just wanted to take a moment to reflect on the critical importance of tax relief and assistance available to cities and towns that have been hit by natural disasters. At 9:45 p.m., May 4, 2007, an EF5 tornado, the highest level on the standard meteorological scale—it was a different kind of tornado; it was a wedge tornado, not a funnel tornado—plowed through the city of Greensburg, KS. It killed 12 people and destroyed and damaged more than 95 percent of the city's structures, most vehicles, and the electricity infrastructure.

Most residents were displaced from their homes and businesses. All city and county services including the schools, city hall, hospital, and courthouse were absolutely destroyed. Greensburg was literally wiped off the map.

In the immediate aftermath, I called President Bush. He was at Camp David. I told him he needed to get FEMA out to Greensburg right away. He informed me that that request had to come from the Governor. I told him the Governor was at a jazz concert in Louisiana. He said, "Raise your right hand"—by phone, which I did—and he said, "Please take the following oath as Governor of Kansas for only 5 minutes," which I did. And he said, "You have FEMA coming."

The response of the State, local, and Federal Governments was simply tremendous. We were quickly able to safeguard residents and secure property and begin the hard task of rebuilding. Soon after, I began working with my colleagues on the Finance Committee to secure tax relief that would enable Greensburg to rise from the dust and also to rebuild. The tax relief initiative we developed emulated the Gulf Opportunity Zone benefits provided to the Gulf Coast area after Hurricane Katrina—in many cases, quite literally, substituting the language in the GO Zone legislation.

Among the measures in this package were changes to the casualty loss rules, incentives to hire and retain employees, depreciation changes to help offset rebuilding costs, and enhanced bonding authority to allow the local government to quickly restore its schools and its infrastructure. We were able to get tax relief enacted by the end of the year.

Now remember when this happened—at the end of the year. That provides a time of uncertainty that I think we have to address in this legislation.

These provisions were important to putting the town back on its feet, rebuilding homes and businesses, and helping residents cope with the extreme hardship of the total destruction of the town. I am proud to say we are building a new Greensburg using the tax relief we were able to provide. The town is modernizing and is considered a model for disaster response and also redevelopment.

Seven years later, Greensburg is the world's leading community in energy-efficient buildings, including the new city hall and the new 48,500 square-foot Kiowa County Memorial Hospital. Renewable energy powers the entire community, and the streetlights are all LED. The population is growing, and the town is back in business.

Greensburg is proof that tax relief can help a town rebuild. We were fortunate in Kansas to be able to move quickly with a comprehensive aid package, including tax relief. This was a full team effort, including my Kansas colleagues here in Washington and the support of my Senate colleagues, most especially on this committee.

Let me say, as I reflect on Greensburg's rebuilding, it is clear to me that we could have provided more immediate help, help that would have provided strong comfort and certainty that the Federal Government would be there to help Greensburg rebuild. This is why it is very important that we think about enacting a menu of permanent disaster relief that can be activated at a moment's notice when an area is hit with a disaster meeting the appropriate criteria.

Having immediate access to relevant tax relief is absolutely vital to future disaster response. So, as we discuss tax reform, I encourage the chairman, and I encourage all Senators present, to keep in mind the experience of Greensburg and other disaster-stricken towns.

There was an emergency relief area at Barclay College in a very small community called Haviland, KS, about 15 miles away. As I walked into that relief center, I noticed an elderly gentleman sitting on the edge of his bunk staring into space. He was quite elderly. He was wearing an overcoat. He was wearing the shoes of his neighbor—he didn't know what happened to his neighbor—and no socks and his pajamas.

I put my arm around him and identified myself as Senator Pat Roberts, and I said, "We are going to be of help to you, sir." He said, "No, I have lost my life." But he did not lose his life, and we were able to provide help. He did eventually go to assisted living in Dodge City, KS, just down the road a piece. But I will never forget him staring off into space, much like the story in the illustration by the chairman.

It just seems to me that we could have provided a lot more predictability and hope for people to stay the course as opposed to moving to other areas—and there were a lot of family experiences that way. I hope that we can move on some legislation.

Thank you, Mr. Chairman.

Senator CASEY. Senator Roberts, thank you very much.

Senator Menendez?

OPENING STATEMENT OF HON. ROBERT MENENDEZ, A U.S. SENATOR FROM NEW JERSEY

Senator MENENDEZ. Thank you, Mr. Chairman. In deference to the witnesses, I am going to synthesize, but I do want to speak briefly. I have a meeting with the Majority Leader, and I hope to be back so I can ask questions and glean the testimony that I have read from the conversation that will take place.

But very briefly, in our case, Superstorm Sandy was New Jersey's worst natural disaster in its history, and it was the second-most expensive disaster in our Nation's history. Today, 2 years after the storm, thousands of families are still not back in their homes—thousands.

We talk about the beaches and the boardwalks and all of that—which are great and important to our State, important to its economic vitality—but the very essence of community is people in their homes. And thousands are not there. And they faced the wind and the storm and the surge, but what they are facing now is far greater in some respects than the natural disaster that took place.

They are facing a government that is not sufficiently responsive. They are facing a situation where a Federal judge in New York found that insurers were purposely changing engineering reports to claim no responsibility to pay the insured or to lowball them. In fact, since we, the Federal Government under FEMA, are the ones who let these underwriters write the insurance policies, we should be looking into that.

And then finally, we have the tax code, which is why I appreciate you and the ranking member having this hearing. I just read today of a New Jersey resident from Centerville, NJ. She owes the IRS $22,000 in taxes on income she never saw. She owes this amount because she was flooded three times in 3 years—the last one being Sandy. So she accepted a government buyout which was $70,000 less than she owed on the mortgage.

While the bank wrote off the debt, she still owes income taxes on the $70,000, leaving her with a tax bill she cannot afford because she is on a teacher's salary. This is someone who did the right thing, paid her insurances all along, someone who took the action to reduce future flood damage through repetitive loss and then got hit with a $22,000 tax bill. So we have to look at that as a final provision and as one of the provisions that I think, whether permanently or otherwise, needs to be dealt with.

The final thing I will say is that I voted to give tax relief to similar victims of Hurricane Katrina. I voted for the Midwest flood victims from 2007 and 2009 because I understand what we mean when we say this is the "United States of America." And that is what it means to me.

Now we have a reticence, it seems, to create the same type of relief that we extended to those fellow Americans for the challenges we are having on the east coast, and that is simply not acceptable. So I hope we can get to the point where we can deal with the emergency that exists with these people who, through no fault of their own, find themselves with tax bills that they never realized any benefit of, and then seek some permanency so that we do not have to do this ad hoc and can respond to people's lives and get people back in their homes.

I appreciate the opportunity to speak.

Senator CASEY. Thank you, Senator Menendez, and thanks for bringing the witness that each of our Senators brings here from their home States and their own experience. That is why this is such an important and bipartisan issue.

I do want to thank our witnesses for being here today. Your written statements will be entered into the record. We appreciate the fact that you may not be able to get to your entire testimony in your 5 minutes, but we will make sure that each of your full statements is made a part of the record.

So, Mayor Berke, we will start with you.

STATEMENT OF HON. ANDY BERKE, MAYOR, CHATTANOOGA, TN

Mayor BERKE. Thank you, Mr. Chairman. Chairman Casey, Ranking Member Enzi, members of this committee, I appreciate the opportunity to talk with you today about how cities like Chattanooga are affected by natural disasters and how, with greater tax relief, they can recover.

Just after lunchtime on Friday, March 2, 2012, a tornado crashed through the Island Cove Marina off of Harrison Bay in Chattanooga. The restaurant at the marina immediately ushered its patrons into the cooler to wait out the storm in a safe place. When they emerged, the entire area had been transformed.

The marina manager, Terry Kelley, first worked to clean up the fuel spilling into Chickamauga Lake, and then he paused to survey the damage. Snapped trees, sunken boats, and half-submerged masts dotted the horizon. Downed power lines draped over the debris-strewn parking lot.

The storm had a tremendous impact on both the boat owners, many of whom were retired and a few who called those boats their home, and on the marina owners themselves. Seventy percent of the 400 slips at the popular Marina were damaged, and it would take years to rebuild.

From just that single tornado, nine docks were destroyed, which added to the $5 million of damage to the property alone. Factor in the nearly 250 boats damaged or destroyed, and the price tag hits $15 million.

Island Cove was one of many victims that day. In March 2012, Tennessee was declared a Federal disaster area after flooding and severe storms, including almost 20 tornadoes, ravaged our area and impacted the lives of nearly 1,000 citizens.

The widespread destruction could be witnessed in over 344 distinct locations throughout our State. In our area alone, we saw over $16.8 million of property damage and a relief effort that required 997 volunteers who gave a total of 6,617 hours. Dozens of families lost their homes, thousands of residents lost power, 82 buildings were completely destroyed, and businesses faced both physical damage and lost earnings. In just a few short hours, people's lives were changed.

This level of destruction meant that those who lost the most—and that is often our most vulnerable—would face a long and difficult road to recovery. There is one thing that we know very clearly: when a community suffers this kind of damage, the speed at which aid is administered directly correlates to the speedwith which a community can heal. I have no doubt that by speeding up the time in which tax relief is available to families and businesses, we will see our communities recover quicker.

While Island Cove had good insurance, the insurance only covered a fraction of the costs. On top of that, they immediately lost revenue and carried that loss for 2 years while struggling to recover. If the National Disaster Tax Relief Act of 2014 would have been in place in March 2012, that general manager, Mr. Kelley, believes the 50-percent depreciation bonus provision and the extension of the Net Operating Loss Carryback provision would have provided crucial cash flow during those critical recovery years, bolstering their bottom line as they struggled to keep their business afloat.

Through the National Disaster Tax Relief Act of 2014, we can help safeguard both our small businesses as well as the most vulnerable among us. This is particularly true for affordable and workforce housing. For instance, 8 percent of the homeowners affected in Tennessee during the 2012 storms were low-income. And we know, after a disaster, the need for affordable housing is greater than ever. With our rent prices rising, giving us the seventh highest rate in the country, Chattanooga simply cannot afford to lose any moderately priced units when a disaster strikes.

Today we have over 1,600 citizens on our wait list for public housing, with the problem set to grow even worse. Chattanooga has lost 931 public housing units in the last 8 years, with another 900 units coming off line in the near future. We are one of five cities nationwide in a program to expand landlords' participation in the Housing Choice Voucher Program. More than 1,000 Chattanoogans are still struggling to find a place to live that will accept their HUD housing voucher.

This is just one snapshot of one moment in one city, but these types of disasters happen without warning and without mercy. Whether it is the destruction of a home or property, damage to a business, or the loss of a life, this body has the opportunity to make a real and lasting difference in the recovery effort of a city, a State, and a community in their time of greatest need.

Senator CASEY. Mayor, thank you very much.

[The prepared statement of Mayor Berke appears in the appendix.]

Senator CASEY. Commissioner Loughery?

STATEMENT OF HON. ROBERT G. LOUGHERY, CHAIRMAN, BUCKS COUNTY BOARD OF COMMISSIONERS, DOYLESTOWN, PA

Commissioner LOUGHERY. Good afternoon. Thank you.

Chairman Casey, Ranking Member Enzi, and other members, I appreciate the opportunity to discuss the critical subject of how communities can best recover after a major natural disaster, and I commend your committee for taking up this important topic today.

As you may recall, Hurricane Irene first made landfall on August 22, 2011, as a Category 1 hurricane in Puerto Rico, where severe flooding resulted in significant property damage and loss of lives. Five days later, it made a second landfall over the Outer Banks of North Carolina with sustained winds remaining at Category 1 level. Then on August 28th, it reached Philadelphia and the surrounding suburbs, where it did substantial damage, raising the Schuylkill River to levels not seen in nearly 140 years.

The region was further battered when, just days later, Tropical Storm Lee also struck Pennsylvania with torrential rainstorms and severe wind damage. By the time these two storms had blown themselves out, Hurricane Irene and Tropical Storm Lee had inflicted much harm along the entire east coast of the United States.

Of course, we in Bucks are no strangers to weather-related disasters. Since 2007, Bucks County has experienced eight federally declared weather-related disasters, including Hurricane Sandy, Hurricane Irene, and Tropical Storm Lee.

In each of these events, the Neshaminy Creek, the Delaware River, and the Delaware Canal all saw substantial flooding with millions of dollars in losses to residents and businesses, with hundreds of thousands of lives disrupted, and the livelihoods of many thousands threatened.

Hurricane Irene, in August of that year, racked up big numbers for power outages, with more than 131,000 PECO customers losing power in our county, and more than half a million in Philadelphia and the surrounding suburbs. Less than a month later, Tropical Storm Lee caused more than $2 million in damages to parks, roads, bridges, and equipment owned by Bucks County and 17 of our municipalities. Damage to private property was significantly greater.

Even now, those costs are being borne by the residents and the businesses in our county, and further tax relief could prove instrumental in restoring their quality of life and the lives and the viability of their business enterprises. It is my understanding that this relief may also include the availability of additional Low-Income Housing Tax Credits, which I would also like to encourage you to consider.

The Low-Income Housing Tax Credit program has been and continues to be one of the single most powerful producers of high-quality, affordable rental homes. Over the past 2 decades, these tax credits have enabled private developers to produce more than 1,100 new high-quality residences for low-income working households in Bucks County alone. Spread over 17 different projects throughout our county, our $5-million tax credit allocation has leveraged over $15 million in new private investment.

Without these incentives, the housing market simply does not provide an adequate supply of homes within the reach of people of modest means. In fact, in Pennsylvania today, as noted by the Housing Alliance of Pennsylvania, there is a shortage of 220,000 apartments affordable to the working poor, those people living on $22,000 a year or below.

In Bucks County, we experience these same challenges as well. Seniors, low-wage workers, and people with disabilities face an incredible challenge in finding safe, decent, and affordable housing. The lack of good, adequate housing further exacerbates other issues and problems that put increasing strains on the services our county provides to its residents and additional demands on our taxpayers.

The challenge is further compounded in our county by the state of a significant number of existing public housing units that are near the end of their useful life that need comprehensive rehabilitation. Places such as Venice Ashby, located in Bristol Township, Bucks County, would benefit from an increased allocation of Low-Income Housing Tax Credits. That would allow our housing authority to replace old and rapidly deteriorating housing stock constructed in the 1970s with new affordable housing, transforming an entire neighborhood and surrounding community.

This is exactly the type of initiative we seek to pursue in Bucks County as we tackle affordable housing issues. So, again, thank you for the opportunity to share our experiences and our vision with you this afternoon, and for your close attention and that of your staff to the challenge of addressing this important public policy challenge, as the need for the various relief measures envisioned is very real.

Recovering from Hurricane Irene and Tropical Storm Lee has proved daunting, and they will not be the last. We speak of economic costs today, but storms such as these, the rising waters and the fierce winds, not only uproot trees, they uproot lives. They wash away not only goods, but hard-fought dreams. You have it within your power to lend a hand in rebuilding those lives and communities and restoring those dreams. I hope that you take it.

Thank you.

Senator CASEY. Thank you, Commissioner.

[The prepared statement of Commissioner Loughery appears in the appendix.]

Senator CASEY. Councilman?

STATEMENT OF VINCENT M. IGNIZIO, COUNCIL MEMBER (DISTRICT 51), NEW YORK CITY COUNCIL, NEW YORK, NY

Councilman IGNIZIO. Good afternoon, Chairman Casey, Ranking Member Enzi, and members of the subcommittee. My name is Vincent Ignizio. I am the minority leader of the New York city council.

Thank you for allowing me the opportunity to testify on behalf of my constituents in Staten Island and all of New York City's residents on how Hurricane Sandy affected our communities and how we can continue to help them through tax relief and other programs. I want to also give a special thanks to Senator Chuck Schumer, who has been a great partner with my office and all of Staten Island's elected officials, especially as we worked together to help our city recover from the worst natural disaster in its history.

