

AMENDED IN SENATE JUNE 9, 2014
AMENDED IN SENATE SEPTEMBER 6, 2013
AMENDED IN SENATE AUGUST 22, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1399

Introduced by Assembly Members Medina and V. Manuel Pérez

March 11, 2013

An act to add Section 26011.9 to the Public Resources Code, and to add and repeal Sections 12283, 17053.9 and 23622.9 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Medina. Income taxation: *insurance taxation*: credits: *California New Market Tax Credit*.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law also creates the California ~~Tax Credit Allocation~~ *Competes Tax Credit* Committee, which has specified duties in regard to ~~low-income housing credits~~. *tax credits for economic development*.

The California Constitution imposes on insurers doing business in California, an annual tax in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property except, among others, a retaliatory tax, as specified.

This bill would allow a credit under ~~both laws~~; *the Personal Income Tax Law and the Corporation Tax Law, and a credit against the retaliatory tax imposed on an insurer*, in modified conformity with a federal New Market Tax Credit, for taxable years beginning on or after

January 1, 2015, and before January 1, ~~2021~~, 2027, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to an amount equal to any portion not granted under a specified sales and use tax exclusion, not to exceed \$40,000,000 per calendar year, and would limit the allocation of the credit to a cumulative total of no more than \$200,000,000, *as provided*. This bill would impose specified duties on the California ~~Tax Credit Allocation~~ *Competes Tax Credit* Committee with regard to the application for, and allocation of, the credit. The bill would require the committee to establish and impose reasonable fees upon entities that apply for the allocation of the credit and use the revenue to defray the cost of administering the program, as specified, thereby making an appropriation.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares the following:*
- 2 (a) *While many areas of California have recovered from the*
- 3 *economic and community development impacts of the 2006*
- 4 *Financial Crisis and the 2010 global recession, Californians in a*
- 5 *number of communities and neighborhoods are still experiencing*
- 6 *their lingering affects. In some cases this has resulted in small and*
- 7 *medium businesses in low-income areas lacking sufficient access*
- 8 *to capital and technical assistance. Given that the state has many*
- 9 *needs and limited resources, moneys from the private sector are*
- 10 *necessary to fill this capital and investment gap.*
- 11 (b) *Initially enacted in 2000, the federal government established*
- 12 *the New Markets Tax Credit (NMTC) Program, which uses a*
- 13 *market-based approach for expanding capital and technical*
- 14 *assistance to businesses in lower income communities. The federal*
- 15 *program is jointly administered by the Community Development*
- 16 *Financial Institutions Fund (CDFI Fund) and the Internal Revenue*
- 17 *Service. The NMTC Program allocates federal tax incentives to*
- 18 *community development entities (CDE), which they then use to*
- 19 *attract private investors who contribute funds that can be used to*
- 20 *finance and invest in businesses and develop real estate in*
- 21 *low-income communities. Through May 2013, the CDFI Fund had*

1 awarded approximately \$36,500,000,000 in NMTC in 749 awards
2 including \$3,000,000,000 in American Recovery and Investment
3 Act of 2009 awards and \$1,000,000,000 of special allocation
4 authority to be used for the recovery and redevelopment of the
5 Gulf Opportunity Zone.

6 (c) The federal NMTC totals 39 percent of the original
7 investment amount in the CDE and is claimed over a period of
8 seven years (5 percent for each of the first three years, and 6
9 percent for each of the remaining four years). The investment by
10 the taxpayer in the CDE redeemed before the end of the seven-year
11 period will be recaptured.

12 (d) Fourteen states in the United States have adopted state
13 programs using the NMTC model including Alabama, Florida,
14 Illinois, Nevada, and Oregon. While some of the programs
15 substantially mirror the federal program, others vary in both the
16 percentage of the credit and some of the policies that form the
17 foundation of the credit. One of the reasons cited for establishing
18 state-level programs is to make their state more attractive to CDEs,
19 which results in increasing the amount of federal NMTCs being
20 utilized in their state. Further, several studies, including a January
21 1, 2011, case study by Pacific Community Ventures, showed that
22 for every dollar of forgone tax revenue, the federal NMTC
23 leverages \$12 to \$14 of private investment.

24 **SECTION 1.**

25 **SEC. 2.** Section 26011.9 is added to the Public Resources Code,
26 to read:

27 26011.9. The authority shall make a determination of the
28 amount of the one hundred million dollars (\$100,000,000) in
29 exclusions not granted in the assigned calendar year pursuant to
30 Section 26011.8. An amount equal to that amount shall be granted
31 in the subsequent calendar year through the *California New Market*
32 *Markets Tax Credit Program* pursuant to Sections ~~17053.9~~ 12283,
33 17053.9, and 23622.9 of the Revenue and Taxation Code. This
34 section shall not prevent a taxpayer granted an ~~extension~~ *exclusion*
35 pursuant to Section 6010.8 of the Revenue and Taxation Code
36 from applying for, and receiving a refund for, taxes paid under
37 Part 1 (commencing with Section 6001) of Division 2 of the
38 Revenue and Taxation Code.

39 **SEC. 3.** Section 12283 is added to the Revenue and Taxation
40 Code, to read:

1 12283. (a) *There is hereby created the California New Markets*
 2 *Tax Credit Program as provided in this section, Section 17053.9,*
 3 *and Section 23622.9. The purpose of this program is to stimulate*
 4 *private sector investment in lower income communities by*
 5 *providing a tax incentive to qualified community and economic*
 6 *development entities that can be leveraged by the entity to attract*
 7 *private sector investment that in turn will be deployed by providing*
 8 *financing and technical assistance to small and medium size*
 9 *businesses and the development of commercial, industrial, and*
 10 *community development projects, including, but not limited to,*
 11 *facilities for nonprofit service organizations, light manufacturing,*
 12 *and mixed-use and transit-oriented development. The California*
 13 *Competes Tax Credit Committee shall administer this program as*
 14 *provided in this section, Section 17053.9, and Section 23622.9.*

15 (b) (1) *For taxable years beginning on or after January 1, 2015,*
 16 *and before January 1, 2027, there shall be allowed as a credit*
 17 *against the tax described in paragraph (1) of subdivision (a) of*
 18 *Section 12204, an amount determined in accordance with Section*
 19 *45D of the Internal Revenue Code, as amended by Public Law*
 20 *111-5, Public Law 111-312, and Public Law 112-240, as modified*
 21 *as set forth in this section.*

22 (2) *This credit shall be allowed only if the taxpayer holds the*
 23 *qualified equity investment on the credit allowance date and each*
 24 *of the six following anniversary dates of that date.*

25 (3) *A tax credit allowed under this section shall not be sold and*
 26 *is not a refundable credit. Tax credits allowed to a partnership,*
 27 *limited liability company, or “S” corporation may be allocated*
 28 *to the partners, members, managers, or shareholders of such entity*
 29 *in accordance with the provisions of any agreement among such*
 30 *partners, members, managers, or shareholders. Such allocations*
 31 *shall not be considered a sale for the purposes of this section.*

32 (c) *Section 45D of the Internal Revenue Code is modified as*
 33 *follows:*

34 (1) (A) *The references to “the Secretary” in Section 45D of the*
 35 *Internal Revenue Code are modified to read “the committee.”*

36 (B) *For purposes of this section, “committee” means the*
 37 *California Competes Tax Credit Committee established under*
 38 *Section 18410.2.*

39 (2) *Section 45D(a)(2) of the Internal Revenue Code, relating*
 40 *to applicable percentage, is modified by substituting for “(A) 5*

1 *percent with respect to the first three credit allowance dates, and*
2 *(B) 6 percent with respect to the remainder of the credit allowance*
3 *dates” with the following:*

4 *(A) Zero percent with respect to the first two credit allowance*
5 *dates.*

6 *(B) Seven percent with respect to the third credit allowance*
7 *date.*

8 *(C) Eight percent with respect to the remainder of the credit*
9 *allowance dates.*

10 *(3) Section 45D(b) of the Internal Revenue Code, relating to*
11 *qualified equity investment, is modified as follows:*

