

AMENDED IN SENATE JUNE 18, 2014

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 amend Section 18410.2 of*, and to add and repeal Sections 12283, 17053.9 and 23622.9 ~~of~~ *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~~ *Markets* 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 Competes Tax Credit Committee, which has specified duties in regard to 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.~~

Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.

This bill would allow a credit under 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 ~~Markets~~ Tax Credit, for taxable years beginning on or after January 1, 2015, and before January 1, 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 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~~ effects. In some cases this has resulted in
- 7 small and medium businesses in low-income areas lacking
- 8 sufficient access to capital and technical assistance. Given that the
- 9 state has many needs and limited resources, moneys from the
- 10 private sector are 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

1 community development entities (CDE), which they then use to
2 attract private investors who contribute funds that can be used to
3 finance and invest in businesses and develop real estate in
4 low-income communities. Through May 2013, the CDFI Fund had
5 awarded approximately \$36,500,000,000 in NMTC in 749 awards
6 including \$3,000,000,000 in American Recovery and Investment
7 Act of 2009 awards and \$1,000,000,000 of special allocation
8 authority to be used for the recovery and redevelopment of the
9 Gulf Opportunity Zone.

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

16 (d) Fourteen states in the United States have adopted state
17 programs using the NMTC model including Alabama, Florida,
18 Illinois, Nevada, and Oregon. While some of the programs
19 substantially mirror the federal program, others vary in both the
20 percentage of the credit and some of the policies that form the
21 foundation of the credit. One of the reasons cited for establishing
22 state-level programs is to make their state more attractive to CDEs,
23 which results in increasing the amount of federal NMTCs being
24 utilized in their state. Further, several studies, including a January
25 1, 2011, case study by Pacific Community Ventures, showed that
26 for every dollar of forgone tax revenue, the federal NMTC
27 leverages \$12 to \$14 of private investment.

28 SEC. 2. Section 26011.9 is added to the Public Resources Code,
29 to read:

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

1 SEC. 3. Section 12283 is added to the Revenue and Taxation
 2 Code, to read:

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

17 (b) (1) For taxable years beginning on or after January 1, 2015,
 18 and before January 1, 2027, there shall be allowed as a credit
 19 against the tax described in ~~paragraph (1) of subdivision (a) of~~
 20 ~~Section 12204, Sections 12201, 12204, 12206, and 12209~~, an
 21 amount determined in accordance with Section 45D of the Internal
 22 Revenue Code, as amended by Public Law 111-5, Public Law
 23 111-312, and Public Law 112-240, as modified as set forth in this
 24 section.

25 (2) This credit shall be allowed only if the taxpayer holds the
 26 qualified equity investment, *or has been allocated a credit pursuant*
 27 *to paragraph (3)*, on the credit allowance date and each of the six
 28 following anniversary dates of that date.

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

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

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

1 (B) For purposes of this section, “committee” means the
2 California Competes Tax Credit Committee established under
3 Section 18410.2.

4 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
5 applicable percentage, is modified by substituting for “(A) 5
6 percent with respect to the first ~~three~~ ³ credit allowance dates, and
7 (B) 6 percent with respect to the remainder of the credit allowance
8 dates” with the following:

9 (A) Zero percent with respect to the first two credit allowance
10 dates.

11 (B) Seven percent with respect to the third credit allowance
12 date.

13 (C) Eight percent with respect to the remainder of the credit
14 allowance dates.

15 ~~(3) Section 45D(b) of the Internal Revenue Code, relating to~~
16 ~~qualified equity investment, is modified as follows:~~

17 ~~(A) Section 45D(b)(6) of the Internal Revenue Code, relating~~
18 ~~to equity investments, is modified to also include long-term debt~~
19 ~~securities issued by any qualified active low-income community~~
20 ~~business that substantially supports projects within a low-income~~
21 ~~community.~~

22 ~~(B)~~

23 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
24 to safe harbor for determining use of cash, is modified by
25 substituting “qualified low-income community investments in
26 California” for “qualified low-income community investments.”

27 (4) Section 45D(c)(1) of the Internal Revenue Code, relating
28 to qualified community development entities, is modified to
29 additionally include:

30 (A) A subsidiary community development entity of any such
31 qualified community development entity.