Many of you have been familiar with our borough since Hurricane Sandy wrought destruction on the northeast coast on October 29th and 30th of 2012. On Staten Island, Sandy's surge took a particularly devastating toll. Twenty-four people lost their lives, thousands of homes and businesses were severely damaged or destroyed, and, in some cases, entire neighborhoods were taken off the map.

More than 2 years later, residents of my borough and all of New York City are still struggling to recover. Even those who have been fortunate enough to get back on their feet are filled with angst about what a future disaster might bring, or are grappling with the prospect that misguided government policies may finish the job Sandy started and put them out of their homes.

Take, for example, Paul DiCristina, who has lived with relatives in Brooklyn since the storm destroyed his home and his family's restaurant, the Coral Bay Café in Tottenville. Paul desperately wants to rebuild, but he has received no assistance from recovery programs created to help businesses and homeowners, though it is clear he is exactly the type of person that these programs set out to help.

In Atlantic Village, a homeowners association consisting of 152 homes and more than 350 residents in the Annadale section of Staten Island is in dire need of assistance as well. To protect themselves from the water of the Raritan Bay, the association took out an SBA loan to fund the construction of a steel-reinforced concrete seawall. But the storm surge from Hurricane Sandy ripped the seawall apart as if it were a piece of paper. Many of the homes closest to the water were damaged, though it would have been far worse had the seawall not been there.

After cleaning up the debris, the association had no money left to rebuild their seawall and cannot afford to take out another loan, leaving hundreds of residents in harm's way. Ironically, they are in worse shape than they were prior to Sandy.

I have been working with Senator Schumer's office to identify a source of funding for Atlantic Village, but I think we both agree it should not be so difficult. Federal disaster recovery programs are welcome and necessary, but in my 17 years as a public servant, I have learned that anything you can do in government to help people help themselves is usually far more effective, more sustainable, and absolutely faster. We should provide Federal tax incentives to help homeowners associations like Atlantic Village and individual homeowners build protections or build to a more resilient standard.

That type of tax relief would have certainly helped Richard White, a city bus driver from Crescent Beach. Rich has been more fortunate than many others affected by Sandy. Through his sheer determination and resourcefulness, he has been able to rebuild his bungalow home.

He took pension loans, ran up credit card debt, scrimped and saved, and applied for every charitable program he could to get together the $70,000 to repair his home back to its pre-Sandy condition. He is still waiting for the city housing recovery program to elevate his home to protect him from future flooding.

Meanwhile, when Rich was finally able to move back to his family home last year, he was struck with another blow when his property tax was increased by over 30 percent. He, like thousands of other New York City homeowners, discovered one of the unintended consequences of rebuilding their flooded homes: soaring property taxes.

It is because of Rich and many other constituents who called my office, shocked by their property tax bills, that I work with my colleagues in government to fix the problem. But even when we solve our post-disaster property tax problems, there is a much greater obstacle to a permanent, sustainable recovery in New York that cannot be overcome without Federal intervention: the soaring costs of flood insurance.

While I know it is not the purview of this committee, I feel strongly that we cannot talk about economic recovery without addressing this crucial problem, which, if not fixed, will price our constituents out of their homes. I believe tax relief should be considered as part of the solution.

The IRS can help as well by providing tax credits for homeowners who elevate their homes or perform other measures to make their homes more resilient, perhaps with something similar to the ENERGY STAR rebate program. It can also provide tax incentives for homeowners who are not required to purchase flood insurance or who are purchasing flood insurance for the first time.

Passage of the National Disaster Tax Relief Act of 2014 would be another big step forward in the right direction, as it would provide substantial assistance to my constituents, especially the provisions that would give them the ability to expense qualified disaster costs, claim an exclusion from the gross income disaster mitigation payments received from State and local governments, and take a full Earned Income Tax Credit if their home was damaged by Sandy. In fact, I believe the provisions of the National Disaster Tax Relief Act should be long-term, or periodically renewable, so that the Federal Government can instantly turn on a tax relief package for areas declared national disasters.

Such a package would not only help stimulate a faster recovery, but would also provide some certainty for effected individuals and businesses during a time of uncertainty and difficulty. I know elected officials on all levels are working hard to make sure Americans who have suffered so much from disasters have a government that is helping them recover quickly and efficiently, while helping us become more resilient for any future storms that come our way.

Thank you, again, for listening.

Senator CASEY. Thank you, Councilman Ignizio. I appreciate your testimony.

[The prepared statement of Councilman Ignizio appears in the appendix.]

Senator CASEY. Mr. Cronin?

STATEMENT OF SEAN T. CRONIN, EXECUTIVE DIRECTOR, ST. VRAIN AND LEFT HAND WATER CONSERVANCY DISTRICT, LONGMONT, CO

Mr. CRONIN. Thank you, Mr. Chairman, Ranking Member Enzi, Senator Bennet, and other committee members. I appreciate this opportunity to share with you a perspective that relates to just a small piece of this bill.

My name is Sean Cronin. I am the executive director of St. Vrain and Left Hand Water Conservancy District. We are located 40 miles north of Denver, CO. We organized in 1971 and cover about 320,000 acres, 70,000 acres of which are for irrigated agricultural production.

Irrigation is provided through a collection of water users who incorporated as mutual ditch companies. These ditch companies are federally recognized as exempt 501(c)(12) organizations so long as 85 percent of the revenue is obtained through the water users known as shareholders. The 85-percent rule presents challenges to maintaining these complex and vast irrigation systems.

This challenge was worsened following the September 2013 flood, when we experienced a one in 1,000 year rain event. It took 10 lives and caused hundreds of millions of dollars in damages. Within my district alone, 44 of the 94 ditch companies suffered damages in the flood at approximately $19 million.

The good news is, farmers do not let grass grow under their feet, and they got out there and did the work that needed to be done. The repairs were completed, about 95 percent of which are expected to be back on line by the end of this year. The bad news is that the costs—at least initially—are borne completely by the shareholders, who are farmers and the backbone of our local economy who grow the food that we eat.

We are expecting some assistance from FEMA and from HUD. In those cases, companies are concerned that the FEMA and the HUD reimbursement funds will violate the 85-percent rule and possibly create a tax liability. Moreover, many companies could creatively finance their repairs without Federal assistance, though in doing so could possibly create another tax liability.

The bill as drafted provides funding options and incentivizes these ditch companies to reinvest into irrigation infrastructure, the same infrastructure that is critical to the agricultural industry, local economy, and our quality of life.

In closing, in the opinion of the district and its agricultural constituents, this bill will have a positive impact on the September 2013 flood recovery, will strengthen our communities, and will make further investments in critical infrastructure to maintain agricultural economies. This is one of our country's most recent natural disasters, and this is really an opportunity to put into action a bill that addresses the needs now and will prevent some of the hindsight stories that we heard today. Thank you for the opportunity.

Senator CASEY. Thanks, Mr. Cronin. You get extra credit for not using your whole allotted time. [Laughter.]

[The prepared statement of Mr. Cronin appears in the appendix.]

Senator CASEY. Mr. Ellis?

STATEMENT OF STEVE ELLIS, VICE PRESIDENT, TAXPAYERS FOR COMMON SENSE, WASHINGTON, DC

Mr. ELLIS. Thank you. Good afternoon, Chairman Casey, Ranking Member Enzi, and members of the subcommittee. I am Steve Ellis, vice president of Taxpayers for Common Sense, a national nonpartisan budget watchdog.

I am very pleased you invited me here today. TCS has been involved in national disaster policy since our inception nearly 20 years ago. I have been engaged in this issue since I was a young Coast Guard officer working on the policy response to the Great Midwest Flood of 1993.

I know the hearing today and the committee's jurisdiction is on tax policy, but I want to stress that the Nation has to reform its policies to take a holistic approach to disaster response and recovery that promotes resilience and pre-sponds to inevitable future disasters. That encompasses Federal appropriations, tax expenditures, rules and regulations, loans and loan guarantees, as well as local and State engagement. More generally on tax policy, Taxpayers for Common Sense strongly supports efforts to enact comprehensive tax reform eliminating many tax expenditures.

Simply put, too much Federal assistance, whether spending or revenue loss, goes out without a real plan in place and adequate demands to make communities and individuals more resilient.

Every dime that is spent by the U.S. Treasury in disaster response should help ensure that another dime does not have to be spent on the same thing in the future for another recovery.

Unlike appropriated spending, however, tax credits, special depreciation schedules, and tax-exempt bonds are blunt instruments. They can reward much reinvestment that would happen regardless, and may create subsidies that are out of proportion to the losses incurred when other State, Federal, and charitable programs are taken into account.

As with other areas of the tax code, these disaster-related tax expenditures are hidden spending and deserve far more scrutiny than they have received. For instance, there is very little data available that objectively documents who did what with the various tax preferences that were granted post-Katrina or for other disasters.

We do not know if various provisions change behavior, increase resiliency, or help people rebuild. But we do know that much of the redevelopment did not occur in the areas hardest hit, and went to areas less affected that presumably did not need the tax-advantaged bonds to redevelop.

In some cases, it may not make sense to redevelop certain vulnerable areas that were hit hard, but that should be a conscious part of the decision-making process that also incorporates how the redevelopment is being done, what structures are being constructed, and the level of protection and/or mitigation involved.

There has been a push to extend or create provisions to increase tax advantages in disaster-affected regions. This has been referenced earlier. This includes proposals involving the New Markets Tax Credit, charitable contributions, and use of tax-exempt retirement plan funds, among others.

Each of these provisions was part of an earlier disaster recovery tax package. All suffer from a lack of effective targeting to the greatest needs, and each fails to promote greater resilience to future disasters. The New Markets Tax Credit is supposed to spur development in low-income communities with tax credits, and there are proposals to increase the allocations to target some of these same communities, specifically in disaster areas. The program has its detractors. In some cases, the New Markets Tax Credit not only went to development that would have otherwise occurred, it was up-scaled.

Just this summer, the GAO indicated that the program needed increased controls and transparency. Beyond these criticisms, the program is not structured to promote targeted, more resilient development, which is what communities recovering from disaster need.

In the case of charitable contributions, individuals making contributions to charities for disaster relief efforts would be allowed to deduct more off their income than is currently allowed. The Federal Government is effectively saying that those impacted by larger disasters are, in effect, more important than those affected by smaller ones, or those whose plight, such as chronic disease, does not stem from a disaster. Finally, the government would be subsidizing contributions to these organizations without really knowing the activities the organizations would undertake or why.

Another idea is penalty-free withdrawals from retirement accounts. But this provision has not been targeted or limited to disaster-related activities. The taxpayer could spend the money on anything, including items with nothing to do with disaster, rebuilding, or increasing resilience. Furthermore, this has the potential of turning a retirement plan into disaster insurance, which would be a questionable policy from a retirement security perspective.

Disaster-related tax provisions have a place in response, but they, like the rest of the government's disaster recovery, need to be targeted to promote resilience and reduce risk. Current law is ad hoc at best. Free post-disaster funding reduces the incentives to invest in pre-disaster efforts to mitigate damage and promote resilience.

I applaud you for conducting the oversight and for reviewing the tax expenditures. Whether you enact disaster-related tax provisions or not, I urge you to request the GAO report on how these types of provisions have been implemented in the past and whether they have promoted more resilient recovery.

Any Federal spending—whether through the Treasury or the tax code—should be evaluated to see whether it has the intended impact. Disaster recovery spending should be evaluated on whether communities emerge more resilient and less vulnerable to future disasters.

Again, thank you for inviting me to testify here today, and I am happy to answer any questions you might have.

Senator CASEY. Thank you, Mr. Ellis.

[The prepared statement of Mr. Ellis appears in the appendix.]

Senator CASEY. Mr. Lewis, I was handed a note here. When I read a quick summary of your biography, I saw you did live in Pennsylvania, including Scranton, PA, my hometown.

Mr. LEWIS. I did indeed. I lived in Scranton, or Clarks Summit, actually.

Senator CASEY. That is close enough. Lackawanna County.

Mr. LEWIS. Right at the turnpike; right.

Senator CASEY. So you will have half an hour to provide your testimony. [Laughter.]

Mr. LEWIS. Okay. Thank you. So noted. Yes. I also lived on the Susquehanna River in Harrisburg and Camp Hill. Does that give me an extra 15 minutes?

Senator CASEY. At least that.

Mr. LEWIS. Okay. Thank you.

STATEMENT OF TROY K. LEWIS, CHAIR, TAX EXECUTIVE COMMITTEE, AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS, DRAPER, UT

Mr. LEWIS. Chairman Casey, Ranking Member Enzi, and members of the subcommittee, thank you for the opportunity to testify regarding tax relief after a disaster.

My name is Troy Lewis. I am a vice president of Heritage Bank in St. George, UT. I am also a sole tax practitioner, an adjunct professor at BYU, and chair of the Tax Executive Committee of the American Institute of CPAs. I am testifying today on behalf of the AICPA.

Families and communities impacted by disasters are often displaced from their homes, their livelihoods, and their businesses. We believe permanent relief will provide disaster victims with the utmost amount of certainty and fairness. It will also allow them to promptly receive the assistance that they need.

Therefore, I urge you today to consider enacting tax legislation that permanently provides meaningful and timely relief. Our current system offers inconsistent tax relief. Congress generally considers each disaster as an isolated event and restricts any special tax relief to that one event.

Unfortunately, such an unpredictable process results in similar taxpayers receiving vastly different tax treatment for the same type of loss. In the interest of fairness, it is important that all victims, whether they reside in Harrisburg, PA, Bucks County, PA, Draper, UT, Greensburg, KS, or some other State, and whether they have endured a hurricane, a mudslide, or some other type of disaster, receive similar tax treatment.

We recognize that certain tax benefits may not be available to every taxpayer due to his or her personal situation. However, the rules should be consistent among the various disasters. We need legislation that makes disaster-related tax provisions effective immediately when a triggering event occurs.

Most of the time, individuals and businesses do not know what tax relief, if any, they will receive until Congress enacts legislation, sometimes months or even years after the event. However, families and businesses want and need to rebuild as soon as possible. But without any guarantee that tax relief is on its way, victims are often forced to make difficult and financially burdensome decisions. Providing tax relief in a timely manner will reduce the uncertainty surrounding what tax relief victims will receive and when they will receive it.

The AICPA has submitted ten recommendations for the record. I would like to share a few of them with you. First, tax relief should automatically be available when a victim resides or has a business located in a FEMA-declared disaster area. This automatic trigger will ensure that victims are provided tax relief for which they are eligible in a timely manner.

Second, disaster victims should be allowed an itemized deduction for the full amount of any related casualty loss. The current rules, which have a couple of different limitations, are unnecessarily complicated, lack transparency, and do not always provide sufficient relief.

Third, a victim should have the option of carrying back a net operating loss attributable to a disaster for 5 years as opposed to 2 years under the current rules. An increased carryback period would allow businesses to receive refunds sooner, helping them more swiftly recover.

Fourth, it is important that individuals and businesses have up to 5 years to replace property that is destroyed by disaster, while deferring the resulting gain. For example, many impacted communities have historic buildings that require an extensive permit application and approval process prior to rebuilding.

In these circumstances, a 2-year replacement period can be particularly limiting for victims of a disaster. A 5-year replacement period would most likely provide victims sufficient time to rebuild their property.

Next, I urge Congress to allow individuals to immediately access their own retirement funds while they are awaiting insurance reimbursements or other government assistance. Generally, individuals who make early withdrawals are subject to an extra 10-percent excise tax. However, we strongly believe that penalties should not be imposed on disaster victims who withdraw up to $100,000 from a qualified plan, such as a 401(k) or an IRA, assuming that they repay that amount within 5 years.