12 *(A) Section 45D(b)(6) of the Internal Revenue Code, relating*
13 *to equity investments, is modified to also include long-term debt*
14 *securities issued by any qualified active low-income community*
15 *business that substantially supports projects within a low-income*
16 *community.*

17 *(B) Section 45D(b)(3) of the Internal Revenue Code, relating*
18 *to safe harbor for determining use of cash, is modified by*
19 *substituting “qualified low-income community investments in*
20 *California” for “qualified low-income community investments.”*

21 *(4) Section 45D(c)(1) of the Internal Revenue Code, relating to*
22 *qualified community development entities, is modified to*
23 *additionally include:*

24 *(A) A subsidiary community development entity of any such*
25 *qualified community development entity.*

26 *(B) A nonprofit organization certified by the committee as*
27 *having a primary mission of serving or providing investment*
28 *capital in low-income communities and the entity maintains*
29 *accountability to residents of low-income communities through*
30 *their representation on any governing board of the entity or on an*
31 *advisory board of the entity. The committee shall establish*
32 *guidelines for certifying nonprofit organizations pursuant to this*
33 *subparagraph.*

34 *(5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating*
35 *to qualified low-income community investments, is modified to*
36 *include any capital or equity investment in, or loan to, any real*
37 *estate project located in a low-income community or any operating*
38 *business that, at the time the initial investment is made, has 250*
39 *or fewer employees and is located in a low-income community.*
40 *The real estate project or operating business shall meet all other*

1 requirements of a qualified active low-income community business,
 2 except as modified by paragraphs (6) and (7).

3 (6) The term “qualified active low-income community business,”
 4 as defined in Section 45D(d)(2) of the Internal Revenue Code, is
 5 modified as follows:

6 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
 7 relating to qualified active low-income community businesses, is
 8 modified by substituting “any low-income community in
 9 California” for “any low-income community.”

10 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code,
 11 relating to qualified active low-income community businesses, is
 12 modified as follows:

13 (i) Substituting “any low-income community in California” for
 14 “any low-income community.”

15 (ii) In determining whether the qualified active low-income
 16 community business uses a substantial portion of its tangible
 17 personal property within any low-income community, the term
 18 “substantial portion” shall mean “at least 40 percent” as
 19 calculated by the average value of the tangible property owned or
 20 leased and used within a California low-income community by the
 21 entity divided by the average value of the total tangible property
 22 owned or leased and used by the entity during the taxable year.
 23 The value assigned to the leased property by the entity must be
 24 reasonable.

25 (iii) Adding the provision that if the business meets the
 26 requirements of a qualified low-income community business at the
 27 time the investment is made, the business shall continue to satisfy
 28 the requirements of Section 45D(d)(2)(A)(ii) for the duration of
 29 the investment.

30 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
 31 relating to qualified active low-income community businesses
 32 which limits the services of employees to substantially those
 33 performed within the low-income community, shall not apply.

34 (D) The following shall apply in lieu of the provisions of Section
 35 45D(d)(2)(C) of the Internal Revenue Code, relating to qualified
 36 active low-income community business: “A ‘qualified active
 37 low-income community business’ shall include an operating
 38 business that, at the time the initial investment is made, has 250
 39 or fewer employees and is located in a California low-income
 40 community. The operating business shall meet all other conditions

1 of a qualified active low-income business, except as modified by
2 this paragraph and paragraph (7).”

3 (7) Section 45D(e)(1) of the Internal Revenue Code, relating to
4 determining the eligible low-income community, is modified to
5 add the following: “When the United States Census Bureau
6 discontinues using the decennial census to report median family
7 income on a census tract basis, census block group data shall be
8 used based on the American Community Survey.”

9 (8) The following shall apply in lieu of the provisions of Section
10 45D(f)(1) of the Internal Revenue Code, relating to national
11 limitation on amount of investments designated: “The aggregate
12 amount of credit that may be allocated in any calendar year
13 pursuant to this section, Section 17053.9, and Section 23622.9
14 shall be an amount equal to any unused portion of the one hundred
15 million dollars (\$100,000,000) in exclusions, authorized pursuant
16 to Section 6010.8, as determined by the California Alternative
17 Energy and Advanced Transportation Financing Authority and
18 reported to the committee, not to exceed forty million dollars
19 (\$40,000,000). The committee shall limit the allocation of credits
20 permitted under this section, Section 170533.9, and Section
21 23622.9 to a cumulative total of no more than two hundred million
22 dollars (\$200,000,000). Any unused or recaptured credits shall
23 be returned to the committee on March 1 of the year following
24 allocation and the value of the unused or recaptured credit shall
25 be available for reallocation in the following calendar years.
26 Reallocation credits shall not count against the forty million dollars
27 (\$40,000,000) annual limit or the two hundred million dollars
28 (\$200,000,000) cumulative limit.”

29 (9) Section 45D(g)(3) of the Internal Revenue Code, relating
30 to recapture event, does not apply and is replaced with the
31 following:

32 (A) (i) The committee shall recapture, from the entity that
33 claimed the credit on a return, the tax credit allowed under this
34 section if any of the following:

35 (I) Any amount of a federal tax credit available with respect to
36 a qualified equity investment that is eligible for a credit under this
37 section is recaptured under Section 45D of the Internal Revenue
38 Code. In such case the committee’s recapture shall be
39 proportionate to the federal recapture with respect to such
40 qualified equity investment.

1 (II) The qualified community development entity redeems or
2 makes principal repayment with respect to a qualified equity
3 investment prior to the seventh anniversary of the issuance of such
4 qualified equity investment. In such case the committee's recapture
5 shall be proportionate to the amount of the redemption or
6 repayment with respect to such qualified equity investment.

7 (III) The qualified community development entity fails to invest
8 an amount equal to 85 percent of the purchase price of the qualified
9 equity investment in qualified low-income community investments
10 in California within 12 months of the issuance of the qualified
11 equity investment and maintain at least 85 percent of such level
12 of investment in qualified low-income community investments in
13 California until the last credit allowance date for the qualified
14 equity investment. For purposes of this section, an investment shall
15 be considered held by a qualified community development entity
16 even if the investment has been sold or repaid if the qualified
17 community development entity reinvests an amount equal to the
18 capital returned to, or recovered by, the qualified community
19 development entity from the original investment, exclusive of any
20 profits realized, in another qualified low-income community
21 investment within 12 months of the receipt of such capital. Periodic
22 amounts received as repayment of principal pursuant to regularly
23 scheduled amortization payments on a loan that is a qualified
24 low-income community investment shall be treated as continuously
25 invested in a qualified low-income community investment if the
26 amounts are reinvested in one or more qualified low-income
27 community investments by the end of the following calendar year.
28 A qualified community development entity shall not be required
29 to reinvest capital returned from qualified low-income community
30 investments after the sixth anniversary of the issuance of the
31 qualified equity investment, and the qualified low-income
32 community investment shall be considered held by the qualified
33 community development entity through the seventh anniversary of
34 the qualified equity investment's issuance.

35 (ii) Recaptured tax credits and the related qualified equity
36 investment authority revert back to the committee and shall be
37 reissued in the following order:

38 (I) First, pro rata to applicants whose qualified equity
39 investment allocations were reduced by the allocation limitation

1 of forty million dollars (\$40,000,000) in paragraph (8) of
2 subdivision (c).

3 (II) Thereafter, in accordance with the application process.

4 (iii) Enforcement of each of the recapture provisions shall be
5 subject to a six-month cure period. No recapture shall occur until
6 the qualified community development entity shall have been given
7 notice of noncompliance and afforded six months from the date of
8 such notice to cure the noncompliance.

9 (10) Section 45D(i) of the Internal Revenue Code, relating to
10 regulations, shall not apply.

11 (11) If a qualified community development entity makes a capital
12 or equity investment or a loan with respect to a qualified
13 low-income building under the state Low Income Tax Credit
14 Program, the investment or loan is not a qualified low income
15 community investment under this section.