32 (B) A nonprofit ~~organization~~ *organization, pursuant to Section*
33 *23701*, certified by the committee as having a primary mission of
34 serving or providing investment capital in low-income communities
35 and the entity maintains accountability to residents of low-income
36 communities through their representation on any governing board
37 of the entity or on an advisory board of the entity. The committee
38 shall establish guidelines for certifying nonprofit organizations
39 pursuant to this subparagraph. *The committee may include*
40 *reasonable conditions on the certification to effectuate the intent*

1 of this section and may suspend or revoke a certification, after
2 affording the nonprofit organization notice and the opportunity
3 to be heard, if the committee finds that the nonprofit organization
4 no longer meets the requirements for certification.

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

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

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

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

25 (i) Substituting “any low-income community in California” for
26 “any low-income community.”

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

37 (iii) Adding the provision that if the business meets the
38 requirements of a qualified low-income community business at
39 the time the investment is made, the business shall continue to

1 satisfy the requirements of Section 45D(d)(2)(A)(ii) for the duration
2 of the investment.

3 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
4 relating to qualified active low-income community businesses
5 which limits the services of employees to substantially those
6 performed within the low-income community, shall not apply to
7 a *qualified community development entity that does not hold a*
8 *federal new markets tax credit.*

9 (D) *An entity complies with Section 45D(d)(2)(A)(i) of the*
10 *Internal Revenue Code, relating to qualified active low-income*
11 *community business, if, as calculated in subparagraph (B), it uses*
12 *50 percent of its tangible property, whether owned or leased, within*
13 *any low-income community for any taxable year.*

14 (E) (i) *A qualified active low-income community business shall*
15 *exclude any business that derives, or projects to derive, 15 percent*
16 *or more of its annual revenue from the rental or sale of real estate.*
17 *This exclusion does not apply to a business that is controlled by,*
18 *or under common control with, another business if the second*
19 *business: (I) does not derive or project to derive 15 percent or*
20 *more of its annual revenue from the rental or sale of real estate;*
21 *and (II) is the primary tenant of the real estate leased from the*
22 *first business.*

23 ~~(D) The following shall apply in lieu of the provisions of Section~~
24 ~~45D(d)(2)(C) of the Internal Revenue Code, relating to qualified~~
25 ~~active low-income community business: “A ‘qualified active~~
26 ~~low-income community business’ shall include an operating~~
27 ~~business~~

28 (ii) *A qualified active low-income community business shall*
29 *only include a business that, at the time the initial investment is*
30 *made, has 250 or fewer employees and is located in a California*
31 *low-income community. The operating business shall meet all*
32 *other conditions of a qualified active low-income business, except*
33 *as modified by this paragraph and paragraph-(7).” (7).*

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

1 (8) The following shall apply in lieu of the provisions of Section
 2 45D(f)(1) of the Internal Revenue Code, relating to national
 3 limitation on amount of investments designated: “The aggregate
 4 amount of credit that may be allocated in any calendar year
 5 pursuant to this section, Section 17053.9, and Section 23622.9
 6 shall be an amount equal to any unused portion of the one hundred
 7 million dollars (\$100,000,000) in exclusions, authorized pursuant
 8 to Section 6010.8, as determined by the California Alternative
 9 Energy and Advanced Transportation Financing Authority and
 10 reported to the committee, not to exceed forty million dollars
 11 (\$40,000,000). The committee shall limit the allocation of credits
 12 permitted under this section, Section ~~170533.9~~ 17053.9, and
 13 Section 23622.9 to a cumulative total of no more than two hundred
 14 million dollars (\$200,000,000). Any unused ~~or recaptured~~ credits
 15 shall be returned to the committee on March 1 of the year following
 16 allocation and the value of the unused ~~or recaptured~~ credit shall
 17 be available for ~~reallocation~~ *allocation* in the following calendar
 18 ~~years.~~ *years in accordance with the application process. Any*
 19 *recaptured credits shall be returned to the committee by March 1*
 20 *of the year following recapture and the value of the recaptured*
 21 *credit shall be available for allocation in the following calendar*
 22 *years in accordance with subparagraph (B) of paragraph*
 23 *(9).* Reallocation credits shall not count against the forty million
 24 dollars (\$40,000,000) annual limit or the two hundred million
 25 dollars (\$200,000,000) cumulative limit.”