Finally, I want to mention a provision that allows individuals to exclude cancellation of debt from their taxable income, provided the cancellation occurs within 1 year of the disaster. As we heard from Senator Menendez from New Jersey, this is a real issue.

The current rules are harsh and many times a shock for victims who suffer significant losses. If individuals are unable to repay their loans, they are most certainly unable to afford the tax on that phantom income.

In summary, the implementation of timely and permanent tax relief provisions will allow victims to have certainty, fairness, consistency, and the ability to promptly receive the assistance that they so desperately need after a disaster.

Again, Mr. Chairman, thank you for the opportunity to testify. I will be happy to answer any questions.

Senator CASEY. Mr. Lewis, thanks very much.

[The prepared statement of Mr. Lewis appears in the appendix.]

Senator CASEY. We will start with my home-State Commissioner. Commissioner Loughery, we know—I mentioned earlier—how significant a county Bucks County is in our State, probably the fourth or fifth largest by way of population. I was looking at the number, a 2013 estimate, 627,000 people—a big county.

You have had eight federally declared weather disasters since 2008, right?

Commissioner LOUGHERY. Yes.

Senator CASEY. And I know you talked about this in your testimony, but just in terms of a listing or itemization, if you could walk through a couple of examples of policies that you think worked well, and where you think we are short on policies that would provide the kind of—as you have all alluded to in one way or another—relief that has a measure of certainty to it as well as relief that is timely so that the families and the communities can recover. Can you just kind of itemize what is working, or what has worked, and what does not?

Commissioner LOUGHERY. Sure. As people were saying earlier here, one of the hardest things for small businesses is managing risks, and they want things to be as predictable as possible. Of course, a natural disaster sort of throws everything to the wayside.

Trying to work through and work with those small businesses and to help them get back up has been one of the bigger challenges that we have had, because there are not a lot of tools for the county to use to work with those small businesses. We are able to respond to the municipalities. We had 17 municipalities impacted by the last tropical storm, and we are able to work with PEMA and FEMA, and there is a process for going through that.

I think there seems to be a breakdown from the county side, working with the State, to small businesses, thus they do not have that predictability as perhaps the municipalities or the county would in sort of repairing roads and bridges, even though it takes time.

To answer your question, we need to give more predictability to small businesses. And if you think about the places I listed in Bucks County along the Delaware River, along the Neshaminy, you are talking about first- and second-generation suburbs: Levittown, historic places like Bristol, Washington's crossing along the canal, places like that, where the tourism economy is very important. And so I often get phone calls from those small businesses to say, "What do you have to help us out?"

As I said earlier, we usually have more to help the municipalities, the public entities, than we do specifically for small businesses. I think this tax relief for the families as well as the small businesses will give them more predictability and an ability to at least plan—should something like this happen—how they could best work their way out of it.

Senator CASEY. You had mentioned the Low-Income Housing Tax Credit as one of the tools that helps substantially. Can you walk through how that has helped the county?

Commissioner LOUGHERY. Well actually, the approach that I wanted to present today for the county is really the rehabilitation of public housing in Bucks County. Not a lot of people think that we have public housing in Bucks County, and the fact of the matter is that we do. It is old and it is coming to the end of its useful life, located in many of the places that I just mentioned in terms of first- and second-generation suburbs in the county, particularly in the lower part of the county.

We are interested in looking at how to rebuild, rehabilitate, revitalize, and really transform these neighborhoods and communities in Bucks County, be it lower Bucks County or upper Bucks. We believe that that makes for safer neighborhoods, more efficient neighborhoods—if you will—for today's families. On top of that, the resiliency—we heard that word used here today—from the weather disasters and storms is important, because most of these places, what they suffer first—and what they suffer most—are power outages. I know you toured through Bucks County in many of those power outages, and they are impacting many of those areas.

So we see the Low-Income Housing Tax Credit allocation as an opportunity for us to begin to rebuild or transform these neighborhoods, because getting them to recover after disasters is even more difficult given the age of the housing stock. Being able to make investments, leverage private-sector investments, creates a better neighborhood and one that could rebound quicker—if you will—from a lot of these weather-related disasters.

Senator CASEY. I just remember going through, among other places in the State, Yardley and getting firsthand testimony. It was for me—and I know for a lot of us in the Senate—a learning experience that we do not want to repeat, because you heard directly from people. It was not like you went into a town and went into a room and had a meeting. You were walking into a neighborhood, and people were coming out of their homes talking directly to you about what happened to them. So it was a searing reminder.

My time is up for this round, but I wanted to turn to our ranking member, Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman. I want to thank the panel. In my 18 years, that is probably the most punctual panel that I have heard, with one being substantially under the time. [Laughter.]

I want to thank you for your testimony, for providing a great deal of this in advance. There were a number of things in your testimony that will be very helpful, as we fashion or amend legislation. I know that we try to keep the record open so that people can submit questions in writing. That is usually very helpful, and everybody is not here and never is able to be at a hearing, so I hope you will help us with some of those answers.

One of the reasons I mentioned that is that I am the accountant and a lot of my questions are very technical and specific, and I do not expect you to have the information with you at the moment. But I would appreciate it if you would get that for me.

I will start with Mr. Ellis. I appreciate your experience in observing and evaluating the forms of Federal tax relief that are provided for disasters. Have you seen tax changes that have gone beyond the boundaries of providing relief only to victims, and, if so, could you please identify some?

Mr. ELLIS. Sure. Thank you. One of the areas that was touched on—Senator Roberts mentioned the GO Zone Bonds. And one of the things that the GAO, the Government Accountability Office—they were evaluating that—found was that the counties in Louisiana, the parishes, obviously had differing impacts from Katrina, Rita, and Wilma, which were the ones that were targeted with the GO Zone, and also all of the States there. Instead of creating a prioritization system of how the bonds would be allocated, it was on a first-come, first-served basis.

So whoever got to the door the fastest was who got the money. And generally it would be a parish that was actually less affected by Katrina that was able to kind of recover quicker. So you definitely had the impact of those bonds going to people who were, at least, less affected.

I would also point out that, just by its definition, the increase in the deduction for charitable contributions to disaster-related organizations is going to benefit people who are not in the disaster. In the case after Katrina, it went from 50 percent of income that was eligible to be deducted to 100 percent. I think in the current legislation it is up to 80 percent, so that is another area where I would say that that is not going to the disaster victims.

Then I would only add one more thing, and that is part of my concern that I raised in my testimony. It is hard to track these, and they are not being very well monitored. No one is trying to actually evaluate where they are going or how it is being done. And that is something that I think will be very vital going forward and be important to incorporate into any future package.

Senator ENZI. Thank you. That is very helpful. You also suggest taking a holistic approach to the disaster response. Can you identify any State or Federal approaches that move kind of toward that strategy?

Mr. ELLIS. Well, I mentioned that I was involved after the 1993 flood, the Great Midwest Flood of 1993, and in that instance you actually had a 1995 flood that followed in roughly the same area, and you had communities like Arnold, MO and Valmeyer, IL that actually relocated lock, stock, and barrel to higher ground.

So you had an effort there that was funded by the Federal Government that actually moved them so that, when the floodwaters returned in 1995, they were not affected. Also, New York City is doing buyouts, and there is a strategy in that area. Also looking to New York City, the MTA, the Metropolitan Transit Authority, has done an extremely large catastrophe bond to try to mitigate their risks going forward.

So these are creative ways that I think we can look at, and one of the things that I mentioned in my written testimony is this idea of insuring public infrastructure so its cost is not being borne by the Federal taxpayer. So those are just a couple of things that I think might illustrate that.

Senator ENZI. Thank you. That is extremely helpful.

Mr. Lewis, I appreciate you bringing the accountant's viewpoint to this. I am particularly interested in—because of my experience and as a small business owner—what types of challenges you observed following disasters with respect to filing of tax returns and tax penalties? Do you believe that there are any changes that need to be made in this area of tax compliance? And incidentally, I want to thank you for your list of very specific things that you put in your testimony too.

Mr. LEWIS. Thank you. It is a fair question. So there are two aspects that you raised. One is in administration and one is more of a legal, legislative fix.

Let's deal with the administrative for just a moment. Under most of the existing law, the IRS has some administrative leeway to grant victims of disasters some administrative relief as you describe it, things such as allowing late filings, waiving of notices and penalties. That gets done, but again, as we discussed and I repeated in my written and my oral testimony, it is done on a one-off basis. There really is not a consistent answer.

That is one of the things that I think is most frustrating for us of the CPA community. When a disaster happens, although the AICPA will be constantly on the phone with the IRS, they seem to not be as uniform in their approach, because there is not a defined pattern such as, if FEMA declares a disaster, this is the kind of relief that should be granted. It will not provide any level of comfort. It provides a lot of confusion for our practitioners and for the taxpayers.

So on the administrative side, I think the thing is, if we can get permanent, timely, consistent, and certain administrative relief, that would be very helpful. That would go a long way to solving some of our challenges with filing.

From a legislative perspective, again, the real challenge is the victim's challenge, which is that we do not know—because a lot of this legislation has been dealt with on a one-off basis and it is not permanent—we cannot tell a client, we cannot advise them beyond what we have today. So telling somebody in Staten Island, for instance, hey, help is on the way, you will be able to take additional bonus depreciation or some of these items I put in my testimony—that is not available. That is a frustration.

I think victims want consistency, and they want predictability. About 10 years ago, our organization put together 10 good tax policy ideas, and number one was equity and fairness. I think to answer your question, equity and fairness need to be a part of this process. If you have equity and fairness, you will have consistency, and you will have the ability for victims and for the tax professionals who serve those victims to be able to advise them appropriately.

Right now, we are left guessing. As was mentioned earlier by several of the Senators, what do you tell a client who is a victim of Hurricane Sandy? Is help on the way? I think that is a difficult question, and therein lies the complexity for us.

Senator ENZI. Thank you. If I could just make a couple more comments——

Senator CASEY. Sure.

Senator ENZI. I am going to have to run to a meeting here, but I want to thank Mr. Cronin. You bring up one of the most important problems in the west, and that is water. I got to observe some of those Colorado floods. In fact, I could not go straight from Denver up to Wyoming. I flew in on a plane to Denver and had to go by way of Nebraska to get home. So I appreciate your comments on that, and I will have some more specific questions for you on that.

Mr. Loughery, I would be interested in some of the long-term strategic budget planning that you might have in mind. And I will have questions for the others too.

I appreciate all of your willingness to testify and, more specifically, to answer some written questions. Thank you.

Senator CASEY. Thank you, Senator Enzi.

I wanted to ask Mayor Berke a question or two about small businesses. I know that they become, I guess, at once both victims of a disaster and then often the drivers out of the ditch, so to speak. The recovery is often driven by what happens to small businesses.

In particular, in your testimony you quoted at the beginning Mr. Terry Kelley, the marina manager. And then later on, on the second to the last page of your testimony, you said, “If the National Disaster Tax Relief Act of 2014 would have been in place in March of 2012, Mr. Kelley believes the 50-percent bonus depreciation provision and the extension of the Net Operating Loss Carryback provision would have provided crucial cash flow”—probably the three most important words there.

Can you talk a little bit about your experience with the importance of focusing on getting small businesses back on their feet?

Mayor BERKE. Well, as I said, Island Cove Marina is a great example of those kinds of small businesses. This is a place that was destroyed as a result of these tornadoes, and for us, the quicker that that gets built back, not only do you provide that small business with a place to earn money and to provide its goods to our constituents, but you also have those construction jobs and all of the rebuilding tools that provide money for your economy.

So when we talked to Mr. Kelley—he is a great example of somebody who had to work hard even to get started on building back this business in Chattanooga. I think—to go to some of the points that were made here earlier—if he had known what the tax ramifications were for his business, that would have allowed him to put that money back into our economy sooner, get people back to work, and then eventually get his business back up and running as quickly as possible.

Senator CASEY. Is there anything else in terms of what you hope we would do that would have a particularly beneficial impact on small businesses? Anything else that was not discussed or raised already?

Mayor BERKE. The only other thing that I was going to say that I think helps small business in a way that we do not often talk about is that housing actually affects our small businesses, both from the side of building it, but also the need to have those units available for people to live in.

As I said, Chattanooga had the seventh-highest rise in rent in the country over the last 5 years. That is good in the sense that it means that we have a lot of demand and we have people with rising income. It is bad in the sense that many of our entrepreneurs, young people and small business owners, need to live in workforce housing. So when we lose those valuable units, we lose a critical tool that we need to grow business around our city and particularly to keep our city vibrant and energetic.

Councilman IGNIZIO. Mr. Chairman?

Senator CASEY. Yes, Councilman.

Councilman IGNIZIO. If I may dovetail on that from Staten Island's or from New York City's perspective?

Senator CASEY. I actually had a question for you, but go ahead.

Councilman IGNIZIO. Okay. If you do not mind. Thank you, Mr. Chairman.

I think part of what is missing is that the small business coming back, opening up in the community, sends a message—I can tell you from my perspective—that the larger community is coming back and that we will rebuild.

What happened to my community is that, when some businesses opened, people felt a certain "it is going to be okay" scenario. If we offer these businesses some tax incentives to do so, then they acknowledge and they have an understanding of where their revenues are going to be so they invest and reinvest in the community. Then the community as a whole does the same and follows in suit. I think it sends a ripple effect through the entire city.

So I think that is something that is important, not only for the economics of the community, but also to send the message to the community that it is coming back.

Senator CASEY. That message, I think, is critically important. What I was going to ask you about was something you said in your testimony that was pretty direct and blunt, but you were making an important point. On the second page, you said, "Even those who have been fortunate enough to get back up on their feet are filled with angst about what a future disaster may bring or grappling with the prospect that misguided government policies may finish the job Sandy started." Pretty tough words.

Walk me through that so that we have a sense of—around here, when we are working together and you have bipartisan breakthroughs and good policy, that is a good day. On other days, we have to worry that we are not somehow violating what is, in medical terminology, the Hippocratic Oath: "do no harm." I think that is part of what you are getting at here. But walk us through what you hope we would not do in the response to future disasters.

Councilman IGNIZIO. Sure. A couple of points. The timeliness of the fact that government really is there—with the length of time it took to originally allocate the funding for Sandy victims, people were waiting in limbo day after day, saying, "Where is my government trying to help me?"

The second part was that, sometimes a policy sounds really good in the halls of the U.S. Senate or in the U.S. Capitol, but when it gets to the people, it does not help at all. Flood insurance is a problem that I think is going to face all Americans in the coming months and years ahead because, if the goal is to ensure that people come back to their home, well, if you are charging $1,000 a month—which in some cases, some of my constituents have been quoted—that home is unaffordable. So government ends up finishing the job that Sandy began.

I am grateful to Senator Menendez and Congressman Graham who worked in a bipartisan fashion in both Houses to get flood protections done. I just think that many times programs have a hard time getting down to the level of my constituents.

When you start with the alphabet soup of all the agencies—you know, we are dealing with a bus driver here in my friend Richard White. And he would say, if he was here, "I am not sophisticated in all of the intricacies of government. I just want help. I just want to get back into my house; find me an easy way of doing it."

Then his accountant tells him, well, in this State, this was the program. In this State you can deduct this, and we do not know what is going to happen for New York State or for Sandy, and that is up to what is going on here in Washington. People are cynical, and people are saying, "How can we have a government that selects different benefits based on different storms in different parts of the country?"

And that is what I think many of the people, or most of the people, talked about: a consistent approach—that a tornado or a natural disaster that occurred in California or occurred in Colorado or occurred in New York ought be treated as all the same, and the help should be there for all of us.

Senator CASEY. That is why it is encouraging that we have a bipartisan panel here, and you have worked in a bipartisan fashion with folks on this committee, including Senator Schumer, as well as Senator Menendez and others.