16 (d) (1) The committee shall adopt guidelines necessary or
17 appropriate to carry out the purposes of this section. The guidelines
18 shall not disqualify a low-income community investment for the
19 single reason that public or private incentives, loans, equity
20 investments, technical assistance, or other forms of support have
21 been or continue to be provided. The adoption of the guidelines
22 shall not be subject to the rulemaking provisions of the
23 Administrative Procedure Act of Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code.

26 (2) The committee shall establish and impose reasonable fees
27 upon entities that apply for the allocation pursuant to this
28 subdivision and use the revenue to defray the cost of administering
29 the program. The committee shall establish the fees in a manner
30 that ensures that (A) the total amount collected equals the amount
31 reasonably necessary to defray the committee's costs in performing
32 its administrative duties under this section, and (B) the amount
33 paid by each entity reasonably corresponds with the value of the
34 services provided to the entity.

35 (3) In developing guidelines the committee shall adopt an
36 allocation process that does all of the following:

37 (A) Creates an equitable distribution process that ensures that
38 low-income communities across the state have an opportunity to
39 benefit from the program.

1 (B) Sets minimum organizational capacity standards that
2 applicants must meet in order to receive an allocation of credits.

3 (C) Provides for the annual return of unused credits on March
4 1 of year following the year the credits are awarded so that they
5 may be reallocated to other community development entities.

6 (4) (A) The committee shall begin accepting applications on
7 March 15, 2015, and shall award credits at least two times a year
8 at dates set annually by the committee through 2019, to the extent
9 that allocations are available pursuant to Section 26011.9 of the
10 Public Resources Code.

11 (B) Within 20 calendar days after receipt of an application the
12 committee shall determine whether the application is complete or
13 whether additional information is necessary in order to fully
14 evaluate the application. If additional information is requested
15 and the qualified community development entity provides that
16 information within five working days, the application shall be
17 considered completed as of the original date of submission. If the
18 qualified community development entity fails to provide the
19 information within the five-working-day period, the application
20 shall be denied and must be resubmitted in full with a new
21 submission date.

22 (C) Within 20 days after receipt of an application determined
23 to be complete by the committee, the committee shall grant or deny
24 the application in full or in part. If the committee denies any part
25 of the application, it shall inform the qualified community
26 development entity of the grounds for the denial.

27 (5) (A) The committee shall award tax credits in the order
28 applications are received by the committee. Applications received
29 on the same day shall be deemed to have been received
30 simultaneously.

31 (B) For applications that are complete and received on the same
32 day, and in the event tax credit requests exceed the allocation
33 limitation of forty million dollars (\$40,000,000) in paragraph (8)
34 of subdivision (c), the committee shall certify, consistent with
35 remaining qualified equity investment capacity, qualified equity
36 investments of applicants in proportionate percentages based upon
37 the ratio of the amount of qualified equity investments requested
38 in such applications to the total amount of qualified equity
39 investments requested in all such applications received on the
40 same day.

1 (C) If a pending request cannot be fully certified due to this
2 limit, the committee shall certify the portion that may be certified
3 unless the qualified community development entity elects to
4 withdraw its request rather than receive partial certification.

5 (D) An approved applicant may transfer all or a portion of its
6 certified qualified equity investment authority to its controlling
7 entity or any subsidiary qualified community development entity
8 of the controlling entity, provided that the applicant and the
9 transferee notify the committee of such transfer and include the
10 information required in the application with respect to such
11 transferee with such notice.

12 (E) Within 60 days of the applicant receiving notice of
13 certification, the qualified community development entity or any
14 transferee, under paragraph (3) of subdivision (b), shall issue the
15 qualified equity investment, receive cash in the amount of the
16 certified amount, and, if applicable, designate the required amount
17 of qualified equity investment authority as federal qualified equity
18 investments. The qualified community development entity or
19 transferee, under paragraph (3) of subdivision (b), must provide
20 the committee with evidence of the receipt of the cash investment
21 and designation of the qualified equity investment as a federal
22 qualified equity investment within 65 days of the applicant
23 receiving notice of certification. If the qualified community
24 development entity or any transferee, under paragraph (3) of
25 subdivision (b), does not receive the cash investment, issue the
26 qualified equity investment and, if applicable, designate the
27 required amount of qualified equity investment authority as federal
28 qualified equity investments within 60 days following receipt of
29 the certification notice, the certification shall lapse and the entity
30 may not issue the qualified equity investment without reapplying
31 to the committee for certification. Lapsed certifications revert back
32 to the committee and shall be reissued in the following order:

33 (i) First, pro rata to applicants whose qualified equity investment
34 allocations were reduced under the allocation limitation of forty
35 million dollars (\$40,000,000) in paragraph (8) of subdivision (c).

36 (ii) Thereafter, in accordance with the application process.

37 (F) A qualified community development entity that issues
38 qualified equity investments must notify the committee of the names
39 of the entities that are eligible to utilize tax credits under
40 paragraph (3) of subdivision (b) pursuant to an allocation of tax

1 *credits or change in allocation of tax credits or due to a transfer*
2 *of a qualified equity investment.*

3 (6) (A) *A qualified community development entity that issues*
4 *qualified equity investments shall submit a report to the committee*
5 *within the first five business days after the first anniversary of the*
6 *initial credit allowance date that provides documentation as to*
7 *the investment of 85 percent of the purchase price in qualified*
8 *low-income community investments in qualified active low-income*
9 *community businesses located in California. Such report shall*
10 *include all of the following:*

11 (i) *A bank statement of such qualified community development*
12 *entity evidencing each qualified low-income community investment.*

13 (ii) *Evidence that such business was a qualified active*
14 *low-income community business at the time of such qualified*
15 *low-income community investment.*

16 (iii) *Any other information required by the committee.*

17 (B) *Thereafter, the qualified community development entity shall*
18 *submit an annual report to the committee within 60 days of the*
19 *beginning of the calendar year during the compliance period. No*
20 *annual report shall be due prior to the first anniversary of the*
21 *initial credit allowance date. The report shall include, but is not*
22 *limited to, the following:*

23 (i) *The impact the credit had on the low-income community.*

24 (ii) *The amount of moneys used for qualified low-income*
25 *investments in qualified low-income community businesses.*

26 (iii) *The number of employment positions created and retained*
27 *as a result of qualified low-income community investments.*

28 (iv) *Average annual salary of positions in the projects described*
29 *in subdivision (a).*

30 (e) *In the case where the credit allowed by this section exceeds*
31 *the tax described in paragraph (1) of subdivision (a) of Section*
32 *12204, the excess may be carried over to reduce that tax in the*
33 *following year, and the six succeeding years if necessary, until the*
34 *credit is exhausted.*

35 (f) *The committee shall annually report on its Internet Web site*
36 *the information provided by low-income community development*
37 *entities and on the geographic distribution of the credits.*

38 (g) *This section shall remain in effect only until December 1,*
39 *2028, and as of that date is repealed.*

1 ~~SEC. 2.~~

2 *SEC. 4.* Section 17053.9 is added to the Revenue and Taxation
3 Code, to read:

4 17053.9. (a) There is hereby created the California New
5 Markets Tax Credit Program as provided in this ~~section~~ *section*,
6 *Section 12283*, and Section 23622.9. The purpose of this program
7 is to stimulate ~~economic development, and hasten California's~~
8 ~~economic recovery, by authorizing tax credits for investment in~~
9 ~~California, including, but not limited to, retail businesses, real~~
10 ~~property, financial institutions, and schools. The California Tax~~
11 ~~Credit Allocation Committee shall have responsibility for the~~
12 ~~administration of private sector investment in lower income~~
13 ~~communities by providing a tax incentive to qualified community~~
14 ~~and economic development entities that can be leveraged by the~~
15 ~~entity to attract private sector investment that in turn will be~~
16 ~~deployed by providing financing and technical assistance to small~~
17 ~~and medium size businesses and the development of commercial,~~
18 ~~industrial and community development projects, including, but not~~
19 ~~limited to, facilities for nonprofit service organizations, light~~
20 ~~manufacturing, and mixed-use and transit-oriented development.~~
21 *The California Competes Tax Credit Committee shall administer*
22 *this program as provided in this ~~section~~ section, Section 12283,*
23 *and Section 23622.9.*

24 (b) (1) For taxable years beginning on or after January 1, 2015,
25 and before January 1, ~~2021~~, 2027, there shall be allowed as a credit
26 against the “net tax,” as defined in Section 17039, an amount
27 determined in accordance with Section 45D of the Internal Revenue
28 Code, *as amended by Public Law 111-5, Public Law 111-312, and*
29 *Public Law 112-240*, as modified as set forth in this section.