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

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

32 ~~(i)~~

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

39 ~~(ii)~~

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)~~

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

37 ~~(ii)~~

38 (B) Recaptured tax credits and the related qualified equity
39 investment authority revert back to the committee and shall be
40 reissued in the following order:

1 ~~(I)~~
 2 (i) First, pro rata to applicants whose qualified equity investment
 3 allocations were reduced *pursuant to subparagraph (B) of*
 4 *paragraph (5) of subdivision (d)* by the allocation limitation of
 5 forty million dollars (\$40,000,000) in paragraph (8) of subdivision
 6 (c).

7 ~~(II)~~
 8 (ii) Thereafter, in accordance with the application process.

9 ~~(iii)~~
 10 (C) Enforcement of each of the recapture provisions shall be
 11 subject to a six-month cure period. No recapture shall occur until
 12 the qualified community development entity shall have been given
 13 notice of noncompliance and afforded six months from the date
 14 of such notice to cure the noncompliance.

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

17 (11) *Section 45D(h) of the Internal Revenue Code, relating to*
 18 *basis, shall not apply.*

19 ~~(II)~~
 20 (12) If a qualified community development entity makes a
 21 capital or equity investment or a loan with respect to a qualified
 22 low-income building under the state ~~Low Income~~ *Low-Income*
 23 Tax Credit Program, the investment or loan is not a qualified ~~low~~
 24 ~~income~~ *low-income* community investment under this section.

25 (d) (1) The committee shall adopt guidelines necessary or
 26 appropriate to carry out the purposes of this section. The guidelines
 27 shall not disqualify a low-income community investment for the
 28 single reason that public or private incentives, loans, equity
 29 investments, technical assistance, or other forms of support have
 30 been or continue to be provided. The adoption of the guidelines
 31 shall not be subject to the rulemaking provisions of the
 32 Administrative Procedure Act of Chapter 3.5 (commencing with
 33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
 34 Code.

35 (2) The committee shall establish and impose reasonable fees
 36 upon entities that apply for the allocation pursuant to this
 37 subdivision and use the revenue to defray the cost of administering
 38 the program. The committee shall establish the fees in a manner
 39 that ensures that (A) the total amount collected equals the amount
 40 reasonably necessary to defray the committee’s costs in performing

1 its administrative duties under this section, and (B) the amount
2 paid by each entity reasonably corresponds with the value of the
3 services provided to the entity.

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

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

9 (B) Sets minimum organizational capacity standards that
10 applicants must meet in order to receive an allocation of credits
11 *including, but not limited to, its business strategy, community*
12 *outcomes, capitalization strategy, and management capacity.*

13 (C) Provides for the annual return of unused credits ~~on~~ by March
14 1 of year following the year the credits are awarded so that they
15 may be reallocated to other community development entities.

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

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

32 (C) Within 20 *calendar* days after receipt of an application
33 determined to be complete by the committee, the committee shall
34 grant or deny the application in full or in part. If the committee
35 denies any part of the application, it shall inform the qualified
36 community development entity of the grounds for the denial.

37 (5) (A) The committee shall award tax credits *to applicants*
38 *with federal new markets tax credits* in the order applications are
39 received by the committee. Applications received on the same day
40 shall be deemed to have been received simultaneously.

1 (i) In 2015, the committee shall only award tax credits to a
 2 qualified community development entity that also has federal new
 3 markets tax credits, that will be used for projects and activities in
 4 California. In the 2016 to 2019 award cycles, inclusive, at least
 5 60 percent of the credit allocation shall be awarded to a qualified
 6 community development entity with an allocation of federal new
 7 markets tax credits. At the committee’s discretion, a higher
 8 percentage of credits may be targeted to applicants with federal
 9 new markets tax credits.