I also know that Richard White, the gentlemen you referenced, a city bus driver from Crescent Beach—what I was struck by was the number you have in your testimony. He took out a pension loan, ran up credit card debt, and scrimped and saved for every charitable program so he could scrape together more than $70,000 to repair his home. Now that is a heck of an effort that he made to do that. It sounds like he was on his own for a lot of that. He was kind of——

Councilman IGNIZIO. Yes, sir, he was. And he is still waiting for some help. Ultimately, his house is going to have to be elevated, which is going to put him out of his home for longer now, several months, while they lift his home. That assistance will come from the city program, but it is still going to put him out of his house for months while he is still paying his mortgage and he has no place to go.

So that part has not been solved: how do you pay for a mortgage and pay for rent on an apartment on a civil servant's salary? I do not know that that has been sufficiently addressed either by New York City or by New York State.

Senator CASEY. Mr. Cronin, I know that you made reference, in your testimony, to the irrigation ditch companies trying to rebuild their infrastructure, the infrastructure for water delivery. And I know that is obviously crucial to agriculture. That theme or that reality is certainly present in other States as well, in terms of the adverse impact on agriculture.

Can you give us some examples or ways that these companies would have been better able to meet those challenges if they had had more certainty in the code, something that all of us have referred to today?

Mr. CRONIN. Yes. Thank you, Mr. Chairman.

Despite popular opinion, food does not originate in the grocery store. It does originate in the fields in the breadbasket of this country, so at least in the western part, irrigation infrastructure is a significant piece of that. Mother Nature does not give us enough water to grow the food necessary to provide for the growing demand. So we harvest and use rivers and snowmelt to provide that water to grow crops.

The natural disaster had a significant impact in terms of the velocities, and it completely blew out the diversion infrastructure that allows us to take water from the rivers and put it on crops in fields. So we were left with no choice. One of our ditch companies, the Highland Ditch Company, which had a meeting quickly following the disaster, was faced with taking out a $2-million loan from the State of Colorado.

Usually those meetings that involve any amount of money, whether it is $1 or $2 million, are very lengthy, with a lot of farmers hemming and hawing on whether or not they are going to assess themselves for those costs. Expecting a long drawn-out meeting, everybody strapped in for the debate, one old farmer stood up and said, "We have no choice, do we?" And they all stood up and said, "You know, we don't have any choice. This is our livelihood. This is what produces the food. Let's do it."

So they went ahead and assessed themselves for the cost of a $2-million loan. Fortunately, that loan can be paid off in 30 years, and the State of Colorado stepped up and said, we will waive at least the interest portion of that for the first 3 years. So they do have some possibility to produce some revenue and not trigger this 85 percent, and that would be a loan.

The concern is whether it is financial assistance through the Federal programs or sale of assets that these companies own. The concern is that that would trigger a taxable event, and, much like the farmer at the Highland Ditch Company who said, "We have no choice," they have no choice. They have to build this infrastructure. It is completely necessary for their livelihood and the growing of those crops.

So in the end, if there is a sizeable tax bill, in the opinion of many in those companies, it just means the Federal Government did not fulfill its obligation to provide—in this case—75 percent of the cost share reimbursement. It will be 75 percent less the tax liability.

Senator CASEY. That is real life. We are grateful to you for telling us about that.

I have unlimited time. At the risk of keeping everybody here for the day—and I will not have an open mic time—before we wrap up, I wanted to give folks time for a closing comment. Or often what we like to do at hearings is try to distill it down to the most important points, if there is any particular message you wanted to bring. Maybe we will just start left to right in the order we introduced folks.

Mayor, we will start with you and anyone who wants to say anything going left to right.

Mayor BERKE. Thank you, Mr. Chairman, again, and thank you for having this hearing.

This is a moment where people are often at their most disorganized and at their toughest. So anything that this body can do to provide predictability for them so that they can get back on their feet faster helps those constituents, but it also helps our communities. And, in particular, finding ways to incent quicker, more sustainable development would truly help our cities.

Senator CASEY. Commissioner?

Commissioner LOUGHERY. Mr. Chairman, again, thank you for the opportunity to be here. Thank you for all of your support in Bucks County, and I know Senator Toomey has been very supportive as well.

I will just echo what the Mayor said. It is the predictability, and I think, for the most part, the American people are resilient. We bounce back. For some of us, it takes a little bit longer than others, given our circumstances, but when there is a path that has predictability to it, when we can sort of see where we need to go, especially with small businesses trying to get back up, that helps the community, the families, and the neighborhoods that are impacted by these weather-related disasters.

So I would just echo the comments of predictability in terms of giving a path for those small businesses and the families to be able to recover.

Senator CASEY. I appreciate you being here. Thank you.

Commissioner LOUGHERY. Thank you.

Senator CASEY. Councilman?

Councilman IGNIZIO. Yes, thank you, Mr. Chairman. I want to thank you for having this hearing and drawing a spotlight on this.

There are people across the country who are still suffering from disasters that occurred years ago. I thank you for highlighting it, and I hope that this is a first step in what ultimately will be a great fix.

Without sounding coy, I want to thank the American people for giving the funds to my community to rebuild. Ultimately, it is

Americans helping Americans, and I am grateful to that, and I hope we can build a better mousetrap in the bills that you all are taking up here.

Thank you very much.

Senator CASEY. Thanks very much.

Mr. Cronin?

Mr. CRONIN. Thank you, Mr. Chairman. The reason I took as little time as I did is, we did some quick math on the total investment by the American people on tax incentives such as this, and we are probably anywhere from one-tenth of 1 percent to 1 percent of the total tax benefit there. So it just did not seem fair to take up the full 5 minutes.

That being said, there is a larger issue at hand, and this 85-percent rule is very significant to our constituents really west-wide. And whether you are talking about investment in the infrastructure that served us greatly for over 100 years, water provided for local cities, water provided for the growing of food, or water for endangered species, we need that reinvestment going into the future. We really hope that this committee will, in the future, consider bills such as this to make something more permanent and address this 85-percent rule, because it is really critical to the settlement of the west and the continued quality of life there. Thank you.

Senator CASEY. Thank you.

Mr. Ellis?

Mr. ELLIS. Thank you, Mr. Chairman. I agree with the Councilman that Americans are big-hearted people, but we cannot afford to be soft-headed. Part of that is, we have to plan for these events. We know they are inevitable. We know that they are going to happen, especially in places where they have already occurred before.

So some of it is really not just about the predictability in the tax code so that individuals and companies know what to expect, but also the predictability for the taxpayers, that these communities have done their part to plan for these inevitable disasters, so that we can invest wisely and make them more resilient before the next disaster occurs. And that is why I use the term of the funding disaster response being "pre-sponding" to the next disaster.

And then, just two other little points very quickly that have been raised. I want to point out—and I have done a lot of work on the flood insurance program over the years. The program is $24 billion in debt to taxpayers, and it takes about $3.5 billion dollars in premiums. So something has to be figured out on that. I agree that you do not want to have unsustainable premiums and push people out of their houses, but we have to come up with real solutions in that area.

Then also, on the timing of funding, much of the funding post-Sandy was through the Disaster Relief Fund, which has about $6 billion in it. I would note—and this gets to the point about really figuring this out and planning forward—as of August 31st, only 25 percent of the $50 billion that was appropriated in the Sandy relief package had actually been outlaid.

So we were almost 2 years out at that point and still had not spent a lot of that money. Some of that is, we might be thinking about it more wisely, but it also means that Congress could look at these events more prudently and, instead of doing one big chunk of money, do them as appropriate and track the funding.

I will stop there. Thank you.

Senator CASEY. Thanks very much.

Mr. Lewis?

Mr. LEWIS. Chairman Casey, thanks again for the opportunity to be here.

This morning, in final preparation for this testimony, I spoke to one of our tax practitioners in Louisiana who was on the ground working with clients who had suffered from Katrina. You could feel in the conversation his deep emotion. I mean, I think for most Americans, particularly those who are not impacted by these disasters, it becomes a discussion. It becomes something that they see on the news.

But when we talk to people—actually like many of these panelists—and you hear how devastated some of these communities really are and the difference that programs could make, you get a sense of how important what you are doing today really is. It changes lives, and it changes them for the better.

I think the key here to doing that is to make these changes automatic and make them permanent. This one-off approach that we have had for the past decade helps on a discriminative basis, and that is the thing that I find most troubling. I think, to Mr. Ellis's comments, when we find those programs that work well and those tax incentives, we should codify them in a way that is predictable, that is consistent, and is fair, and I think in that sense that you will get the disaster relief that this hearing has been called to propose.

Senator CASEY. Thanks very much. Well said by all of you. Thank you, and I appreciate your testimony. If you have more that you want to submit for the record, of course, you can do that.

I want to ask my colleagues on the record here to submit statements, if they have them, or questions for the record to the committee. But we are grateful for your testimony. You bring to us a real and immediate sense of what happens in communities, and that is why a hearing like this is so important. So we are grateful. Thanks very much.

We are adjourned.

[Whereupon, at 4 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Written Statement of

Andy Berke

Mayor

Chattanooga, TN

Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover

before the

Committee on Finance

Subcommittee on Taxation and IRS Oversight United States Senate November 18, 2014

Chairman Casey, Ranking Member Enzi, and members of the Committee, I appreciate the opportunity to talk with you about how cities like Chattanooga are affected by natural disasters and how, with greater tax relief, they can recover stronger.

Just after lunchtime on Friday, March 2, 2012, a tornado crashed through the Island Cove Marina off of Harrison Bay in Chattanooga. The restaurant at the Marina immediately ushered patrons into its cooler to wait out the storm in a safe place. When they emerged, the entire area had been transformed. The marina Manager, Terry Kelley, first worked to clean up the fuel spilling into Chickamauga Lake, and then he paused to survey the damage. Snapped trees, sunken boats, and half submerged masts dotted the horizon. Downed power lines draped over the debris strewn parking lot.

The storm had a tremendous impact on both the boat owners, many retired and a few who called their boats home, and on the marina owners themselves. Seventy percent of the 400 slips at the popular marina were damaged, and it would take years to rebuild. From just that single tornado, nine docks were destroyed which added to the $5 million dollars of damage to the property alone. Factor in the nearly 250 boats damaged or destroyed, and the price tag hits $15 million.

Island Cove was one of many victims that day. In March of 2012 Tennessee was declared a federal disaster area after flooding and severe storms, including almost 20 tornadoes, ravaged our area and impacted the lives of nearly one thousand citizens. The widespread destruction could be witnessed in over 344 distinct locations throughout our state. In our area alone, we saw over $16.8 million of property damage and a relief effort that required 997 volunteers who gave a total of 6,617 hours. Dozens of families lost their homes, thousands of residents lost power, 82 buildings were completely destroyed,and businesses faced both physical damage and lost earnings. In just a few short hours, people's lives were changed. This level of destruction meant those who lost the most - and that's often our most vulnerable - would face a long and difficult road to recovery.

There is one thing we all know very clearly. When a community suffers this kind of disaster, the speed at which aid is administered directly correlates with the speed in which a community can heal. And I have no doubt by speeding up the time in which tax relief is available to families and businesses, we will see our communities recover quicker.

While Island Cove Marina had good insurance, the insurance only covered a fraction of the cost. On top of that, they immediately lost revenue and carried that loss for two years while struggling to recover. If the National Disaster Tax Relief Act of 2014 would have been in place in March of 2012, Mr. Kelley believes the 50% Depreciation Bonus Provision and the Extension Net Operating Loss Carryback Provision would have provided crucial cash flow during those critical recovery years, bolstering their bottom line as they struggled to keep their business afloat.

Through the National Disaster Tax Relief Act of 2014, we can help safeguard both our small businesses as well as the most vulnerable among us. This is particularly true for affordable and workforce housing. For instance, eight percent of the homeowners affected in Tennessee during the 2012 storms were low-income. And we know, after a disaster, the need for affordable housing is greater than ever. With our rent prices rising, giving us the seventh highest rate in the country, Chattanooga simply cannot afford to lose any moderately priced units when a disaster strikes.

Today, we have over 1,600 citizens on our wait list for public housing with the problem set to grow even worse. Chattanooga has lost 931 public housing units in the last eight years with another 900 units coming offline in the near future. We are one of five cities nationwide in a program to expand landlord's participation in the Housing Choice Voucher Program, more than 1,000 Chattanoogans are struggling to find a place to live that will accept their HUD housing voucher.

If natural disasters destroy affordable housing and leave units unbuilt because of limited capital, cities like Chattanooga will see continued affordability issues after events of distress. The increases to the Low-Income Housing Credit allocation included in the National Disaster Tax Relief Act of 2014 would help cities like ours recover and maximize their affordable housing stock - helping countless local families stay in their homes.

This is just a snapshot of one moment in one city. But these types of disasters happen without warning and without mercy. Whether it's the destruction of a home or property, damage to a business, or the loss of a life, this body has the opportunity to make a real and lasting difference in the recovery effort of a city, a state, and a community in their time of greatest need.

Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover

Opening Statement of Senator Bob Casey, Jr.
November 18, 2014

This afternoon we convene the Finance Committee Subcommittee on Taxation and IRS Oversight to discuss an important topic—how the tax code can help areas recover and rebuild after major disasters.

I would like to thank Chairman Wyden and Ranking Member Hatch for the opportunity to hold this hearing and our Subcommittee Ranking Member, Senator Enzi, for joining me today. I would also like to acknowledge Senator Schumer for his leadership on this important issue.

Natural disasters such as floods, hurricanes and tornados can have a devastating impact on communities. In Pennsylvania, I have seen firsthand the tremendous impact flooding has had on our Commonwealth. In 2011, Hurricane Irene and Tropical Storm Lee caused the worst flooding in Pennsylvania in over 40 years. Then, in 2012, Hurricane Sandy caused further severe flooding damage. In the aftermath of these storms, I visited communities across Pennsylvania and witnessed the devastation. Flooded homes and businesses, severely damaged infrastructure and overwhelmed local governments were common place after these events.

The federal government has a number of tools at its disposal to help these communities in need. Today, we are here to discuss one such tool—tax relief. While there are several permanent provisions in the code to assist in these situations, the reality is we take a one-off approach in response to federal disasters.

For example, taxpayers who provided free housing to those displaced by Hurricane Katrina and the Midwest tornados of 2007 received additional tax exemptions for each victim whom they housed, but no similar relief was offered to those who housed victims of Hurricanes Sandy and Irene. Similarly, families affected by the Gulf Coast Hurricanes in 2005 and Midwestern storms in 2007 were eligible for additional tax credits for education expenses, but victims of other major disasters such as the flooding Pennsylvania in 2011 and 2012 did not receive comparable assistance.

The lack of consistency in our response is troubling. The federal government should have a fair and equitable approach. Today's hearing will offer us a much-needed opportunity to examine these policies. I look forward to taking a closer look at various types of relief, the benefits and drawbacks of temporary and permanent relief provisions, and ways we can improve the code.

Natural disasters can happen to any community. It's important that the federal government stand ready to help **all** communities rebuild from natural disasters.

ST. VRAIN AND LEFT HAND WATER CONSERVANCY DISTRICT
9595 Nelson Road, Suite 203 · Longmont, CO 80501 · 303-772-4060 · www.svlhwcd.org

November 13, 2014

United States Senate
Committee on Finance
Washington, DC 20510-6200

RE: Testimony for Hearing on "Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover"

Dear Chairman Wyden:

In September, 2013, the Front Range of Colorado, from Colorado Springs to Fort Collins, received approximately 2 to 18 inches of rainfall in a seven day period. For an area that historically receives an **annual** average of 20 inches, this storm produced a 1 in 1,000 year precipitation event in some locations. Precipitation fell at elevations as high as 10,000 feet and at lower elevations near 5,000 feet.