30 (2) This credit shall be allowed only if the taxpayer holds the
31 qualified equity investment on the credit allowance date and each
32 of the six following anniversary dates of that date.

33 (3) *A tax credit allowed under this section shall not be sold and*
34 *is not a refundable credit. Tax credits allowed to a partnership,*
35 *limited liability company, or “S” corporation may be allocated*
36 *to the partners, members, managers, or shareholders of such entity*
37 *accordance with the provisions of any agreement among such*
38 *partners, members, managers, or shareholders. Such allocations*
39 *shall not be considered a sale for the purposes of this section.*

1 (c) Section 45D of the Internal Revenue Code is modified as
2 follows:

3 (1) (A) The references to “the Secretary” in Section 45D of the
4 Internal Revenue Code are modified to read “the committee.”

5 (B) For purposes of this section, “committee” means the
6 ~~California Tax Credit Allocation Committee as described in~~
7 ~~subdivision (a) of Section 50199.7 of the Health and Safety Code,~~
8 ~~or any successor thereto.~~ *Competes Tax Credit Committee*
9 *established under Section 18410.2.*

10 (2) Section 45D(a)(2) of the Internal Revenue ~~Code~~ *Code,*
11 *relating to applicable percentage,* is modified by substituting for
12 “(A) 5 percent with respect to the first 3 credit allowance dates,
13 and (B) 6 percent with respect to the remainder of the credit
14 allowance ~~dates.”~~ *dates”* with the following:

15 (A) Zero percent with respect to the first two credit allowance
16 dates.

17 (B) Seven percent with respect to the third credit allowance
18 date.

19 (C) Eight percent with respect to the remainder of the credit
20 allowance dates.

21 (3) ~~The provisions of~~ Section 45D(b) of the Internal Revenue
22 Code, *relating to qualified equity investment,* is modified as
23 follows:

24 (A) ~~Section 45D(b)(1)~~ *45D(b)(6)* of the Internal Revenue Code,
25 *relating to equity investments,* is modified by substituting “3 years”
26 for “5 years” and “3-year period” for “5-year period.” *to also*
27 *include long-term debt securities issued by any qualified*
28 *low-income community business that substantially supports projects*
29 *within a low-income community.*

30 (B) Section 45D(b)(3) of the Internal Revenue Code, *relating*
31 *to safe harbor for determining use of cash,* is modified by
32 substituting “qualified low-income community investments in
33 California” for “qualified low-income community investments.”

34 (4) *Section 45D(c)(1) of the Internal Revenue Code, relating to*
35 *qualified community development entities, is modified to*
36 *additionally include:*

37 (A) *A subsidiary community development entity of any such*
38 *qualified community development entity.*

39 (B) *A nonprofit organization certified by the committee as*
40 *having a primary mission of serving or providing investment*

1 *capital in low-income communities and the entity maintains*
2 *accountability to residents of low-income communities through*
3 *their representation on any governing board of the entity or on an*
4 *advisory board of the entity. The committee shall establish*
5 *guidelines for certifying nonprofit organizations pursuant to this*
6 *subparagraph.*

7 ~~(4)~~

8 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
9 to qualified low-income community investments, is modified to
10 include any capital or equity investment in, or loan to, any real
11 estate project located in a low-income community or any operating
12 business that, at the time the initial investment is made, has 250
13 or ~~less~~ *fewer* employees and is located in a low-income community.
14 The real estate project or operating business shall meet all other
15 ~~conditions~~ *requirements* of a qualified active low-income
16 community business, except as modified by paragraphs ~~(5)~~ (6) and
17 ~~(6)~~ (7).

18 ~~(5)~~

19 (6) The term “qualified active low-income community business,”
20 as defined in Section 45D(d)(2) of the Internal Revenue Code is
21 modified as follows:

22 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
23 *relating to qualified active low-income community businesses*, is
24 modified by substituting “any low-income community in
25 California” for “any low-income community.”

26 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue ~~Code~~
27 *Code, relating to qualified active low-income community*
28 *businesses*, is modified ~~by substituting~~ *as follows*:

29 (i) *Substituting* “any low-income community in California” for
30 ~~“qualified “any low-income community investments.”~~ *community.”*

31 (ii) *In determining whether the qualified active low-income*
32 *community business uses a substantial portion of its tangible*
33 *personal property within any low-income community, the term*
34 *“substantial portion” shall mean “at least 40 percent” as*
35 *calculated by the average value of the tangible property owned or*
36 *leased and used within a California low-income community by the*
37 *entity divided by the average value of the total tangible property*
38 *owned or leased and used by the entity during the taxable year.*
39 *The value assigned to the leased property by the entity must be*
40 *reasonable.*

1 (iii) Adding the provision that if the business meets the
 2 requirements of a qualified low-income community business at the
 3 time the investment is made, the business shall continue to satisfy
 4 the requirements of Section 45D(d)(2)(A)(ii) for the duration of
 5 the investment.

6 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code
 7 Code, relating to qualified active low-income community businesses
 8 which limits the services of employees to substantially those
 9 performed within the low-income community, shall not apply.

10 (D) The following shall apply in lieu of the provisions of Section
 11 45D(d)(2)(C) of the Internal Revenue Code, relating to qualified
 12 active low-income community business: “A ‘qualified active
 13 low-income community business’ shall include an operating
 14 business that, at the time the initial investment is made, has 250
 15 or less fewer employees and is located in a California low-income
 16 community. The operating business shall meet all other conditions
 17 of a qualified active low-income business, except as modified by
 18 this paragraph and paragraph ~~(6)~~ (7).”

19 ~~(6)~~

20 (7) Section 45D(e)(1) of the Internal Revenue Code, relating
 21 to determining the eligible low-income community, is modified to
 22 add the following: “When the United States Census Bureau
 23 discontinues using the decennial census to report median family
 24 income on a census tract basis, census block group data shall be
 25 used based on the American Community Survey.”

26 ~~(7)~~

27 (8) The following shall apply in lieu of the provisions of Section
 28 ~~45(D)(f)(1)~~ 45D(f)(1) of the Internal Revenue Code, relating to
 29 national limitation on amount of investments designated: “The
 30 aggregate amount of credit that may be allocated in any calendar
 31 year pursuant to this section, Section 12283, and Section 23622.9
 32 shall be an amount equal to any unused portion of the one hundred
 33 million dollars (\$100,000,000) in exclusions, authorized pursuant
 34 to Section 6010.8, as determined by the California Alternative
 35 Energy and Advanced Transportation Financing Authority and
 36 reported to the committee, not to exceed forty million dollars
 37 (\$40,000,000). The committee shall limit the allocation of credits
 38 permitted under this section, Section 12283, and Section 23622.9
 39 to a cumulative total of no more than two hundred million dollars
 40 (\$200,000,000). Any unused or recaptured credits shall be returned

1 to the committee ~~at the end of the third~~ *on March 1 of the year*
 2 following allocation and the value of the unused *or recaptured*
 3 credit shall be available for ~~allocation~~ *reallocation* in the following
 4 calendar years. Reallocation credits shall not count against the
 5 forty million dollars (\$40,000,000) annual limit or the two hundred
 6 million dollars (\$200,000,000) cumulative limit.”