10 (ii) The committee shall award credits to a qualified community
 11 development entity without federal new markets tax credits on a
 12 competitive basis with priority given to rural, urban, and suburban
 13 applications that can demonstrate that the credits will allow the
 14 entity to undertake qualified low-income community investments
 15 in an area that has been historically underserved, newly established
 16 businesses, and real estate development that results in the greatest
 17 benefit to the largest number of lower income individuals.

18 (B) ~~For applications that are complete and received on the same~~
 19 ~~day, and in~~ In the event tax credit requests exceed the allocation
 20 limitation of forty million dollars (\$40,000,000) in paragraph (8)
 21 of subdivision (c), the committee shall certify, consistent with
 22 remaining qualified equity investment capacity, qualified equity
 23 investments of applicants in proportionate percentages based upon
 24 the ratio of the amount of qualified equity investments requested
 25 in such applications to the total amount of qualified equity
 26 investments requested in all such applications received on the same
 27 day.

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

32 (D) An approved applicant may transfer all or a portion of its
 33 certified qualified equity investment authority to its controlling
 34 entity or any subsidiary qualified community development entity
 35 of the controlling entity, provided that the applicant and the
 36 transferee notify the committee of such transfer and include the
 37 information required in the application with respect to such
 38 transferee with such notice.

39 (E) Within 60 calendar days of the ~~applicant receiving~~
 40 committee sending notice of certification, the qualified community

1 development entity or any transferee, under ~~paragraph (3) of~~
2 ~~subdivision (b) subparagraph (D)~~, shall issue the qualified equity
3 investment, receive cash in the amount of the certified amount,
4 and, if applicable, designate the required amount of qualified equity
5 investment authority as federal qualified equity investments. The
6 qualified community development entity or transferee, under
7 ~~paragraph (3) of subdivision (b) subparagraph (D)~~, must provide
8 the committee with evidence of the receipt of the cash investment
9 and designation of the qualified equity investment as a federal
10 qualified equity investment within 65 days of the applicant
11 receiving notice of certification. If the qualified community
12 development entity or any transferee, under ~~paragraph (3) of~~
13 ~~subdivision (b) subparagraph (D)~~, does not receive the cash
14 investment, *and* issue the qualified equity investment and, if
15 applicable, designate the required amount of qualified equity
16 investment authority as federal qualified equity investments within
17 60 calendar days ~~following receipt of the committee sending the~~
18 certification notice, the certification shall lapse and the entity may
19 not issue the qualified equity investment without reapplying to the
20 committee for certification. *Only applicants that state in their*
21 *applications that the entity has been awarded a federal new*
22 *markets tax credit shall be required to show evidence, as*
23 *determined by the committee, that the qualified equity investment*
24 *authority qualifies as a federal qualified equity investment.* Lapsed
25 certifications revert back to the committee and shall be reissued
26 in the following order:

27 (i) First, pro rata to applicants whose qualified equity investment
28 allocations were reduced *pursuant to subparagraph (B) of*
29 *paragraph (5) under the allocation limitation of forty million*
30 *dollars (\$40,000,000) in paragraph (8) of subdivision (c).*

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

32 (F) A qualified community development entity that issues
33 qualified equity investments must notify the committee of the
34 names of the entities that are eligible to utilize tax credits under
35 paragraph (3) of subdivision (b) pursuant to an allocation of tax
36 credits or change in allocation of tax credits or due to a transfer of
37 a qualified equity investment.

38 (6) (A) A qualified community development entity that issues
39 qualified equity investments shall submit a report to the committee
40 within the first five business days after the first anniversary of the

1 initial credit allowance date that provides documentation as to the
2 investment of *at least* 85 percent of the purchase price in qualified
3 low-income community investments in qualified active low-income
4 community businesses located in California. Such report shall
5 include all of the following:

6 (i) A bank statement of such qualified community development
7 entity evidencing each qualified low-income community
8 investment.

9 (ii) Evidence that such business was a qualified active
10 low-income community business at the time of such qualified
11 low-income community investment.

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

13 (B) Thereafter, the qualified community development entity
14 shall submit an annual report to the committee within 60 days of
15 the beginning of the calendar year during the ~~compliance period~~
16 *seven years following submittal of the report, pursuant to*
17 *subparagraph (A)*. No annual report shall be due prior to the first
18 anniversary of the initial credit allowance date. The report shall
19 include, but is not limited to, the following:

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

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

23 (iii) The number of employment positions created and retained
24 as a result of qualified low-income community investments *and*
25 *the average annual salary of such positions*.