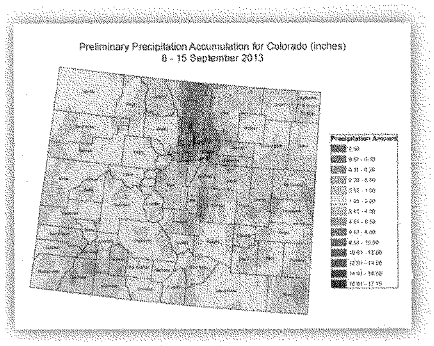

Figure 1 – Colorado Climate Center

The long duration and intense precipitation event combined with steep elevation changes from the mountains to the plains caused the storm to quickly evolve into a catastrophic flood event. In the end, the flood took ten human lives and caused hundreds of millions of dollars of damage, including widespread damage to raw water infrastructure.

The St. Vrain and Left Hand Water Conservancy District ("District") in Longmont, Colorado was organized April 19, 1971 as a non-profit water conservancy district under the Water Conservancy Act of the State of Colorado. The District is a quasi-municipal corporation and a political subdivision of the State of Colorado. The District serves its constituents by protecting water rights, encouraging improved water management, and supporting the development of additional water storage. The District is administered by a nine person Board of Directors appointed by District Judges within Boulder, Weld and Larimer Counties. The District's 320,000 acre boundary extends from the Continental Divide in Rocky Mountain National Park eastward to the plains at the confluence of St. Vrain Creek and the South Platte River.

Among the District's primary constituents are mutual ditch companies. Mutual ditch and reservoir companies are special purpose Colorado corporations which exist to deliver water to their shareholders for irrigation and domestic purposes. Many of these companies have operated within Colorado and in the St. Vrain valley since before statehood. Within the boundaries of the District, there are 94 such companies that collectively provide water for to irrigate over 70,000 acres of agricultural farmland. Irrigated agriculture contributes substantially to the local economy and is a significant reason why the St. Vrain valley is a highly desirable place to live and work.

For well over 100 years, mutual ditch and reservoir companies have installed, operated, and maintained critical water infrastructure necessary for agricultural production and this region's quality of life. Congress and others have historically acknowledged the significance of these companies. Almost 90 years ago, the Revenue Act of 1926 provided for a conditional tax-exemption that remains integral to the finaical sustainability of these companies.

Section 501(c)(12) of the United States Internal Revenue Code provides that, in order to qualify as tax-exempt, a mutual ditch and reservoir company must receive no less than 85 percent of its income each year from its members (shareholders), which is collected through annual assessments. If a company fails to meet this test in any given year, it may jeopardize its tax exempt status for that year. In the last 20 years, this requirement has proven difficult for many mutual ditch and reservoir companies to meet, as maintaining aging water infrastructure is often more costly than can be financed by shareholder assessments. Without the ability to generate outside sources of income, mutual ditch and reservoir companies are often required to short-change needed capital improvements thereby increasing costs, reducing efficiency and, in some cases, risking public safety.

To adequately address capital needs, mutual ditch and reservoir companies must be able to generate income from other sources without jeopardizing a company's tax-exempt status. This is a need that absolutely must be addressed long term. We are pleased however, that at least for the short term the National Disaster Tax Relief Act of 2014 ("The Act") does address the need for those mutual ditch and reservoir companies operating in a qualified 2012 and 2013 disaster area. **The Act is absolutely critical to ease the burden on mutual ditch and reservoir company shareholders rebuilding from the September 2013 Colorado flood**.

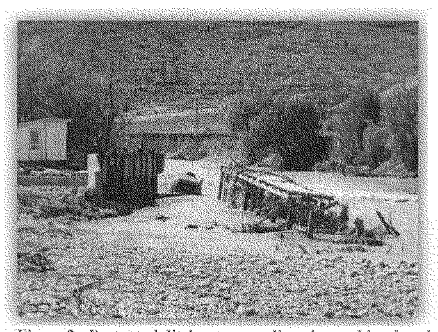

Figure 2 - Destroyed ditch company diversion and headworks

Within the boundaries of St. Vrain and Left Hand Water Conservancy District, 44 of the 94 local ditches and reservoirs suffered damaged infrastructure from the flood totaling approximately $18.4M.

Under the leadership of the Colorado Water Conservation Board a collaborative "coalition" approach to rebuilding is happening. Through the District, each mutual ditch and reservoir company is participating in a coalition that has developed a watershed specific "Master Plan". The goal of the Master Plan is to promote healthier riparian corridors and stream systems that are better able to handle future floods, and minimize damage to critical infrastructure, including that used for agricultural production.

Through collaboration, many mutual ditch and reservoir companies recognized the need to rebuild their infrastructure with consideration given to the ecosystem and to design elements that will withstand future high-flow events. For example, in St. Vrain Creek alone, several destroyed diversions structures that were fish impediments pre-flood, are now rebuilt and are fish passable. An additional four diversion structures with similar fish-friendly design elements are now under consideration or in design phase. This demonstrates the continued commitment by the agriculture community to be stewards of not only the land and water, but also of the ecosystem. Moreover, it's an example of the **community connectedness and "payback" for the visiun, leadership, and investment Congress provided back in 1926.**

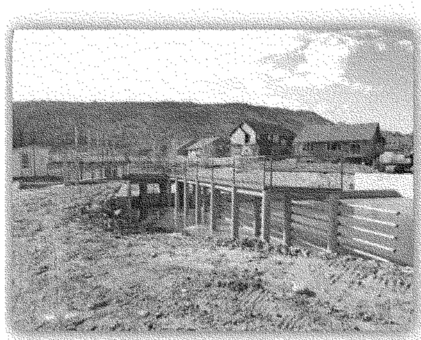

Figure 3 – Repaired ditch company diversion and headworks

Just over one year since the September 2013 flood, infrastructure repairs and rehabilitation are still ongoing. I am pleased to report, however that as of September 16, 2014, 80 percent of the 44 damaged ditch and reservoir companies are back online, with 95 percent expected back online by the end of this year. Mutual ditch and reservoir companies whose rebuilding projects cost less than $25,000 were able to obtain a grant from the State of Colorado. For many ditch and reservoir companies, rebuilding projects are well in excess of $25,000, and shareholders assessed themselves for the expense to rebuild.

Reimbursements of some rebuilding projects are possible for a small fraction of the companies, with 12 of the 44 mutual ditch and reservoir companies qualifying for Federal Emergency Management Association ("FEMA") assistance. Additionally, other funds were recently made available from Housing and Urban Development ("HUD") through the Community Development Block Grant – Disaster Recovery ("CDBG-DR) program, which may be accessible by these companies.

FEMA project worksheets for these rebuilding projects have been approved, though reimbursements are slow and to date very few mutual ditch and reservoir companies have received funds. The tax implications for 501(c)(12) mutual ditch companies that receive this funding is a real concern as it effectively reduces the amount of federal assistance. Reduced assistance creates additional cost to the shareholders, and adds stress to the agriculture industry and economy. **The Act will provide tax, industry, and community relief.**

With only 12 of the 44 mutual ditch and reservoir companies approved for FEMA reimbursement, others have been forced to determine whether to finance repairs through substantially increased, long-term assessments, or through the sale or lease of real property. For those situations where proceeds from sales or leases would reduce the total amount of shareholder contributed income below 85 percent, the company would lose its tax exemption and face a probable tax liability. The current mandate that mutual ditch and reservoir companies receive 85 percent of its income from shareholders impedes one of the few creative opportunities for companies to finance necessary repairs without tax liability. **The Act will provide funding options and incentivize ditch companies to reinvest sale proceeds into their damaged infrastructure.**

On behalf of the constituents of St. Vrain and Left Hand Water Conservancy District, thank you to the sponsors and other supporters of The Act. **The Act will have a positive impact on the September 2013 Colorado flood recovery effort, strengthen communities, and make further investments in critical water infrastructure to maintain Colorado's agricultural economy and quality of life.**

Sincerely,

Sean T. Cronin
Executive Director

Sean is the Executive Director for the St. Vrain and Left Hand Water Conservancy District in Longmont Colorado. He has over 19 years experience in water resource planning and policy.

Sean earned his Bachelor's Degree in Environmental Science from the University of North Carolina at Charlotte, and spent two years as a Natural Resources Agent with the North Carolina Cooperative Extension Service before moving to Colorado. Prior to joining the District, Sean spent 13 years with the City of Greeley, Colorado, including the last six as their Water Resources Manager.

Sean is chairman of the South Platte Basin Roundtable, a recipient of the Colorado Foundation for Water Education – Emerging Leader Award, and guided the District's flood recovery efforts that were recognized by the Special District Association through its annual Collaboration Award.

TAXPAYERS FOR COMMON SENSE
MAKING GOVERNMENT WORK

Testimony of Steve Ellis
Vice President, Taxpayers for Common Sense

United States Senate Committee on Finance
Subcommittee on Taxation and IRS Oversight
hearing
"Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover"

November 18, 2014

Good afternoon Chairman Casey, Ranking Member Enzi, members of the subcommittee. I am Steve Ellis, Vice President of Taxpayers for Common Sense, a national, nonpartisan budget watchdog group. I am very pleased that you invited me here today. TCS has been involved in national disaster policy since our inception nearly 20 years ago and I have been engaged in this issue since I was a young Coast Guard officer working on the policy response to the Great Midwest Flood of 1993.

I know the hearing today, and the committee's jurisdiction, is on tax policy, but I want to stress that the nation has to reform its policies to take a holistic approach to disaster response and recovery that promotes resilience and pre-sponds to inevitable future disasters. That encompasses federal appropriations, tax expenditures, rules and regulations, loans and loan guarantees as well as local and state engagement. More generally on tax policy, Taxpayers for Common Sense strongly supports efforts to enact comprehensive tax reform, and we would be more interested in eliminating many of the tax expenditures rather than expanding them and creating new ones on an ad hoc basis.

Simply put, too much federal assistance – whether spending or revenue loss – goes out without a real plan in place and adequate demands to make communities and individuals more resilient. Every dime that is spent by the U.S. Treasury in disaster response should help ensure that another dime doesn't have to be spent on the same thing in the future for another recovery. Unlike appropriated spending, however, tax credits, special depreciation schedules, and tax-exempt bonds are blunt instruments. They reward much reinvestment that would happen regardless and may create subsidies that are out of proportion to the losses incurred when other federal, state, and charitable programs are taken into account. The committee should regard tax solutions to natural disasters with skepticism.

As with other areas of the tax code, these disaster-related tax expenditures are hidden spending and deserve far more scrutiny than they have received. The Government Accountability Office has pointed out time and again that "... once enacted, tax expenditures and their relative contributions toward achieving federal missions and goals are often less visible than spending programs, which are subject to more systematic review."[1]

For instance, there is very little data available that documents who did what with the various tax preferences that were granted post-Katrina or other disasters. We don't know if various provisions change behavior, increase resiliency, or help people rebuild. A subsidy is a policy tool to encourage behavior that would not otherwise occur. If people or businesses were already going to do the activity, well then, it was a waste. You can look at the post-9/11 Liberty Bonds to help promote development in downtown Manhattan. On September 12, 2001 it was not clear if re-development would occur. Within a few years, it was pretty clear that redevelopment was occurring and high value redevelopment at that. While unnecessary, the subsidies remained.[2]

Similar problems occurred with the Gulf Opportunity (GO) Zone program, which was in part based on the Liberty Bonds and intended to promote development in areas devastated by Katrina, Rita, and Wilma. But again, much of the development didn't occur in the areas hardest hit and went to areas less affected that presumably did not need the tax advantaged bonds to redevelop. As the GAO wrote this committee in 2008, "For the most part, all three eligible states allocated GO Zone tax-exempt private activity bond authority without consistently targeting the allocations to assist recovery in the most damaged areas."[3] Part of this was because of the first-come, first-served approach to allocating the support to a large diversified area that was comprised of rural and urban areas with large differences in relative affluence and impact from the storm.[4] In some cases it may not make sense to redevelop certain vulnerable areas that were hit hard, but that should be a conscious part of the decision-making process that also incorporates how the redevelopment is being done, what structures are being constructed, and the level of protection and/or mitigation involved.

I am not aware of a GO Zone proposal for areas hit by Superstorm Sandy and Hurricane Irene, but there has been a push to extend or create provisions to increase tax advantages in disaster affected regions. These include proposals involving the New Markets Tax Credit (NMTC), charitable contributions, increased expensing and bonus depreciation, and use of tax-exempt retirement plan funds among others. Each of these provisions was part of earlier disaster recovery tax packages. All suffer from a lack of effective targeting to the greatest needs and each fails to promote greater resilience to future disasters.

The New Markets Tax Credit was created in 2000 to help spur development in low income communities by leveraging tax credits given to community development entities. There are proposals to increase the allocation to target these same communities specifically in disaster areas. The program itself has its detractors. In some cases the NMTC not only went to development that would have otherwise occurred but was upscale.[5] In 2010, the GAO opined that a grant program would be more transparent and be

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[1] Government Accountability Office (GAO). "Tax Expenditures: Background and Evaluation Criteria and Questions." November 29, 2012.
[2] Martin Z. Braun. Bloomberg L.P. "New York's Post-9/11 Liberty Bond Program Gets Mixed Grades." Sep. 11, 2006.
[3] GAO. "Gulf Opportunity Zone: States Are Allocating Federal Tax Incentives to Finance Low-Income Housing and Wide Range of Private Facilities." July 2008.
[4] Kevin Fox Gotham. City & Community. "Dilemmas of Disaster Zones: Tax Incentives and Business Reinvestment in the Gulf Coast after Hurricanes Katrina and Rita." December 2013.
[5] Ryan Frank. The Oregonian. "Blight Area Tax Breaks Aid Rich." November 27, 2006.

more cost-effective.[6] Just this summer the GAO indicated that the program needed increased controls and transparency.[7] Beyond those criticisms, the program is not structured to promote targeted, more resilient development, which is what communities recovering from disaster need.

In the case of charitable contributions, individuals making contributions to charities for disaster relief efforts would be allowed to deduct more from their income than is currently allowed. There are bigger questions about the charitable deduction, but in this specific case, the federal government is saying those impacted by larger disasters are in effect, more important than those affected by smaller ones or those whose plight – such as a chronic disease – does not stem from a disaster. Finally, the government will be subsidizing contributions to these organizations without really knowing the activities the organizations would undertake or why.

Increased expensing and bonus depreciation for property purchased after a disaster to repair or replace property destroyed in the disaster is also a blunt instrument. We don't know the condition of the earlier property or even if the assistance is necessary to facilitate the purchase. In addition, some taxpayers won't even be able to take full advantage of the accelerated expensing or bonus depreciation if they don't have the current and future income to write it off against.

Other ideas like penalty-free withdrawals from retirement accounts could make sense. But in general, these provisions haven't been targeted or limited to disaster related activities. The taxpayer would have to live in the declared disaster area, have disaster-related damage, and would be limited on the total amount that could be withdrawn from the account, but what that money was spent on may or may not have anything to do with the disaster, rebuilding, or increasing resilience. Furthermore, this has the potential of turning a retirement plan into disaster insurance, which would be questionable policy from a retirement security perspective.