7 (8)

8 (9) Section 45D(g)(3) of the Internal Revenue Code, relating
 9 to recapture event, ~~is modified by adding~~ *does not apply and is*
 10 *replaced with* the following: ~~“Notwithstanding the provisions of~~
 11 ~~this paragraph, a recapture event shall not have occurred and an~~
 12 ~~investment shall be considered held by a community development~~
 13 ~~entity upon its sale or repayment, provided the qualified community~~
 14 ~~development entity reinvests an amount equal to the capital~~
 15 ~~returned to or recovered by the qualified community development~~
 16 ~~entity from the original investment, exclusive of any profits~~
 17 ~~realized, in another qualified low-income community investment~~
 18 ~~within 12 months of the receipt of that capital. A qualified~~
 19 ~~community development entity shall not be required to reinvest~~
 20 ~~capital returned from a qualified low-income community~~
 21 ~~investment after the sixth anniversary of the issuance of the~~
 22 ~~qualified equity investment, the proceeds of which were used to~~
 23 ~~make the qualified low-income community investment. The~~
 24 ~~qualified low-income community investment shall be considered~~
 25 ~~held by the qualified community development entity through the~~
 26 ~~seventh anniversary of the issuance of the qualified equity~~
 27 ~~investment.”~~

28 (A) (i) *The committee shall recapture, from the entity that*
 29 *claimed the credit on a return, the tax credit allowed under this*
 30 *section if any of the following:*

31 (I) *Any amount of a federal tax credit available with respect to*
 32 *a qualified equity investment that is eligible for a credit under this*
 33 *section is recaptured under Section 45D of the Internal Revenue*
 34 *Code. In such case the committee’s recapture shall be*
 35 *proportionate to the federal recapture with respect to such*
 36 *qualified equity investment.*

37 (II) *The qualified community development entity redeems or*
 38 *makes principal repayment with respect to a qualified equity*
 39 *investment prior to the seventh anniversary of the issuance of such*
 40 *qualified equity investment. In such case the committee’s recapture*

1 shall be proportionate to the amount of the redemption or
2 repayment with respect to such qualified equity investment.

3 (III) The qualified community development entity fails to invest
4 an amount equal to 85 percent of the purchase price of the qualified
5 equity investment in qualified low-income community investments
6 in California within 12 months of the issuance of the qualified
7 equity investment and maintain at least 85 percent of such level
8 of investment in qualified low-income community investments in
9 California until the last credit allowance date for the qualified
10 equity investment. For purposes of this section, an investment shall
11 be considered held by a qualified community development entity
12 even if the investment has been sold or repaid if the qualified
13 community development entity reinvests an amount equal to the
14 capital returned to, or recovered by, the qualified community
15 development entity from the original investment, exclusive of any
16 profits realized, in another qualified low-income community
17 investment within 12 months of the receipt of such capital. Periodic
18 amounts received as repayment of principal pursuant to regularly
19 scheduled amortization payments on a loan that is a qualified
20 low-income community investment shall be treated as continuously
21 invested in a qualified low-income community investment if the
22 amounts are reinvested in one or more qualified low-income
23 community investments by the end of the following calendar year.
24 A qualified community development entity shall not be required
25 to reinvest capital returned from qualified low-income community
26 investments after the sixth anniversary of the issuance of the
27 qualified equity investment, and the qualified low-income
28 community investment shall be considered held by the qualified
29 community development entity through the seventh anniversary of
30 the qualified equity investment's issuance.

31 (ii) Recaptured tax credits and the related qualified equity
32 investment authority revert back to the committee and shall be
33 reissued in the following order:

34 (I) First, pro rata to applicants whose qualified equity
35 investment allocations were reduced by the allocation limitation
36 of forty million dollars (\$40,000,000) in paragraph (8) of
37 subdivision (c).

38 (II) Thereafter, in accordance with the application process.

39 (iii) Enforcement of each of the recapture provisions shall be
40 subject to a six-month cure period. No recapture shall occur until

1 *the qualified community development entity shall have been given*
2 *notice of noncompliance and afforded six months from the date of*
3 *such notice to cure the noncompliance.*

4 ~~(9)~~

5 (10) Section 45D(i) of the Internal Revenue Code, relating to
6 regulations, shall not apply.

7 (11) *If a qualified community development entity makes a capital*
8 *or equity investment or a loan with respect to a qualified*
9 *low-income building under the state Low Income Tax Credit*
10 *Program, the investment or loan is not a qualified low-income*
11 *community investment under this section.*

12 (d) (1) The committee shall adopt guidelines necessary or
13 appropriate to carry out the purposes of this section. The guidelines
14 shall not disqualify a low-income community investment for the
15 single reason that public or private incentives, loans, equity
16 investments, technical assistance, or other forms of support have
17 been or continue to be provided. The adoption of the guidelines
18 shall not be subject to the rulemaking provisions of the
19 Administrative Procedure Act of Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
21 Code.

22 (2) The committee shall establish and impose reasonable fees
23 upon entities that apply for the allocation pursuant to *this*
24 subdivision—~~(d)~~ and use the revenue to defray the cost of
25 administering the program. The committee shall establish the fees
26 in a manner that ensures that (A) the total amount collected equals
27 the amount reasonably necessary to defray the committee's costs
28 in performing its administrative duties under this section, and (B)
29 the amount paid by each entity reasonably corresponds with the
30 value of the services provided to the entity.

31 (3) In developing guidelines the committee shall adopt an
32 allocation process that does all of the following:

33 (A) Creates an equitable distribution process that ensures that
34 low-income communities across the state have an opportunity to
35 benefit from the program.

36 (B) Sets minimum organizational capacity standards that
37 applicants must meet in order to receive an allocation of credits.

38 ~~(C) Requires annual reporting by each community development~~
39 ~~entity that receives an allocation. The report shall include, but is~~
40 ~~not limited to, the impact the credit had on the low-income~~

1 community, the amount of moneys used, and the types of activities
 2 funded through the equity investment. The reporting period shall
 3 be for a period of eight years following the allocation of credits.

4 ~~(D)~~

5 (C) Provides for the annual return of unused credits on March
 6 1 of the year following the ~~third year after being~~ the credits are
 7 awarded so that they may be reallocated to other community
 8 development entities.

9 (4) (A) *The committee shall begin accepting applications on*
 10 *March 15, 2015, and shall award credits at least two times a year*
 11 *at dates set annually by the committee through 2015, to the extent*
 12 *that allocations are available pursuant to Section 26011.9 of the*
 13 *Public Resources Code.*

14 (B) *Within 20 calendar days after receipt of an application the*
 15 *committee shall determine whether the application is complete or*
 16 *whether additional information is necessary in order to fully*
 17 *evaluate the application. If additional information is requested*
 18 *and the qualified community development entity provides that*
 19 *information within five working days, the application shall be*
 20 *considered completed as of the original date of submission. If the*
 21 *qualified community development entity fails to provide the*
 22 *information within the five-working-day period, the application*
 23 *shall be denied and must be resubmitted in full with a new*
 24 *submission date.*

25 (C) *Within 20 days after receipt of an application determined*
 26 *to be complete by the committee, the committee shall grant or deny*
 27 *the application in full or in part. If the committee denies any part*
 28 *of the application, it shall inform the qualified community*
 29 *development entity of the grounds for the denial.*

30 (5) (A) *The committee shall award tax credits in the order*
 31 *applications are received by the committee. Applications received*
 32 *on the same day shall be deemed to have been received*
 33 *simultaneously.*

34 (B) *For applications that are complete and received on the same*
 35 *day, and in the event tax credit requests exceed the allocation*
 36 *limitation of forty million dollars (\$40,000,000) in paragraph (8)*
 37 *of subdivision (c), the committee shall certify, consistent with*
 38 *remaining qualified equity investment capacity, qualified equity*
 39 *investments of applicants in proportionate percentages based upon*
 40 *the ratio of the amount of qualified equity investments requested*

1 in such applications to the total amount of qualified equity
2 investments requested in all such applications received on the
3 same day.

4 (C) If a pending request cannot be fully certified due to this
5 limit, the committee shall certify the portion that may be certified
6 unless the qualified community development entity elects to
7 withdraw its request rather than receive partial certification.

8 (D) An approved applicant may transfer all or a portion of its
9 certified qualified equity investment authority to its controlling
10 entity or any subsidiary qualified community development entity
11 of the controlling entity, provided that the applicant and the
12 transferee notify the committee of such transfer and include the
13 information required in the application with respect to such
14 transferee with such notice.