26 ~~(iv) Average annual salary of positions in the projects described~~
27 ~~in subdivision (a).~~

28 *(iv) The number of operating businesses assisted as a result of*
29 *qualified low-income community investments, by industry and*
30 *number of employees.*

31 *(v) Number of real estate projects and type of community*
32 *development facilities that resulted.*

33 (e) In the case where the credit allowed by this section exceeds
34 the tax described in ~~paragraph (1) of subdivision (a) of Section~~
35 ~~12204, Sections 12201, 12204, 12206, and 12209~~, the excess may
36 be carried over to reduce that tax in the following year, and the
37 six succeeding years if 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) (1) *The Franchise Tax Board may prescribe any rules or*
2 *regulations that may be necessary or appropriate to implement*
3 *this section. The Franchise Tax Board shall have access to any*
4 *documentation held by the committee relative to the application*
5 *and reporting of a qualified community development entity.*

6 (2) *A qualifying community development entity shall provide*
7 *the committee with the name, address, and tax identification*
8 *number of each investor and entity for which a credit was allocated*
9 *by the qualifying community development entity, pursuant to*
10 *paragraph (3) of subdivision (b). The committee shall provide this*
11 *information to the Franchise Tax Board in a manner determined*
12 *by the Franchise Tax Board.*

13 ~~(g)~~

14 (h) This section shall remain in effect only until December 1,
15 2028, and as of that date is repealed.

16 SEC. 4. Section 17053.9 is added to the Revenue and Taxation
17 Code, to read:

18 17053.9. (a) There is hereby created the California New
19 Markets Tax Credit Program as provided in this section, Section
20 12283, and Section 23622.9. The purpose of this program is to
21 stimulate private sector investment in lower income communities
22 by providing a tax incentive to qualified community and economic
23 development entities that can be leveraged by the entity to attract
24 private sector investment that in turn will be deployed by providing
25 financing and technical assistance to small and medium size
26 businesses and the development of commercial, industrial and
27 community development projects, including, but not limited to,
28 facilities for nonprofit service organizations, light manufacturing,
29 and mixed-use and transit-oriented development. The California
30 Competes Tax Credit Committee shall administer this program as
31 provided in this section, Section 12283, and Section 23622.9.

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

38 (2) This credit shall be allowed only if the taxpayer holds the
39 qualified equity investment, *or has been allocated a credit pursuant*

1 to paragraph (3), on the credit allowance date and each of the six
 2 following anniversary dates of that date.

3 (3) A tax credit allowed under this section shall not be sold and
 4 is not a refundable credit. Tax credits allowed *or allocated* to a
 5 partnership, limited liability company, or “S” corporation may be
 6 allocated to the partners, members, managers, or shareholders of
 7 such entity *for their use in* accordance with the provisions of any
 8 agreement among such partners, members, managers, or
 9 shareholders. Such allocations shall not be considered a sale for
 10 the purposes of this section.

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

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

15 (B) For purposes of this section, “committee” means the
 16 California Competes Tax Credit Committee established under
 17 Section 18410.2.

18 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
 19 applicable percentage, is modified by substituting for “(A) 5
 20 percent with respect to the first 3 credit allowance dates, and (B)
 21 6 percent with respect to the remainder of the credit allowance
 22 dates” with the following:

23 (A) Zero percent with respect to the first two credit allowance
 24 dates.

25 (B) Seven percent with respect to the third credit allowance
 26 date.

27 (C) Eight percent with respect to the remainder of the credit
 28 allowance dates.

29 ~~(3) Section 45D(b) of the Internal Revenue Code, relating to~~
 30 ~~qualified equity investment, is modified as follows:~~

31 ~~(A) Section 45D(b)(6) of the Internal Revenue Code, relating~~
 32 ~~to equity investments, is modified to also include long-term debt~~
 33 ~~securities issued by any qualified low-income community business~~
 34 ~~that substantially supports projects within a low-income~~
 35 ~~community.~~

36 ~~(B)~~

37 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
 38 to safe harbor for determining use of cash, is modified by
 39 substituting “qualified low-income community investments in
 40 California” for “qualified low-income community investments.”