The nation's approach to disasters needs to be reformed. Planning and investments before the inevitable disaster will make communities more resilient and will cost taxpayers less. The Sandy supplemental contained $15.2 billion[8] in Department of Housing and Urban Development Community Development Block Grant disaster funding. That's five times the program's annual appropriation. The State of New Jersey's annual CDBG spending is $7 million; the Sandy supplemental gave the State $4 billion in CDBG disaster recovery funds.[9] The U.S. Army Corps of Engineers received $5 billion – equal to one fiscal year's funding for the entire agency. Yet, this post-disaster funding flows slowly – less than a quarter of all funding had been outlaid by the end of August and less than 15 percent of the funding for CDBG and the Corps of Engineers.[10]

The ad hoc response increases waste and reduces efficiency. The CDBG disaster program doesn't have a standing authorization and is driven by a series of federal register notices. The Corps is using Sandy

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[6] GAO. "New Markets Tax Credit: The Credit Helps Fund a Variety of Projects in Low-Income Communities, but Could Be Simplified." January 2010.
[7] GAO. "New Markets Tax Credit: Better Controls Are Needed to Ensure Effectiveness." July 2014.
[8] Post-sequestration
[9] Certain approved cities, counties, and communities receive CDBG funds directly from HUD, but for example the State offices in NJ (which received the Sandy spending) spent $6.9 million in regular CDBG funds between July 1, 2012 and May 31, 2013.
[10] Taxpayers for Common Sense. "Superstorm Sandy Spending Report; Two Years Later." October 28, 2014. Available at: http://www.taxpayer.net/library/article/superstorm-sandy-spending-report-two-years-later

funding to complete a comprehensive plan for the affected states, but in the two year interim has been repairing or pushing to complete projects that rebuild more of the same instead of mitigating risk.

Disaster related tax provisions may have a place in response, but they – like the rest of the government's disaster recovery – need to be targeted to promote resilience and reduce risk. Current law is ad hoc at best. "Free" post-disaster funding reduces the incentive to invest in pre-disaster efforts to mitigate damage and promote resilience. Communities accessing post- and pre- disaster funds should be required to submit, implement, and enforce resilience plans that take into account future conditions and include pre-disaster resilience and rebuilding stronger and safer after a storm. Programs like flood insurance need to be reformed. Responsibility needs to fall more on the states. There should be requirements promoting adequate building codes and insuring public infrastructure in the private marketplace. While protecting taxpayers, rigid rules regarding reconstruction should be flexible enough to encourage a more resilient recovery not simply rebuilding in-kind.

These are just a few ideas we have regarding disasters. I applaud you for conducting the oversight and for reviewing tax expenditures. I urge you to request the GAO report on how disaster related tax provisions have been implemented in the past and whether they have promoted a more resilient recovery. If you do enact disaster related tax provisions, I urge you to require the GAO to evaluate their implementation and resilience impact. Any federal spending – whether through the Treasury or through the tax code – should be evaluated to see whether it has the intended impact. Disaster recovery spending should be evaluated on whether communities emerge more resilient and less vulnerable to future disasters.

Again thank you for inviting me to testify here today and I'm happy to answer any questions you might have.

Opening Statement of Senator Michael B. Enzi
Subcommittee on Taxation and IRS Oversight
Senate Finance Committee
Hearing to Receive Testimony on
"Tax Relief After a Disaster: How Individuals, Small Businesses, and Communities Recover"
November 18, 2014

Mr. Chairman, thank you for holding this important hearing on how we can best help and support the efforts of our small businesses, communities and affected citizens recover from disasters. I am looking forward to hearing the good ideas and thoughtful suggestions of our panelists about what we're doing right and what we need to do better to respond to the disasters and emergencies. Whether we make changes to the tax code or grant assistance through the federal budget, we want to make sure we assist communities to move forward after tragedies. Simultaneously, we should plan ahead to strengthen our country's ability to respond in the right ways and lessen the risk for human and economic loss from future events.

For my part, as a former Mayor, member of our State Legislature, and as an accountant, I well recall the challenges my hometown and surrounding communities had to face to recover from a variety of disasters. We needed to call on all the resources we had available to bring our cities and towns back from those tragic experiences.

I mention that because I have always believed that responses to disasters should be guided and directed by those closest to the folks back home – their elected officials on the local and state level. They are the ones who know best how to respond to a disaster in a way that is both supportive for those affected and mindful of our limited financial resources.

Yes, I mentioned cost. It's a concept we need to keep in mind during our discussions. A sound response requires we balance on the one hand our limited government resources with the needs of the community. We strive to preserve this equilibrium to make sure that the government over time can respond equitably to those having suffered losses now or in the future, in a sustainable pattern.

We've all seen the faces of those who are in the midst of working to cope with a disaster. Heartbreaking as it is, we must not lose sight that when we provide federal tax relief for one affected region, all of the nation's taxpayers ultimately help to pay for it.

As a Grandfather it continues to concern me that my grandchildren might not have it as good as we have. When the time comes for them to take their place as our leaders my fear is they will find themselves faced with a major disaster of their own. What will they find when they look in our rainy day fund? If we aren't careful they'll find nothing in it but stacks of IOUs. Clearly, we can't allow that to happen.

That is why we need to use the financial aid we have in a very careful and judicious manner. We can no longer afford to spend more money than we have without a clear plan of action and an even clearer strategy to pay for our relief efforts.

With that thought in mind, we should be certain that whatever tax changes for specific communities we consider, they will be based on these three principles:

1. The corresponding tax benefits should go to those who need it;
2. They should likely exist for a limited period of time; and
3. They should come with standards of accountability so we can track our expenses and monitor both how they are being used and evaluate the effectiveness.

We need to ensure that whatever help we provide does not evolve into a long-term subsidy that will be around well after the community has recovered from an emergency. We just don't have the funds necessary to make long-term or permanent commitments in response to emergency short-term needs.

Back in 2008, Max Baucus and I worked out a bipartisan agreement to put the federal government on course to be better prepared for the weather-related disasters that hit our nation's agriculture communities. Our agreement was designed to ensure the money would be in the hands of those affected by these disasters in a timely manner, which is why we placed this new program under the administration of the Agricultural Disaster Trust Fund. Congress reauthorized the program earlier this year. The reauthorization process is important because it gives us an opportunity to re-evaluate the program's operation to ensure it is working as intended.

Let's be sure – whether we are granting relief through the tax code, making an appropriation, or working on an assistance program – the money we provide goes right into the hands of those who need it the most – the businesses and individuals who really need our help. We must also work in concert with the affected states to ensure they are getting what they need – no more, no less. There must also be a plan in place to pay for it that will make these programs as budget neutral as possible.

Thank you, Mr. Chairman, once again, for holding this hearing. I am looking forward to the testimony we will receive today that will help to guide our efforts and provide us with a framework for our future work on this issue.

THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, NEW YORK 10007

VINCENT M. IGNIZIO
Minority Leader

United States Senate Subcommittee on Taxation and IRS Oversight
Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover
Tuesday, November 18, 2014

Good afternoon Chairman Casey, Ranking Member Enzi, Members of the Subcommittee on Taxation and IRS Oversight, and distinguished guests. My name is Vincent Ignizio. I am the Minority Leader of the New York City Council. Thank you for allowing me the opportunity to testify on behalf of my constituents in Staten Island and all New York City residents, on how Hurricane Sandy has affected our communities, and how we can continue to help them through tax relief and other programs.

I want to also to give a special thanks to Senator Chuck Schumer, who has been a great partner with my office and all of Staten Island's elected officials, especially as we have worked together to help our city recover from the worst natural disaster in its history.

You have my bio, so I will start with a brief introduction to my borough: Staten Island is approximately 58 square miles with very diverse socio-economic demographics, a healthy mix of small businesses and larger national retailers and a wide range of housing stock.

Many of you have become familiar with our borough since Hurricane Sandy wrought destruction on the Northeast coast on October 29 and 30th of 2012.

On Staten Island, Sandy's storm surge took a particularly devastating toll: 24 people died, thousands of homes and businesses were severely damaged or destroyed, and in some cases, entire neighborhoods taken off the map.

More than two years later, residents of my borough, and all of New York City, are still struggling to recover. Thousands of families are stuck in the maze of bureaucratic government recovery programs, and many local small business owners have closed their doors permanently.

Even those who have been fortunate enough to get back on their feet are filled with angst about what a future disaster may bring, or are grappling with the prospect that misguided government policies may finish the job Sandy started.

Take for example Paul DiCristina, who has lived with relatives in Brooklyn since the storm destroyed his home and his family's restaurant, the Coral Bay Café in Tottenville. Paul desperately wants to rebuild. But he has received no assistance from recovery programs created to help businesses and homeowners - though it is clear he is exactly the type of person those programs were designed to help.

Atlantic Village, a homeowners association consisting of 152 homes and more than 350 residents in Annadale, is also in dire need of assistance. To protect themselves from the waters of the Raritan Bay, the association took out a SBA loan to fund the construction of a steel-reinforced, concrete seawall. But the storm surge from Hurricane Sandy ripped their seawall apart as if it were made of paper. Many of the homes closest to the water were damaged, though it would have been far worse had the seawall not taken the brunt of the impact.

After cleaning up the debris, the association has no money left to rebuild their seawall and cannot afford to take out another loan, leaving hundreds of residents in harm's way. Ironically, they were much better protected before Hurricane Sandy than they are now.

I have been working with Sen. Schumer's office to identify a source of funding for Atlantic Village, but I think we both agree it should not be so difficult. Federal disaster recovery programs are welcome and necessary, but in my 17 years as a public servant, I have learned that anything we can do in government to help people help themselves is far more effective, more sustainable and faster.

We should provide federal tax incentives to help homeowners associations like Atlantic Village and individual homeowners build flood protections or build to more resilient standards.

That type of tax relief would have certainly helped Richard White, a city bus driver from Crescent Beach. Rich has been more fortunate than many others affected by Sandy. Through sheer determination and resourcefulness, he has been able to rebuild his bungalow home. He took out a pension loan, ran up credit card debt, scrimped and saved and applied for every charitable program so could to scrape together more than $70,000 to repair his home back to its pre-Sandy condition. He is still waiting for the city's housing recovery program to elevate his home to protect it from future flooding.

Meanwhile, when Rich was finally able to move his family back home last year, he was struck another blow when his property tax bill was 30 percent higher than it was before Sandy. He, like thousands of other New York City Homeowners, discovered one of the unintended consequences of rebuilding their flooded houses: Soaring property taxes. The New York state tax code does not distinguish between an owner voluntarily making substantial improvements or repairs to his or her home and an owner who has to rebuild his or her home after a tragedy. In both cases, the improvements are taxed at full market value, creating a substantial disincentive for owners who are considering whether to rebuild and potentially making previously affordable homes unaffordable.

It was because of Rich and many other constituents who called my office shocked by their property tax bills after Sandy, that I worked with NYC Mayor Bill de Blasio's office, State Senator Andrew Lanza, the NYS Assembly, and Governor Andrew Cuomo to create a property tax abatement for the thousands of New York City homeowners affected by this problem. I am currently working with Sen. Lanza, the NYS Assembly and the Mayor's Office on a permanent solution.

But even when we solve our post-disaster property tax problems, there is a much greater obstacle to a permanent, sustainable recovery in New York that cannot be overcome without federal intervention: The soaring cost of flood insurance. While I know it not the purview of this committee, I feel strongly that we cannot talk about economic recovery without addressing this crucial problem, which, if not fixed, will price our constituents out of their homes. I believe tax relief should be considered as part of this solution.

The passage of the Homeowner Flood Insurance Affordability Act of 2013 has helped alleviate some very steep increases in premiums brought on by the Biggert Waters Flood Insurance Reform Act of 2012. I want to thank Congressman Michael Grimm for shepherding this through the House and Senator Robert Menendez for sponsoring the bill's passage in this body. As outlined in that bill, FEMA should develop a flood protection standard for existing urban buildings like those in our city and offer premium reductions for alternative resiliency measures - partial credit for partial mitigation.

The IRS can help as well, by providing tax credits for homeowners who elevate their homes, or perform other measures to make their homes more resilient – perhaps with something similar to the Energy STAR rebate program. It can also provide tax incentives for homeowners who are not required to purchase flood insurance or who are purchasing flood insurance for the first time. In New York City alone that could potentially include tens of thousands of new policy holders, since the recently updated 100-year floodplain maps include about 400,000 residents and 70,000 buildings, about double the numbers from the previous flood maps. Already, my constituents have been contacting my office in alarm about these new policies, having received quotes for residential flood insurance upwards of $36,000 per year.

Passage of the National Disaster Tax Relief Act of 2014 would be another big step in the right direction, as it would provide substantial assistance with my constituents, especially the provisions that would give them the ability to expense qualified disaster costs, allow an exclusion from gross income for disaster mitigation payments received from state and local governments and take a full earned income tax credit if their home was damaged by Sandy.

In fact, I believe the provisions of the National Disaster Tax Relief Act should be long-term or periodically renewable, so that the federal government could instantly "turn on" a tax relief package for areas declared national disasters. Such a package would not only help stimulate a faster recovery, but would also provide some certainty for affected individuals and businesses during a time filled with uncertainty and difficulty.

I know elected officials on all levels are working hard to make sure Americans who have suffered so much from disasters have a government that is helping them recover quickly and efficiently while helping us become more resilient for any future storm that comes our way.

Thank you again for your time.

I am happy to answer any questions you may have.

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WRITTEN TESTIMONY OF TROY K. LEWIS

ON BEHALF OF THE

THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

BEFORE

THE UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT

HEARING ON

TAX RELIEF AFTER A DISASTER: HOW INDIVIDUALS, SMALL BUSINESS, AND COMMUNITIES RECOVER

NOVEMBER 18, 2014

INTRODUCTION

Chairman Casey, Ranking Member Enzi, and Members of the Subcommittee, thank you for the opportunity to testify today regarding tax relief after a disaster. My name is Troy Lewis. I am the vice president and chief enterprise risk management officer at Heritage Bank in St. George, Utah. I am also a sole tax practitioner, adjunct faculty member at Brigham Young University in Provo, Utah and Chair of the Tax Executive Committee of the American Institute of Certified Public Accountants (AICPA). I am pleased to testify today on behalf of the AICPA.

The AICPA is the world's largest member association representing the accounting profession, with more than 400,000 members in 128 countries and a history of serving the public interest since 1877. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

AICPA members, like you and many others in the U.S., are all too familiar with the devastating consequences of disasters, such as Hurricanes Sandy and Isaac and more recently, the severe storms, fires, floods, landslides, and mudslides in Colorado.[1]

We would like to applaud the Subcommittee for their consideration of tax relief for individuals, small businesses, and communities, after a disaster. We are pleased that Congress enacted the Katrina Emergency Tax Relief Act of 2005[2] and we commend the members of Congress for their dedication and hard work, over the years, in developing tax relief bills for disaster victims.[3]

NEED FOR PERMANENT AND TIMELY RELIEF

The AICPA continues to stress the need to include, in the Internal Revenue Code (IRC or "Code"), permanent tax provisions that will quickly aid affected taxpayers as they recover from the impacts of natural disasters. Families and communities impacted unexpectedly by disasters are often displaced from their homes, their livelihoods, and their businesses. We believe permanent relief, which is long-overdue, will provide disaster victims with certainty, fairness, and the ability to promptly receive the aid they need after a natural disaster, while reducing the administrative burdens on disaster victims and the Internal Revenue Service (IRS). Therefore, we urge Congress to enact tax legislation that permanently provides meaningful (and timely) relief, which is automatically triggered by

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[1] IR-2013-75, "IRS Provides Tax Relief to Victims of Colorado Storms," September 16, 2013.
[2] PL 109-73, "Katrina Emergency Tax Relief Act of 2005," September 23, 2005.
[3] *See* S. 1696, Hurricane Katrina Tax Relief Act of 2005, S. 93, Investment Savings Access After Catastrophes Act of 2013, and S. 2634, National Disaster Tax Relief Act of 2014.

a declaration of a federal disaster rather than providing for such relief via individual bills following a disaster.

In order to provide assurance to disaster victims, it is important that tax relief provisions are made permanent. Although we cannot prevent natural disasters, predict when or where they will arise, or predict the scope of damages that will result, we know disasters occur annually on a regular basis throughout the country. Each year, we witness the far-reaching effects of these events, which frequently extend across state borders and Congressional districts, impacting hundreds of thousands of people. The implementation of permanent disaster relief provisions will afford taxpayers, across the nation, a certainty in the tax benefits they receive.