15 (E) Within 60 days of the applicant receiving notice of
16 certification, the qualified community development entity or any
17 transferee, under paragraph (3) of subdivision (b), shall issue the
18 qualified equity investment, receive cash in the amount of the
19 certified amount, and, if applicable, designate the required amount
20 of qualified equity investment authority as federal qualified equity
21 investments. The qualified community development entity or
22 transferee, under paragraph (3) of subdivision (b), must provide
23 the committee with evidence of the receipt of the cash investment
24 and designation of the qualified equity investment as a federal
25 qualified equity investment within 65 days of the applicant
26 receiving notice of certification. If the qualified community
27 development entity or any transferee, under paragraph (3) of
28 subdivision (b), does not receive the cash investment, issue the
29 qualified equity investment and, if applicable, designate the
30 required amount of qualified equity investment authority as federal
31 qualified equity investments within 60 days following receipt of
32 the certification notice, the certification shall lapse and the entity
33 may not issue the qualified equity investment without reapplying
34 to the committee for certification. Lapsed certifications revert back
35 to the committee and shall be reissued in the following order:

36 (i) First, pro rata to applicants whose qualified equity investment
37 allocations were reduced under the allocation limitation of forty
38 million dollars (\$40,000,000) in paragraph (8) of subdivision (c).

39 (ii) Thereafter, in accordance with the application process.

1 (F) A qualified community development entity that issues
2 qualified equity investments must notify the committee of the names
3 of the entities that are eligible to utilize tax credits under
4 paragraph (3) of subdivision (b) pursuant to an allocation of tax
5 credits or change in allocation of tax credits or due to a transfer
6 of a qualified equity investment.

7 (6) (A) A qualified community development entity that issues
8 qualified equity investments shall submit a report to the committee
9 within the first five business days after the first anniversary of the
10 initial credit allowance date that provides documentation as to
11 the investment of 85 percent of the purchase price in qualified
12 low-income community investments in qualified active low-income
13 community businesses located in California. Such report shall
14 include all of the following:

15 (i) A bank statement of such qualified community development
16 entity evidencing each qualified low-income community investment.

17 (ii) Evidence that such business was a qualified active
18 low-income community business at the time of such qualified
19 low-income community investment.

20 (iii) Any other information required by the committee.

21 (B) Thereafter, the qualified community development entity shall
22 submit an annual report to the committee within 60 days of the
23 beginning of the calendar year during the compliance period. No
24 annual report shall be due prior to the first anniversary of the
25 initial credit allowance date. The report shall include, but is not
26 limited to, the following:

27 (i) The impact the credit had on the low-income community.

28 (ii) The amount of moneys used for qualified low-income
29 investments in qualified low-income community businesses.

30 (iii) The number of employment positions created and retained
31 as a result of qualified low-income community investments.

32 (iv) Average annual salary of positions in the projects described
33 in subdivision (a).

34 (e) In the case where the credit allowed by this section exceeds
35 the “net tax,” the excess may be carried over to reduce the “net
36 tax” in the following year, and the ~~seven~~ six succeeding years if
37 necessary, until the credit is exhausted.

38 (f) The committee shall annually report on its Internet Web site
39 the information provided by low-income community development
40 entities and on the geographic distribution of the credits.

1 (g) This section shall remain in effect only until December 1,
2 2028, and as of that date is repealed.

3 ~~SEC. 3.~~

4 *SEC. 5.* Section 23622.9 is added to the Revenue and Taxation
5 Code, to read:

6 23622.9. (a) There is hereby created the California New
7 Markets Tax Credit Program as provided in this section, *Section*
8 *12283*, and Section 17053.9. The purpose of this program is to
9 stimulate economic development, and hasten California's economic
10 recovery, by authorizing tax credits for investment in California,
11 including, but not limited to, retail businesses, real property,
12 financial institutions, and schools: *private sector investment in*
13 *lower income communities by providing a tax incentive to qualified*
14 *community and economic development entities that can be*
15 *leveraged by the entity to attract private sector investment that in*
16 *turn will be deployed by providing financing and technical*
17 *assistance to small- and medium-size businesses and the*
18 *development of commercial, industrial and community development*
19 *projects, including, but not limited to, facilities for nonprofit service*
20 *organizations, light manufacturing, and mixed-use and*
21 *transit-oriented development. The California Tax Credit Allocation*
22 *Competes Tax Credit Committee shall have responsibility for the*
23 ~~administration of~~ *administer* this program as provided in this
24 ~~section~~ *section*, *Section 12283*, and Section 17053.9.

25 (b) (1) For taxable years beginning on or after January 1, 2015,
26 and before January 1, ~~2021~~, 2027, there shall be allowed as a credit
27 against the "tax," as defined in Section 23036, an amount
28 determined in accordance with Section 45D of the Internal Revenue
29 Code, *as amended by Public Law 111-5, Public Law 111-312, and*
30 *Public Law 112-240*, as modified as set forth in this section.

31 (2) This credit shall be allowed only if the taxpayer holds the
32 qualified equity investment on the credit allowance date and each
33 of the six following anniversary dates of that date.

34 (3) *A tax credit allowed under this section shall not be sold and*
35 *is not a refundable credit. Tax credits allowed to a partnership,*
36 *limited liability company, or "S" corporation may be allocated*
37 *to the partners, members, managers, or shareholders of such entity*
38 *in accordance with the provisions of any agreement among such*
39 *partners, members, managers, or shareholders. Such allocations*
40 *shall not be considered a sale for the purposes of this section.*

1 (c) Section 45D of the Internal Revenue Code is modified as
 2 follows:

3 (1) (A) The references to “the Secretary” in Section 45D of the
 4 Internal Revenue Code are modified to read “the committee.”

5 (B) For purposes of this section, “committee” means the
 6 ~~California Tax Credit Allocation Committee as described in~~
 7 ~~subdivision (a) of Section 50199.7 of the Health and Safety Code,~~
 8 ~~or any successor thereto. Competes Tax Credit Committee~~
 9 ~~established under Section 18410.2.~~

10 (2) Section 45D(a)(2) of the Internal Revenue Code, *relating*
 11 *to applicable percentage*, is modified by substituting for “(A) 5
 12 percent with respect to the first 3 credit allowance dates, and (B)
 13 6 percent with respect to the remainder of the credit allowance
 14 ~~dates.”~~ *dates*” with the following:

15 (A) Zero percent with respect to the first two credit allowance
 16 dates.

17 (B) Seven percent with respect to the third credit allowance
 18 date.

19 (C) Eight percent with respect to the remainder of the credit
 20 allowance dates.

21 (3) ~~The provisions of Section 45D(b) of the Internal Revenue~~
 22 ~~Code, relating to qualified equity investment~~, is modified as
 23 follows:

24 (A) ~~Section 45D(b)(1)~~ *45D(b)(6)* of the Internal Revenue Code,
 25 *relating to equity investments*, is modified by substituting “3 years”
 26 for “5 years” and “3-year period” for “5-year period.” *to also*
 27 *include long-term debt securities issued by any qualified*
 28 *low-income community business that substantially supports projects*
 29 *within a low-income community.*

30 (B) Section 45D(b)(3) of the Internal Revenue Code, *relating*
 31 *to safe harbor for determining use of cash*, is modified by
 32 substituting “qualified low-income community investments in
 33 California” for “qualified low-income community investments.”

34 (4) *Section 45D(c)(1) of the Internal Revenue Code, relating to*
 35 *qualified community development entities, is modified to*
 36 *additionally include:*

37 (A) *A subsidiary community development entity of any such*
 38 *qualified community development entity.*

39 (B) *A nonprofit organization certified by the committee as*
 40 *having a primary mission of serving or providing investment*

1 *capital in low-income communities and the entity maintains*
2 *accountability to residents of low-income communities through*
3 *their representation on any governing board of the entity or on an*
4 *advisory board of the entity. The committee shall establish*
5 *guidelines for certifying nonprofit organizations pursuant to this*
6 *subparagraph.*

7 ~~(4)~~

8 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
9 to qualified low-income community investments, is modified to
10 include any capital or equity investment in, or loan to, any real
11 estate project located in a low-income community or any operating
12 business that, at the time the initial investment is made, has 250
13 or ~~less~~ *fewer* employees and is located in a low-income community.
14 The real estate project or operating business shall meet all other
15 ~~conditions~~ *requirements* of a qualified active low-income
16 community business, except as modified by paragraphs ~~(5)~~ (6) and
17 ~~(6)~~ (7).