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

4 (A) A subsidiary community development entity of any such
5 qualified community development entity.

6 (B) A nonprofit ~~organization~~ *organization, pursuant to Section*
7 *23701*, certified by the committee as having a primary mission of
8 serving or providing investment capital in low-income communities
9 and the entity maintains accountability to residents of low-income
10 communities through their representation on any governing board
11 of the entity or on an advisory board of the entity. The committee
12 shall establish guidelines for certifying nonprofit organizations
13 pursuant to this subparagraph. *The committee may include*
14 *reasonable conditions on the certification to effectuate the intent*
15 *of this section and may suspend or revoke a certification, after*
16 *affording the nonprofit organization notice and the opportunity*
17 *to be heard, if the committee finds that the nonprofit organization*
18 *no longer meets the requirements for certification.*

19 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
20 to qualified low-income community investments, is modified to
21 *only* include any capital or equity investment in, or loan to, ~~any~~
22 ~~real estate project located in a low-income community or any~~
23 ~~operating business that, at the time the initial investment is made,~~
24 ~~has 250 or fewer employees and is located in a low-income~~
25 ~~community. The real estate project or operating business shall~~
26 ~~meet all other requirements of a qualified active low-income~~
27 ~~community business, except as modified by paragraphs (6) and~~
28 ~~(7) a qualified active low-income community business.~~

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

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

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

39 (i) Substituting “any low-income community in California” for
40 “any low-income community.”

1 (ii) In determining whether the qualified active low-income
 2 community business uses a substantial portion of its tangible
 3 personal property within any low-income community, the term
 4 “substantial portion” shall mean “at least 40 percent” as calculated
 5 by the average value of the tangible property owned or leased and
 6 used within a California low-income community by the entity
 7 divided by the average value of the total tangible property owned
 8 or leased and used by the entity *in California* during the taxable
 9 year. The value assigned to the leased property by the entity must
 10 be reasonable.

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

16 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
 17 relating to qualified active low-income community businesses
 18 which limits the services of employees to substantially those
 19 performed within the low-income community, shall not apply to
 20 *a qualified community development entity that does not hold a*
 21 *federal new markets tax credit.*

22 (D) *An entity complies with Section 45D(d)(2)(A)(i) of the*
 23 *Internal Revenue Code, relating to qualified active low-income*
 24 *community business, if, as calculated in subparagraph (B), it uses*
 25 *50 percent of its tangible property, whether owned or leased, within*
 26 *any low-income community for any taxable year.*

27 (E) (i) *A qualified active low-income community business shall*
 28 *exclude any business that derives, or projects to derive, 15 percent*
 29 *or more of its annual revenue from the rental or sale of real estate.*
 30 *This exclusion does not apply to a business that is controlled by,*
 31 *or under common control with, another business if the second*
 32 *business: (I) does not derive or project to derive 15 percent or*
 33 *more of its annual revenue from the rental or sale of real estate;*
 34 *and (II) is the primary tenant of the real estate leased from the*
 35 *first business.*

36 ~~(D) The following shall apply in lieu of the provisions of Section~~
 37 ~~45D(d)(2)(C) of the Internal Revenue Code, relating to qualified~~
 38 ~~active low-income community business: “A ‘qualified active~~
 39 ~~low-income community business’ shall include an operating~~
 40 ~~business~~

1 (ii) A qualified active low-income community business shall
2 only include a business that, at the time the initial investment is
3 made, has 250 or fewer employees and is located in a California
4 low-income community. The operating business shall meet all
5 other conditions of a qualified active low-income business, except
6 as modified by this paragraph and paragraph ~~(7)~~.² (7).