Our current system provides inconsistent tax relief. In the past, Congress has considered each disaster as an isolated event and restricted any special tax relief to such individual event. Unfortunately, this unsystematic process results in similarly-situated taxpayers receiving different tax benefits for comparable losses. It is important that all victims – whether they reside in Pennsylvania, Utah or some other state, and whether they endured a hurricane, a mudslide or other type of disaster – receive comparable relief. We recognize that certain tax benefits may not be available to every taxpayer due to his or her personal situation; however, the rules should be consistent among the various disasters.

We propose disaster tax relief in the form of legislation that would immediately take effect when a triggering event occurs. Under the current system, individuals and small business owners do not know what tax relief they will receive until Congress enacts legislation sometimes months or even years after the event.[4] The AICPA is concerned about the struggles taxpayers face when they need to make home repairs and reopen their businesses immediately after the disaster, even though they may not obtain relief until sometime in the future. The uncertainty surrounding such delayed relief impedes recovery. Unexpected disasters are traumatic to the victims and devastating to small businesses. Families hope to reconstruct homes and small business owners need to rebuild storefronts, but without any extension of relief from Congress or a guarantee that relief is shortly on its way, disaster victims are forced to make difficult and financially burdensome decisions assuming no Federal tax assistance. We believe that providing tax relief in a timely manner will relieve victims from the long periods of uncertainty and concern regarding what tax relief they will receive and when they will receive it, and allow these families and communities to more swiftly recover, rebuild, and return to their homes and businesses.

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[4] PL 109-135, "Gulf Opportunity Zone Act of 2005," was enacted on December 21, 2005 to extend many of the provisions contained in the Katrina Emergency Tax Relief Act of 2005 to cover individuals and businesses affected by hurricanes Rita and Wilma, which occurred only a few months prior in September and October of 2005. However, victims of Hurricane Sandy in 2012 still await tax relief as H.R. 2137, "Hurricane Sandy Tax Relief Act of 2013," introduced in May of 2013, has yet to be enacted.

In order to provide timely relief, we recommend that Congress enact legislation that provides that extraordinary relief is available (i.e., the "trigger" occurs) when a taxpayer resides, or has a principal place of business located, in a Federal Emergency Management Agency's (FEMA) "Disaster Declaration"[5] area for which individual "disaster assistance" is available. Having a trigger mechanism that is activated through a federally-defined and controlled FEMA process will allow taxpayers the ability to promptly identify and timely receive tax relief for which they are eligible.

AICPA PROPOSALS

The AICPA urges Congress to consider the following ten legislative proposals as permanent tax provisions, which if enacted, would take effect upon the occurrence of the above mentioned federal disaster declaration trigger by FEMA.

1. Waive Individual Casualty Loss Minimums

Under present law, an individual taxpayer may generally claim a casualty loss[6] on his/her tax return for disaster-related losses unreimbursed by insurance. The casualty loss is deductible for both regular tax and alternative minimum tax (AMT) purposes. In general, the deduction is calculated by taking the decline in the fair market value (FMV) of the property immediately before the casualty and the FMV after the casualty, then subtracting any insurance recovery or reimbursement and $100 from the FMV decline. The remaining amount is reduced by 10 percent of the taxpayer's adjusted gross income (AGI) to compute the deductible casualty loss.[7] The current rules do not provide any relief to victims until their losses exceed these thresholds.

The AICPA recommends that Congress waive the casualty loss floor of 10 percent of AGI (section 165(h)(i))[8] and the $100 per loss floor (section 165(h)(2)) for losses attributable to a disaster event. The elimination of floors will provide additional relief to more individual taxpayer disaster victims. We also believe the current casualty loss deduction is unnecessarily complicated and lacks transparency. Many taxpayers do not know their AGI until after their tax returns have been prepared in the following year, which does not provide clarity to taxpayers at the time of the disaster.

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[5] Federal Emergency Management Agency's Disaster Declarations are available at: http://www.fema.gov/disasters.

[6] See IRC section 165.

[7] See Treas. Reg. § 1.165-7.

[8] All section references in this letter are to the Internal Revenue Code of 1986, as amended, or the Treasury regulations promulgated there under, unless otherwise specified.

2. Extend Net Operating Loss Carryback to Five Years

A net operating loss (NOL) is generally the amount by which a taxpayer's business deductions exceed its gross income. Under present law, a NOL experienced by either an individual or business may be carried back two years and carried forward 20 years to offset taxable income in those specified years.[9]

We propose a five-year carryback period for NOLs attributable to a disaster event under section 172(b)(1)(A)(i). The current NOL carryback of two years is too short for many taxpayers. An increased carryback period would allow disaster victims to take better advantage of the business losses they have suffered as a result of disasters. The proposal also gives individuals and small business owners the opportunity to amend additional prior tax returns in order to currently receive increased refund amounts that they can use to help rebuild after the disaster. It also allows taxpayers to receive their NOL offsets sooner rather than having to wait to carryforward a portion or all of their loss to future years.

We do not propose any change to the carry forward period of 20 years.

3. Increase Section 179 Expense Limits

Section 179 allows taxpayers to elect to immediately expense certain purchases on their current tax return rather than depreciating the cost of asset over its useful life.[10] The section 179 expense allows businesses to deduct the full purchase price of qualifying equipment purchases from current gross income during the tax year. This provision is a tax incentive created to encourage businesses to buy equipment and invest in their future.

The section 179 deduction is generally permitted for the total cost of qualifying property, subject to three limitations:

1) Dollar Limit – Taxpayers may generally elect to expense up to a certain maximum dollar limit (generally $25,000) of section 179 property placed in service during the tax year.
2) Property Cost Threshold – The dollar limit is reduced, but not below zero, if the cost of qualifying property placed in service during that year exceeds a maximum amount ($200,000 in 2014).
3) Business Income Limit – The section 179 deduction may not exceed the taxpayer's business income.

For tax years 2010 through 2013, the dollar limit, or maximum deduction a taxpayer could elect to deduct in a year was $500,000 (instead of $25,000), an enhancement due to the

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[9] See IRC section 172.
[10] See IRC section 179.

passage of the American Taxpayer Relief Act of 2012.[11] For years beginning after 2013, the limit is currently $25,000.[12]

We recommend that Congress increase the section 179 expensing limits under section 179(b)(1) in either the year of the disaster event, or the following year, by the lesser of a specified amount ($100,000) or the cost of "qualified disaster assistance property," as described in section 179(e)(1).[13] We believe an increased limitation is appropriate for disaster victims because the dollar limit amount is meant for normal operational needs of businesses, rather than considering those disaster stricken small businesses that own severely damaged or completely destroyed equipment and capital assets.

The current section 179 deduction is intended to benefit all taxpayers and stimulate domestic business growth by providing a current cash-flow incentive for businesses to purchase, finance or lease equipment each year in addition to providing administrative relief from required bookkeeping requirements. However, the current section 179 expense limitation amounts are sometimes insufficient for victims who are affected by disasters and rely upon this incentive as a potential source for recovering and rebuilding businesses that are damaged or destroyed by a disaster. Therefore, an increase in the section 179 expense limitation would allow victims to receive immediate tax relief for unanticipated capital expenditures caused by disaster events.

4. Increase Property Replacement Period to Five Years

Under present law, when a taxpayer experiences a loss of business property that is completely or partially destroyed by fire or natural disaster, the period by which the taxpayer must replace the property to defer any resulting gain is limited to two years after the close of the first taxable year in which any part of the gain upon the conversion is realized.[14] Taxpayers are required to make a timely election and asset replacement to defer any gains, which often results when the taxpayer receives an insurance settlement that is greater than the property's cost basis. If property is replaced after the two-year limit, disaster victims are not able to defer gains from insurance settlements and must pay income taxes on these proceeds if a gain from the casualty loss is the result.

The AICPA recommends a permanent standard replacement period of five years (increased from two years) under section 1033(a)(2)(B) for all property damaged or destroyed by a

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[11] PL 112-240, "American Taxpayer Relief Act of 2012," January 2, 2013.
[12] See JCX-1-14, the January 10, 2014 Joint Committee on Taxation report, for the complete list of 57 tax provisions expiring at the end of 2013. Among the tax deductions, credits, exclusions, and other expired provisions are business provisions, such as increased expensing under Code section 179.
[13] Qualified disaster assistance property replaces or rehabilitates property damaged by the disaster event.
[14] See IRC section 1033(a)(2)(B).

disaster event including trade/business property, real property, and/or principal residences that are involuntarily converted during a disaster event.

The current two-year period to replace damaged property is particularly challenging for victims with property damaged by disaster events. For example, many communities impacted by disasters, such as Hurricane Sandy, include historic buildings that require an extensive permit application and approval process, as well as an extended rebuilding or renovation period. Additionally, recent industry trends show that a shortage of construction workers across the nation has become a severe problem, with 83 percent of construction firms reporting difficulty in finding qualified craft workers.[15] A labor shortage in experienced craft workers, including professional carpenters and equipment operators, severely impedes the rate of rebuilding and reconstruction. Thus, a five-year replacement period would grant impacted disaster victims the valuable resource of time in rebuilding their properties, while claiming the benefits intended by the involuntary conversion provisions.

5. Waive the Penalty for Early Retirement Withdrawal

Under present law, individual taxpayers who make withdrawals from a qualified plan or individual retirement account (IRA) may be subject to an additional tax of 10 percent if the distribution is made before the individual reaches age 59.5 years old.[16]

We propose that no penalty tax is imposed on victims of a disaster event who withdraw up to or below a specified amount ($100,000) from a qualified plan or IRA and repay that amount to the plan within five years. Any amount not repaid to the plan within five years of the date of withdrawal is taxable income during that fifth year unless a taxpayer elects to accelerate the amount as taxable income and pay the early withdrawal tax in an earlier year. Any income recognized under this section would not be subject to the 10 percent early withdrawal penalty under section 72(t) for distributions up to a specified amount ($100,000). Additionally, we recommend the extension of the IRA "rollover" period to a longer time (5 years) than the normal 60 days allowed.

Our recommendation would allow affected taxpayers to immediately access their own retirement funds while waiting for government assistance and insurance reimbursements that are otherwise not immediately forthcoming. The extension of the IRA "rollover" period beyond the normal 60 days also offers victims the time they need to recover and reestablish financial stability after a disaster. Retirement withdrawals similar to this provision were previously allowed, under section 1400Q(a), for "hurricane" disasters.

[15] See AGC of America article: "Eighty-three Percent of Construction Firms Report Having Trouble Finding Qualified Workers to Meet Growing Demand for Construction Services," and summary article of " Worker Shortage Survey Analysis," October 22, 2014.
[16] See IRC section 72(t).

However, to be clear, our recommendation includes all federal "disaster declaration" events, including but not limited to "hurricanes."

6. Housing Exemption for Displaced Individuals

Under present law, personal exemptions are deductions that individuals are entitled to claim for themselves and any dependents they support.[17] Generally, a taxpayer may claim an exemption amount that is comprised of the exemptions for the individual taxpayer, his/her spouse, and dependents. The exemption amount is adjusted annually for inflation ($3,900 in 2013, $3,950 in 2014).

We propose to allow an additional partial or full exemption (as defined under section 151(d)) to individuals who provide at least 60 days of temporary rent-free housing to a person dislocated by a disaster event. Taxpayers could claim this exemption only once for each such person by claiming the exemption for said dislocated person for the tax year which contains the latter of the 60th day or the day that the temporary housing period ends. The exemption amount is calculated as the number of rent-free days (up to 365) provided to the displaced individual, divided by 365, and multiplied by the personal exemption allowed for a single taxpayer during the applicable year. The maximum number of individuals for which a taxpayer may claim this exemption is four individuals per disaster. Furthermore, no phase-out under section 151(d)(3) would apply to this exemption. The displaced individual would continue to otherwise be subject to the normal rules (for purposes of evaluating their own personal exemption for themselves, spouses, and dependents), and entitled to claim a full personal exemption for themselves and others, as appropriate, as though no disaster had occurred.

Current legislation does not offer an incentive for individuals to extend free temporary housing to disaster victims. Our proposal provides a tax deduction that incentivizes people within a community to supply free housing to those victims displaced from their homes and do not have a place to live or enough emergency savings to pay for a temporary residence.

7. Discharge of Indebtedness

Under present law, a lender's forgiveness of a taxpayer's debt (i.e., a discharge of indebtedness) is generally considered gross income to the taxpayer, and therefore, a realized taxable amount.[18]

We propose to allow individual victims of disasters to exclude from taxable income, under section 108, cancellation of debt income for non-business debts (provided that the

[17] See IRC section 151.
[18] See IRC section 108.

cancellation occurs within one year of the beginning date of the disaster event). The discharging entity must certify that the discharge is a direct result of loss, property damage, or other factors caused exclusively by the disaster event.[19]

The current rules are harsh and unintuitive for victims who suffer from significant losses due to a disaster. If individuals affected by a disaster are unable to repay their outstanding loans, they are also generally unable to pay tax on the resulting phantom income caused by debt forgiveness. The AICPA proposal would allow victims to exclude non-business debt from taxable income if the debt were forgiven by a governmental agency or certain financial institutions.

8. Work Opportunity Tax Credit

Under present law, the Work Opportunity Tax Credit (WOTC)[20] is a federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barriers to employment. WOTC is a program that incentivizes workplace diversity and promotes the hiring of groups facing high rates of unemployment such as veterans, youths, and others. The WOTC is a direct benefit to the employer as a tax credit and it is calculated based on the number of hours an employee works.

We propose, under section 38, to allow a tax credit of 40 percent of qualified wages (up to $6,000 in qualified wages per employee) for specified disaster-damaged businesses. Qualified wages (as defined for WOTC purposes under section 51(a)) are wages paid to employees who are unable to work because their employer's business was rendered inoperable due to damage from the disaster event. The Code would provide that qualified wages for an employee are calculated based on their regular wages, not including overtime, for the lesser of the period the business is rendered inoperable or 16 weeks. Specified disaster-damaged businesses must have the affected place of business located within the declared disaster area, employ less than 200 full-time equivalent employees, and may only claim the credit for employees who were employed at the affected place of business for at least 30 days prior to the disaster event.

The AICPA proposal also allows the work opportunity credit to be claimed by employers for wages paid to eligible employees located in a disaster area. Eligible employees are

[19] Similar to provision enacted in 2005: see Sec. 401, "Exclusions of certain cancellations of indebtedness by reason of Hurricane Katrina," from Title IV, Additional Tax Relief Provisions, of PL 109-73, "Katrina Emergency Tax Relief Act of 2005," September 23, 2005.

[20] See JCX-1-14, the January 10, 2014 Joint Committee on Taxation report, for the complete list of 57 tax provisions expiring at the end of 2013. Among the tax deductions, credits, exclusions, and other expired provisions are business provisions, such as the Work Opportunity Tax Credit.

individuals who have a principal place of abode in the declared disaster area on the day of a specific disaster event.

The current WOTC provision does not include disaster victims as a target group. However, disaster events frequently shut down local businesses and leave a community with individuals and small business owners without jobs or places of employment. Therefore, allowing businesses to include disaster victim wages as part of the WOTC would significantly help to promote the hiring of individuals in areas affected by disasters and also expedite the restoration of the disaster-damaged communities.

9. Increase the Medical Expense Deduction

Under present law, individual taxpayers can claim the medical expense deduction as an itemized deduction for unreimbursed medical expenses. Taxpayers may deduct the amount by which total medical expenses exceed 10 percent of his/her AGI or 7.5 percent if the taxpayer is 65 or older (this 7.5 percent limitation is a temporary exemption from January 1, 2013 to December 31, 2016 for individuals and spouses who are age 65 and older).[21]

We propose to eliminate the medical deduction floor (section 213(a), generally 10 percent of AGI, and 7.5 percent for taxpayers over 65) for an individual who incurs deductible medical expenses directly related to an injury caused by a disaster. This reduction is available only for the directly related expenses incurred for up to two tax years (the year of the event and the subsequent year).