18 ~~(5)~~

19 (6) The term “qualified active low-income community business,”
20 as defined in Section 45D(d)(2) of the Internal Revenue Code is
21 modified as follows:

22 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code,
23 *relating to qualified active low-income community businesses*, is
24 modified by substituting “any low-income community in
25 California” for “any low-income community.”

26 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code,
27 *relating to qualified active low-income community businesses*, is
28 modified ~~by substituting~~ *as follows*:

29 (i) *Substituting* “any low-income community in California” for
30 ~~“qualified “any low-income community investments.”~~ *community.”*

31 (ii) *In determining whether the qualified active low-income*
32 *community business uses a substantial portion of its tangible*
33 *personal property within any low-income community, the term*
34 *“substantial portion” shall mean “at least 40 percent” as*
35 *calculated by the average value of the tangible property owned or*
36 *leased and used within a California low-income community by the*
37 *entity divided by the average value of the total tangible property*
38 *owned or leased and used by the entity during the taxable year.*
39 *The value assigned to the leased property by the entity must be*
40 *reasonable.*

1 (iii) Adding the provision that if the business meets the
 2 requirements of a qualified low income community business at the
 3 time the investment is made, the business shall continue to satisfy
 4 the requirements of Section 45D(d)(2)(A)(ii) for the duration of
 5 the investment.

6 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
 7 relating to qualified active low-income community businesses that
 8 limits the services of employees to substantially those performed
 9 within the low-income community, shall not apply.

10 (D) The following shall apply in lieu of the provisions of Section
 11 45D(d)(2)(C) of the Internal Revenue Code, relating to qualified
 12 active low-income community business: “A ‘qualified active
 13 low-income community business’ shall include an operating
 14 business that, at the time the initial investment is made, has 250
 15 or less fewer employees and is located in a California low-income
 16 community. The operating business shall meet all other conditions
 17 of a qualified active low-income business, except as modified by
 18 this paragraph and paragraph-~~(6)~~ (7).”

19 ~~(6)~~

20 (7) Section 45D(e)(1) of the Internal Revenue Code, relating
 21 to determining the eligible low-income community is modified to
 22 add the following: “When the United States Census Bureau
 23 discontinues using the decennial census to report median family
 24 income on a census tract basis, census block group data shall be
 25 used based on the American Community Survey.”

26 ~~(7)~~

27 (8) The following shall apply in lieu of the provisions of Section
 28 45(D)(f)(1) of the Internal Revenue Code, relating to national
 29 limitation on amount of investments designated: “The aggregate
 30 amount of credit that may be allocated in any calendar year
 31 pursuant to this section, and Section 12283, and Section 17053.9
 32 shall be an amount equal to any unused portion of the one hundred
 33 million dollars (\$100,000,000) in exclusions, authorized pursuant
 34 to Section 6010.8, as determined by the California Alternative
 35 Energy and Advanced Transportation Financing Authority and
 36 reported to the committee, not to exceed forty million dollars
 37 (\$40,000,000). The committee shall limit the allocation of credits
 38 permitted under this section, and Section 12283, and Section
 39 23622.9 to a cumulative total of no more than two hundred million
 40 dollars (\$200,000,000). Any unused or recaptured credits shall be

1 returned to the committee ~~at the end of the third~~ *on March 1 of the*
2 year following allocation and the value of the unused *or recaptured*
3 credit shall be available for ~~allocation~~ *reallocation* in the following
4 calendar years. Reallocation credits shall not count against the
5 forty million dollars (\$40,000,000) annual limit or the two hundred
6 million dollars (\$200,000,000) cumulative limit.”

7 (8)

8 (9) Section 45D(g)(3) of the Internal Revenue Code, relating
9 to recapture event, ~~is modified by adding~~ *does not apply and is*
10 *replaced with* the following: ~~“Notwithstanding the provisions of~~
11 ~~this paragraph, a recapture event shall not have occurred and an~~
12 ~~investment shall be considered held by a community development~~
13 ~~entity upon its sale or repayment, provided the qualified community~~
14 ~~development entity reinvests an amount equal to the capital~~
15 ~~returned to or recovered by the qualified community development~~
16 ~~entity from the original investment, exclusive of any profits~~
17 ~~realized, in another qualified low-income community investment~~
18 ~~within 12 months of the receipt of that capital. A qualified~~
19 ~~community development entity shall not be required to reinvest~~
20 ~~capital returned from a qualified low-income community~~
21 ~~investment after the sixth anniversary of the issuance of the~~
22 ~~qualified equity investment, the proceeds of which were used to~~
23 ~~make the qualified low-income community investment. The~~
24 ~~qualified low-income community investment shall be considered~~
25 ~~held by the qualified community development entity through the~~
26 ~~seventh anniversary of the issuance of the qualified equity~~
27 ~~investment.”~~

28 (A) (i) *The committee shall recapture, from the entity that*
29 *claimed the credit on a return, the tax credit allowed under this*
30 *section if any of the following:*

31 (I) *Any amount of a federal tax credit available with respect to*
32 *a qualified equity investment that is eligible for a credit under this*
33 *section is recaptured under Section 45D of the Internal Revenue*
34 *Code. In such case the committee’s recapture shall be*
35 *proportionate to the federal recapture with respect to such*
36 *qualified equity investment.*

37 (II) *The qualified community development entity redeems or*
38 *makes principal repayment with respect to a qualified equity*
39 *investment prior to the seventh anniversary of the issuance of such*
40 *qualified equity investment. In such case the committee’s recapture*

1 shall be proportionate to the amount of the redemption or
2 repayment with respect to such qualified equity investment.

3 (III) The qualified community development entity fails to invest
4 an amount equal to 85 percent of the purchase price of the qualified
5 equity investment in qualified low-income community investments
6 in California within 12 months of the issuance of the qualified
7 equity investment and maintain at least 85 percent of such level
8 of investment in qualified low-income community investments in
9 California until the last credit allowance date for the qualified
10 equity investment. For purposes of this section, an investment shall
11 be considered held by a qualified community development entity
12 even if the investment has been sold or repaid if the qualified
13 community development entity reinvests an amount equal to the
14 capital returned to, or recovered by, the qualified community
15 development entity from the original investment, exclusive of any
16 profits realized, in another qualified low-income community
17 investment within 12 months of the receipt of such capital. Periodic
18 amounts received as repayment of principal pursuant to regularly
19 scheduled amortization payments on a loan that is a qualified
20 low-income community investment shall be treated as continuously
21 invested in a qualified low-income community investment if the
22 amounts are reinvested in one or more qualified low-income
23 community investments by the end of the following calendar year.
24 A qualified community development entity shall not be required
25 to reinvest capital returned from qualified low-income community
26 investments after the sixth anniversary of the issuance of the
27 qualified equity investment, and the qualified low-income
28 community investment shall be considered held by the qualified
29 community development entity through the seventh anniversary of
30 the qualified equity investment's issuance.

31 (ii) Recaptured tax credits and the related qualified equity
32 investment authority revert back to the committee and shall be
33 reissued in the following order:

34 (I) First, pro rata to applicants whose qualified equity
35 investment allocations were reduced by the allocation limitation
36 of forty million dollars (\$40,000,000) in paragraph (8) of
37 subdivision (c).

38 (II) Thereafter, in accordance with the application process.

39 (iii) Enforcement of each of the recapture provisions shall be
40 subject to a six month cure period. No recapture shall occur until

1 *the qualified community development entity shall have been given*
2 *notice of noncompliance and afforded six months from the date of*
3 *such notice to cure the noncompliance.*

4 ~~(9)~~

5 (10) Section 45D(i) of the Internal Revenue Code, relating to
6 regulations, shall not apply.