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

13 (8) The following shall apply in lieu of the provisions of Section
14 45D(f)(1) of the Internal Revenue Code, relating to national
15 limitation on amount of investments designated: “The aggregate
16 amount of credit that may be allocated in any calendar year
17 pursuant to this section, Section 12283, and Section 23622.9 shall
18 be an amount equal to any unused portion of the one hundred
19 million dollars (\$100,000,000) in exclusions, authorized pursuant
20 to Section 6010.8, as determined by the California Alternative
21 Energy and Advanced Transportation Financing Authority and
22 reported to the committee, not to exceed forty million dollars
23 (\$40,000,000). The committee shall limit the allocation of credits
24 permitted under this section, Section 12283, and Section 23622.9
25 to a cumulative total of no more than two hundred million dollars
26 (\$200,000,000). Any unused ~~or recaptured~~ credits shall be returned
27 to the committee on March 1 of the year following allocation and
28 the value of the unused ~~or recaptured~~ credit shall be available for
29 ~~reallocation~~ allocation in the following calendar years in
30 accordance with the application process. Any recaptured credits
31 shall be returned to the committee by March 1 of the year following
32 recapture and the value of the recaptured credit shall be available
33 for allocation in the following calendar years in accordance with
34 clause (ii) of subparagraph (B) of paragraph (9). Reallocation
35 credits shall not count against the forty million dollars
36 (\$40,000,000) annual limit or the two hundred million dollars
37 (\$200,000,000) cumulative limit.”

38 (9) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,
39 relating to credit recapture amount, is modified to substitute
40 “Section 19101 of this code” for “section 6621”.

1 ~~(9)~~
 2 (B) Section 45D(g)(3) of the Internal Revenue Code, relating
 3 to recapture event, does not apply and is replaced with the
 4 following:

5 ~~(A)~~-(i) The committee shall recapture, from the entity that
 6 claimed the credit on a return, the tax credit allowed under this
 7 section if any of the following:

8 (I) Any amount of a federal tax credit available with respect to
 9 a qualified equity investment that is eligible for a credit under this
 10 section is recaptured under Section 45D of the Internal Revenue
 11 Code. In such case the committee’s recapture shall be proportionate
 12 to the federal recapture with respect to such qualified equity
 13 investment.

14 (II) The qualified community development entity redeems or
 15 makes principal repayment with respect to a qualified equity
 16 investment prior to the seventh anniversary of the issuance of such
 17 qualified equity investment. In such case the committee’s recapture
 18 shall be proportionate to the amount of the redemption or
 19 repayment with respect to such qualified equity investment.

20 (III) The qualified community development entity fails to invest
 21 an amount equal to *at least* 85 percent of the purchase price of the
 22 qualified equity investment in qualified low-income community
 23 investments in California within 12 months of the issuance of the
 24 qualified equity investment and maintain at least 85 percent of
 25 such level of investment in qualified low-income community
 26 investments in California until the last credit allowance date for
 27 the qualified equity investment. For purposes of this section, an
 28 investment shall be considered held by a qualified community
 29 development entity even if the investment has been sold or repaid
 30 if the qualified community development entity reinvests an amount
 31 equal to the capital returned to, or recovered by, the qualified
 32 community development entity from the original investment,
 33 exclusive of any profits realized, in another qualified low-income
 34 community investment within 12 months of the receipt of such
 35 capital. Periodic amounts received as repayment of principal
 36 pursuant to regularly scheduled amortization payments on a loan
 37 that is a qualified low-income community investment shall be
 38 treated as continuously invested in a qualified low-income
 39 community investment if the amounts are reinvested in one or
 40 more qualified low-income community investments by the end of

1 the following calendar year. A qualified community development
2 entity shall not be required to reinvest capital returned from
3 qualified low-income community investments after the sixth
4 anniversary of the issuance of the qualified equity investment, and
5 the qualified low-income community investment shall be
6 considered held by the qualified community development entity
7 through the seventh anniversary of the qualified equity investment's
8 issuance.

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

12 (I) First, pro rata to applicants whose qualified equity
13 investment allocations were reduced *pursuant to subparagraph*
14 *(B) of paragraph (5) of subdivision (d)* by the allocation limitation
15 of forty million dollars (\$40,000,000) in paragraph (8) of
16 subdivision (c).