The current medical expense deduction is complicated and severely restricted in its use. Impairment, damage and/or loss resulting from an unexpected disaster affect not only physical property but also the health and well-being of victims. The intent of our proposal is to simplify the medical expense calculation and vastly increase the tax benefit for victims of disaster events.

CONCLUDING REMARKS

The AICPA acknowledges the prompt response and aid that Congress provides to individual, self-employed and business taxpayers impacted by natural disasters each year. However, the implementation of timely and permanent disaster relief provisions as foundational aid will allow disaster victims to have certainty, fairness, consistency, and the ability to promptly receive the relief they need after a natural disaster. Additionally, a set of standard disaster tax relief provisions will minimize the administrative burdens on the victims as well as the IRS. Therefore, we urge Congress to enact tax legislation that is timely, permanent, and triggered by a federal disaster declaration

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[21] See IRC section 213.

Again, Mr. Chairman, thank you for the opportunity to testify in support of disaster tax relief, and I would be happy to answer any questions you and the Members of the Subcommittee may have.

County of Bucks
OFFICE OF THE COMMISSIONERS
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County Commissioners
ROBERT G. LOUGHERY, _Chairman_
CHARLES H. MARTIN, _Vice Chairman_
DIANE M. ELLIS-MARSEGLIA, LCSW

Written Statement of Robert G. Loughery

Chairman, Bucks County, PA Commissioners

Tax Relief after a Disaster: How Individuals, Small Businesses, and Communities Recover

Before the Committee on Finance Subcommittee on Taxation and IRS Oversight United States Senate, November 18, 2014

Chairman Casey, Ranking Member Enzi, and members of the Committee, I appreciate the opportunity to discuss the timely and critical subject of how communities can best recover after a major natural disaster, and I commend your Committee for taking up this important topic today.

Hurricane Irene first made landfall on August 22, 2011, as a Category 1 hurricane in Puerto Rico where severe flooding resulted in significant property damage and loss of lives. Five days later, it made a second landfall over the Outer Banks of North Carolina with sustaining winds remaining at Category 1 level. On August 28 Irene reached Philadelphia and the surrounding suburbs, where it did substantial damage, raising the Schuylkill River to levels not seen in 140 years. The region was further battered just days later when Tropical Storm Lee struck Pennsylvania with torrential rainstorms and severe wind damage.
By the time these two storms had exhausted themselves, Hurricane Irene and Tropical Storm Lee had inflicted much harm along the entire East Coast of the United States.

Of course, we in Bucks County are no strangers to weather-related disasters. Since 2007, Bucks County has experienced eight (8) federally declared weather-related disasters, including Superstorm Sandy, Hurricane Irene and Tropical

Storm Lee. In each of these events the Neshaminy Creek, the Delaware River and the Delaware Canal all saw substantial flooding, resulting in millions of dollars of losses to residents and businesses. These storms also disrupted hundreds of thousands of lives while threatening the livelihoods of thousands.

Hurricane Irene racked up some big numbers for power outages, with more than 131,000 PECO customers losing service in our county. In addition, it impacted more than half a million in Philadelphia and surrounding suburbs.

Less than a month later Tropical Storm Lee caused more than $2.17 million in damages to parks, roads, bridges, and equipment owned by Bucks County and 17 of our 54 municipalities. Damage to private property was significantly greater.

Even now residents and businesses in our county continue to bear those costs. Further tax relief could prove instrumental in restoring their quality of life and the lives and the viability of their business enterprises.

It is my understanding that this relief may also include the availability of additional low income housing tax credits, which I would also like to encourage.

The Low-Income Housing Tax Credit (LIHTC) Program has been and continues to be one of the single most powerful producers of high quality affordable rental homes.

Since 1986 these tax credits have enabled private developers to produce more than 1,100 new, high quality residences for low income working households in Bucks County alone. Spread over 17 different projects throughout our county, our $5 million tax credit allocation attracted over $15 million in new private investment.

Without these incentives, the housing market simply does not provide an adequate supply of homes within the reach of people of modest means. In fact, in Pennsylvania today, as noted by the Housing Alliance of Pennsylvania, there is a shortage of 220,000 apartments affordable to the working poor, defined as residents living on $22,000 a year or below.

In Bucks County, we experience these same challenges. Seniors, low-wage workers and people with disabilities face an incredible challenge in finding safe, decent, affordable housing. The lack of good, adequate housing exacerbates other issues and problems that place increasing strains on the services our county provides to its residents and the demands on our taxpayers.

The challenge is further compounded in our county by the structural deficiencies of a significant number of existing public housing units that are near the end of their useful life. Many of these structures need comprehensive rehabilitation.

Places such as Venice Ashby, located in Bristol Township, Bucks County, would benefit from an increased allocation of Low Income Housing Tax Credits. Such credits would allow our Housing Authority to replace old and rapidly deteriorating housing stock, constructed in the 1970's, with new, affordable housing, transforming an entire neighborhood and surrounding community. This is exactly the type of initiative we seek to pursue in Bucks County as we tackle affordable housing issues.

In reaping the economic benefit of new construction and redevelopment, and in strengthening families and neighborhoods, the taxpayers get a real bargain as well.

I would like to thank you for the opportunity to share our experiences and our vision with you this afternoon, and for your close attention and that of your staff to the challenge of addressing this important public policy challenge.

The need for the various relief measures envisioned is real.

Recovering from Hurricane Irene and Tropical Storm Lee has proved daunting. These natural disasters will not be the last our residents encounter. We speak of economic costs today, but the rising waters and the fierce winds of storms such as those our residents have endured not only uproot trees, they uproot lives. They wash away not only tangible goods, but hard fought dreams.

You have in your power the ability to lend a hand in rebuilding those lives and restoring those dreams. I urge you to take it.

COMMUNICATIONS

Enterprise®

To: Senate Committee on Finance
Attn. Editorial and Document Section
Room SD-219
Dirksen Senate Office Building
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From: Alazne Solis
Enterprise Community Partners
10 G Street Northeast
Suite 580
Washington, DC 20002

Date: November 18, 2014

Re: Tax Relief After A Disaster: How Individuals, Small Businesses and Communities Recover

Dear Senators Wyden, Hatch, Casey and Enzi,

Thank you for the opportunity to provide a statement for the record, and for your leadership in holding a hearing on the important issue of disaster tax relief.

Enterprise Community Partners is a leading provider of the development capital and expertise it takes to create decent, affordable homes and rebuild communities. Since 1982, Enterprise has raised and invested $16 billion to help finance nearly 320,000 affordable homes across the United States. Drawing on our experience helping partners rebuild nearly 10,000 Gulf Coast homes in the wake of Hurricane Katrina, Enterprise is committed to ensuring that all communities have an affordable housing infrastructure with the resilience necessary to provide shelter and services to people in need during and after disasters.

Enterprise co-leads the A Call To Invest in Our Neighborhoods (ACTION) Campaign, a coalition of close to 900 national, state and local businesses and organizations working to preserve and strengthen the Low-Income Housing Tax Credit (Housing Credit). Enterprise also serves on the board of the New Markets Tax Credit (NMTC) Coalition, which is made up of over 150 members working to extend and improve the NMTC.

Enterprise believes that the bipartisan National Disaster Tax Relief Act of 2014 would help fill a critical gap in our response to the natural disasters over the past several years. In particular, we believe that this bill's provisions to provide increased allocation authority for the Housing Credit and NMTC will accelerate the recovery in impacted states, creating jobs and generating significant revenue while providing affordable homes and supporting local businesses.

These proven community development tools have already been critical in helping impacted regions recover from Hurricane Katrina, severe floods in the Midwest and other natural disasters for which Congress provided tax relief. They will also be essential in assisting communities recover from the many severe disasters that have taken place over the past several years, including Hurricane Sandy, Hurricane Isaac, severe floods in Colorado and tornadoes in Mississippi, Hurricane Irene and Tropical Storm Lee, to name a few. Though the resources already devoted to these recovery efforts, such as Community Development Block Grant Disaster Recovery (CDBG-DR) funds, have helped to rebuild homes and businesses in many of these communities, there are still hundreds of thousands of households in need. It is nearly impossible to replace lost affordable housing without the Housing Credit, and more difficult to revitalize the most distressed neighborhoods without the help of the NMTC.

The Housing Credit is the nation's largest and most successful affordable rental housing production program. Since its creation in the Tax Reform Act of 1986, the Housing Credit has leveraged nearly $100 billion in private investment capital, providing critical financing for the development of more than 2.7 million affordable rental homes for low-income families. As the Housing Credit is responsible for virtually all affordable housing production in the United States, increasing disaster-impacted communities' allocations of this resource is necessary to create a new supply of affordable units to meet the increased demand that still exists months and even years after these disasters. According to the National Association of Home Builders, every 100 homes financed by the Housing Credit also supports 113 jobs, providing an additional economic boost to the communities where it is invested.

The NMTC is a flexible financing tool that encourages private investment in businesses and economic development activity in low-income communities. Since its inception in 2000, $20 billion in private capital was invested in communities through the NMTC, leveraging an additional $25 billion in capital from other public and private sources and creating over 500,00 jobs. According to the Treasury Department, every $1 of NMTC investment leverages $8 of private capital for many types of investments, including health care centers, schools, grocery stores, community centers, domestic violence shelters, factories and small businesses loan funds. The NMTC's proven ability to revitalize severely distressed neighborhoods, create jobs and leverage private investment will assist tremendously in increasing economic activity in the hardest-hit communities.

Though Congress has routinely provided tax relief for the communities impacted by natural disasters in the past, no similar relief has been provided for the over twenty states that have been impacted by federally declared natural disasters since 2012. We believe private sector involvement is a critical component of the disaster recovery effort, and that the affordable housing and community development incentives included in the National Disaster Tax Relief Act of 2014 will help direct these investments where we need them most. We urge Congress to pass this important legislation as soon as possible.

Again, thank you for the opportunity to comment on this important legislation. If we can provide any additional information or answer any questions, please feel free to contact me at asolis@enterprisecommunity.org, or Emily Cadik, Senior Analyst/Project Manager, at ecadik@enterprisecommunity.org.

Sincerely,

Alazne Solis
Senior Vice President, Public Policy and Corporate External Affairs
Enterprise Community Partners

Housing Action NH

PO Box 162, Concord, NH 03302

Improving state and federal policy so everyone in New Hampshire has a place to call home

November 12, 2014

The Honorable Ron Wyden
The Honorable Orrin Hatch
The Honorable Bob Casey
The Honorable Mike Enzi
219 Dirksen Senate Office Building
Washington, DC 20510

RE: Statement for *Tax Relief After A Disaster: How Individuals, Small Businesses and Communities Recover* Hearing, Nov 18, 2014

Dear Senators:

Thank you for the opportunity to provide written testimony regarding the damage to New Hampshire communities as a result of Hurricane Irene on August 28-29, 2011. Housing Action NH is a statewide coalition of 65 member organizations united around improving state and federal policy so everyone in New Hampshire has a place to call home. We count among our membership property owners, developers, property managers, businesses and service organizations in the regions affected by Hurricane Irene. It is on their behalf that we urge your thoughtful consideration of tax relief to these communities.

According to the National Weather Service (NWS), Irene was responsible for heavy rain and wind, widespread power outages and inland flooding across New Hampshire on August 28-29, 2011. A flood warning was issued for the entire state as rain fell at the rate of 1-1½ inches per hour and winds exceeded 40 mph in southern parts of New Hampshire. The seacoast regions and higher elevations of the White Mountains reported the strongest winds, including a gust of 63 mph at Somersworth in Strafford County and 120 mph at the Mount Washington Observatory. The NWS estimated rainfall amounts of 2-3 inches in southeastern New Hampshire, and 3-6 inches in the western part of the state. Larger amounts fell on the mountain slopes with over 10 inches reported at higher elevations of the White Mountains.

Major flooding occurred along the Connecticut, Pemigewasset, Suncook and Saco rivers, with record flooding along the Saco River in Conway. On Sunday, August 29, flows were more than 100 times normal for the Saco River, based on the 89-year period of record.

On September 3, 2011, Governor John Lynch requested a major disaster declaration due to Hurricane Irene that was granted by President Obama. The Journal of Dam Safety (2012), V10, documented that the Glen Road Dam in Lebanon was overtopped and there were also damages to the Cummins Pond Sam in Dorchester, the Godfrey Dam in Berlin, the Lincoln Sewage Lagoon in Lincoln, the Pemigewasset River Levee in Lincoln and the Reflection Pond Dam in Shelburne.

City of Lebanon, NH. Hurricane Irene photos http://lebcity.net/Vendors/Irene%20Flooding%20Photos/

According to NH's Homeland Security and Emergency Management office, about 180 NH homes were damaged in Irene. Many NH residents displaced by Irene were sheltered temporarily at the Upper Valley Haven Shelter in White River Junction, Vermont. The Town of Conway's Fire Department rescued dozens from uninhabitable homes in the Conway area. One family was rescued from a tree, according to a report on NH Public Radio.

Transvale Acres, a manufactured home site in Conway that also included some make-shift and sub-standard housing, was badly flooded. Many of the low-income residents were displaced. One resident commented to New Hampshire Public Radio, "I was wrapping up my firewood and it was just barely coming down… and within five minutes I was standing in four inches of water. And then within 45 minutes after that there was four feet here. It was amazing. Never seen it come in like that, and we've been here since 1980."

Flood waters also closed many stores in the Upper Valley region of NH that borders Vermont. Route 12A in West Lebanon, NH, a key shopping district for the Upper Valley region of New Hampshire, was badly flooded. A total of three shopping centers with over 20 retailers in the heart of Lebanon were so damaged by the flooding waters of the Connecticut River, many stores did not re-open for months, restricting resources and hampering employment.

Conway resident shows trailer damage post Irene http://nhpr.org/post/week-after-irene-conway-residents-still-cleaning

Lebanon shopping center Irene flooding http://lebcity.net/Vendors/Irene%20Flooding%20Photos/

The *National Disaster Tax Relief Act* would provide important tax relief to the many regions around the country still recovering from the damage caused by natural disasters, including those in NH that FEMA has declared a disaster. A one-time allocation of additional tax credits to support affordable housing development in Carroll and Grafton counties would provide the leverage needed to support quality housing development in these areas.

The Low Income Housing Tax Credit (LIHTC) is the primary resource for affordable housing development in New Hampshire that leverages private capital that is reinvested in communities. New Hampshire has successfully developed many quality LIHTC properties. In addition, NH property developers with LIHTC experience have a strong track record in those regions affected by Irene. Finally, NH has financial institutions who understand the tax credit program and work well to support quality development in these communities.

Since the start of the tax credit program, LIHTC has supported the development of 7,632 affordable homes for the residents of NH and generated 8,853 construction-related jobs. As a result, LIHTC is appreciated by community leaders, as well as local, state and national policy makers. Finally, LIHTC is professionally administered by NH Housing, which carefully reviews and scores proposals and follows through with resources and technical support.

Although devastation from natural disasters comes quickly, recovery is a much slower process. With the damage to basic infrastructure, housing and community businesses, resources like LIHTC are needed to spur investments to rebuild.

We hope you will make every effort to get these resources out to communities as soon as possible. Thank you for your service and your thoughtful consideration. Please do not hesitate to contact Housing Action NH if we can be of any assistance.

Sincerely,

Elissa Margolin
Director
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CC: Senator Jeanne Shaheen; Senator Kelly Ayotte; Representative Shea-Porter; and Representative Kuster