7 (11) *If a qualified community development entity makes a capital*
8 *or equity investment or a loan with respect to a qualified*
9 *low-income building under the state Low Income Tax Credit*
10 *Program, the investment or loan is not a qualified low-income*
11 *community investment under this section.*

12 (d) (1) The committee shall adopt guidelines necessary or
13 appropriate to carry out the purposes of this section. The guidelines
14 shall not disqualify a low-income community investment for the
15 single reason that public or private incentives, loans, equity
16 investments, technical assistance, or other forms of support have
17 been or continue to be provided. The adoption of the guidelines
18 shall not be subject to the rulemaking provisions of the
19 Administrative Procedure Act of Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
21 Code.

22 (2) The committee shall establish and impose reasonable fees
23 upon entities that apply for the allocation pursuant to *this*
24 subdivision—~~(d)~~ and use the revenue to defray the cost of
25 administering the program. The committee shall establish the fees
26 in a manner that ensures that (A) the total amount collected equals
27 the amount reasonably necessary to defray the committee's costs
28 in performing its administrative duties under this section, and (B)
29 the amount paid by each entity reasonably corresponds with the
30 value of the services provided to the entity.

31 (3) In developing guidelines the committee shall adopt an
32 allocation process that does all of the following:

33 (A) Creates an equitable distribution process that ensures that
34 low-income communities across the state have an opportunity to
35 benefit from the program.

36 (B) Sets minimum organizational capacity standards that
37 applicants must meet in order to receive an allocation of credits.

38 ~~(C) Requires annual reporting by each community development~~
39 ~~entity that receives an allocation. The report shall include, but is~~
40 ~~not limited to, the impact the credit had on the low-income~~

1 community, the amount of moneys used, and the types of activities
 2 funded through the equity investment. The reporting period shall
 3 be for a period of eight years following the allocation of credits.

4 ~~(D)~~

5 (C) Provides for the annual return of unused credits *on March*
 6 *1 of the year following the third year after being year the credits*
 7 *are awarded so that they may be reallocated to other community*
 8 *development entities.*

9 (4) (A) *The committee shall begin accepting applications on*
 10 *March 15, 2019, and shall award credits at least two times a year*
 11 *at dates set annually by the committee through 2025, to the extent*
 12 *that allocations are available pursuant to Section 26011.9 of the*
 13 *Public Resources Code.*

14 (B) *Within 20 calendar days after receipt of an application the*
 15 *committee shall determine whether the application is complete or*
 16 *whether additional information is necessary in order to fully*
 17 *evaluate the application. If additional information is requested*
 18 *and the qualified community development entity provides that*
 19 *information within five working days, the application shall be*
 20 *considered completed as of the original date of submission. If the*
 21 *qualified community development entity fails to provide the*
 22 *information within the five-working-day period, the application*
 23 *shall be denied and must be resubmitted in full with a new*
 24 *submission date.*

25 (C) *Within 20 days after receipt of an application determined*
 26 *to be complete by the committee, the committee shall grant or deny*
 27 *the application in full or in part. If the committee denies any part*
 28 *of the application, it shall inform the qualified community*
 29 *development entity of the grounds for the denial.*

30 (5) (A) *The committee shall award tax credits in the order*
 31 *applications are received by the committee. Applications received*
 32 *on the same day shall be deemed to have been received*
 33 *simultaneously.*

34 (B) *For applications that are complete and received on the same*
 35 *day, and in the event tax credit requests exceed the allocation*
 36 *limitation of forty million dollars (\$40,000,000) in paragraph (8)*
 37 *of subdivision (c), the committee shall certify, consistent with*
 38 *remaining qualified equity investment capacity, qualified equity*
 39 *investments of applicants in proportionate percentages based upon*
 40 *the ratio of the amount of qualified equity investments requested*

1 *in such applications to the total amount of qualified equity*
2 *investments requested in all such applications received on the*
3 *same day.*

4 *(C) If a pending request cannot be fully certified due to this*
5 *limit, the committee shall certify the portion that may be certified*
6 *unless the qualified community development entity elects to*
7 *withdraw its request rather than receive partial certification.*

8 *(D) An approved applicant may transfer all or a portion of its*
9 *certified qualified equity investment authority to its controlling*
10 *entity or any subsidiary qualified community development entity*
11 *of the controlling entity, provided that the applicant and the*
12 *transferee notify the committee of such transfer and include the*
13 *information required in the application with respect to such*
14 *transferee with such notice.*

15 *(E) Within 60 days of the applicant receiving notice of*
16 *certification, the qualified community development entity or any*
17 *transferee, under paragraph (3) of subdivision (b), shall issue the*
18 *qualified equity investment, receive cash in the amount of the*
19 *certified amount, and, if applicable, designate the required amount*
20 *of qualified equity investment authority as federal qualified equity*
21 *investments. The qualified community development entity or*
22 *transferee, under paragraph (3) of subdivision (b), must provide*
23 *the committee with evidence of the receipt of the cash investment*
24 *and designation of the qualified equity investment as a federal*
25 *qualified equity investment within 65 days of the applicant*
26 *receiving notice of certification. If the qualified community*
27 *development entity or any transferee, under paragraph (3) of*
28 *subdivision (b), does not receive the cash investment, issue the*
29 *qualified equity investment and, if applicable, designate the*
30 *required amount of qualified equity investment authority as federal*
31 *qualified equity investments within 60 days following receipt of*
32 *the certification notice, the certification shall lapse and the entity*
33 *may not issue the qualified equity investment without reapplying*
34 *to the committee for certification. Lapsed certifications revert back*
35 *to the committee and shall be reissued in the following order:*

36 *(i) First, pro rata to applicants whose qualified equity investment*
37 *allocations were reduced under the allocation limitation of forty*
38 *million dollars (\$40,000,000) in paragraph (8) of subdivision (c).*

39 *(ii) Thereafter, in accordance with the application process.*

1 (F) A qualified community development entity that issues
 2 qualified equity investments must notify the committee of the names
 3 of the entities that are eligible to utilize tax credits under
 4 paragraph (3) of subdivision (b) pursuant to an allocation of tax
 5 credits or change in allocation of tax credits or due to a transfer
 6 of a qualified equity investment.

7 (6) (A) A qualified community development entity that issues
 8 qualified equity investments shall submit a report to the committee
 9 within the first five business days after the first anniversary of the
 10 initial credit allowance date that provides documentation as to
 11 the investment of 85 percent of the purchase price in qualified
 12 low-income community investments in qualified active low-income
 13 community businesses located in California. Such report shall
 14 include all of the following:

15 (i) A bank statement of such qualified community development
 16 entity evidencing each qualified low-income community investment.

17 (ii) Evidence that such business was a qualified active
 18 low-income community business at the time of such qualified
 19 low-income community investment.

20 (iii) Any other information required by the committee.

21 (B) Thereafter, the qualified community development entity shall
 22 submit an annual report to the committee within 60 days of the
 23 beginning of the calendar year during the compliance period. No
 24 annual report shall be due prior to the first anniversary of the
 25 initial credit allowance date. The report shall include, but is not
 26 limited to, the following:

27 (i) The impact the credit had on the low-income community.

28 (ii) The amount of moneys used for qualified low-income
 29 investments in qualified low-income community businesses.

30 (iii) The number of employment positions created and retained
 31 as a result of qualified low-income community investments.

32 (iv) Average annual salary of positions in the projects described
 33 in subdivision (a).

34 (e) In the case where the credit allowed by this section exceeds
 35 the “tax,” the excess may be carried over to reduce the “tax” in
 36 the following year, and the ~~seven~~ *six* succeeding years if necessary,
 37 until the credit is exhausted.

38 (f) The committee shall annually report on its Internet Web site
 39 the information provided by low-income community development
 40 entities and on the geographic distribution of the credits.

1 (g) This section shall remain in effect only until December 1,
2 2028, and as of that date is repealed.

3 ~~SEC. 4.~~

4 *SEC. 6.* This act provides for a tax levy within the meaning of
5 Article IV of the Constitution and shall go into immediate effect.

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