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

18 (iii) Enforcement of each of the recapture provisions shall be
19 subject to a six-month cure period. No recapture shall occur until
20 the qualified community development entity shall have been given
21 notice of noncompliance and afforded six months from the date
22 of such notice to cure the noncompliance.

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

25 (11) *Section 45D(h) of the Internal Revenue Code, relating to*
26 *basis, shall not apply.*

27 ~~(11)~~

28 (12) If a qualified community development entity makes a
29 capital or equity investment or a loan with respect to a qualified
30 low-income building under the state ~~Low-Income~~ *Low-Income*
31 Tax Credit Program, the investment or loan is not a qualified
32 low-income community investment under this section.

33 (d) (1) The committee shall adopt guidelines necessary or
34 appropriate to carry out the purposes of this section. The guidelines
35 shall not disqualify a low-income community investment for the
36 single reason that public or private incentives, loans, equity
37 investments, technical assistance, or other forms of support have
38 been or continue to be provided. The adoption of the guidelines
39 shall not be subject to the rulemaking provisions of the
40 Administrative Procedure Act of Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 (2) The committee shall establish and impose reasonable fees
4 upon entities that apply for the allocation pursuant to this
5 subdivision and use the revenue to defray the cost of administering
6 the program. The committee shall establish the fees in a manner
7 that ensures that (A) the total amount collected equals the amount
8 reasonably necessary to defray the committee's costs in performing
9 its administrative duties under this section, and (B) the amount
10 paid by each entity reasonably corresponds with the value of the
11 services provided to the entity.

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

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

17 (B) Sets minimum organizational capacity standards that
18 applicants must meet in order to receive an allocation of credits
19 *including, but not limited to, its business strategy, community*
20 *outcomes, capitalization strategy, and management capacity.*

21 (C) Provides for the annual return of unused credits ~~on~~ by March
22 1 of the year following the year the credits are awarded so that
23 they may be reallocated to other community development entities.

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

29 (B) Within 20 calendar days after receipt of an application the
30 committee shall determine whether the application is complete or
31 whether additional information is necessary in order to fully
32 evaluate the application. If additional information is requested and
33 the qualified community development entity provides that
34 information within ~~five-working~~ *business* days, the application
35 shall be considered completed as of the original date of ~~submission~~
36 *receipt*. If the qualified community development entity fails to
37 provide the information within the ~~five-working-day~~
38 *five-business-day* period, the application shall be denied and must
39 be resubmitted in full with a new ~~submission~~ *receipt* date.

1 (C) Within 20 *calendar* days after receipt of an application
2 determined to be complete by the committee, the committee shall
3 grant or deny the application in full or in part. If the committee
4 denies any part of the application, it shall inform the qualified
5 community development entity of the grounds for the denial.

6 (5) (A) The committee shall award tax credits *to applicants*
7 *with federal new markets tax credits* in the order applications are
8 received by the committee. Applications received on the same day
9 shall be deemed to have been received simultaneously.

10 (i) *In 2015, the committee shall only award tax credits to a*
11 *qualified community development entity that also has federal new*
12 *markets tax credits, that will be used for projects and activities in*
13 *California. In the 2016 to 2019 award cycles, inclusive, at least*
14 *60 percent of the credit allocation shall be awarded to a qualified*
15 *community development entity with an allocation of federal new*
16 *markets tax credits. At the committee's discretion, a higher*
17 *percentage of credits may be targeted to applicants with federal*
18 *new markets tax credits.*

19 (ii) *The committee shall award credits to a qualified community*
20 *development entity without federal new markets tax credits on a*
21 *competitive basis with priority given to rural, urban, and suburban*
22 *applications that can demonstrate that the credits will allow the*
23 *entity to undertake qualified low-income community investments*
24 *in an area that has been historically underserved, newly established*
25 *businesses, and real estate development that results in the greatest*
26 *benefit to the largest number of lower income individuals.*

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

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

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

8 (E) Within 60 *calendar* days of the ~~applicant receiving~~
9 ~~committee sending~~ notice of certification, the qualified community
10 development entity or any transferee, under ~~paragraph (3) of~~
11 ~~subdivision (b) subparagraph (D)~~, shall issue the qualified equity
12 investment, receive cash in the amount of the certified amount,
13 and, if applicable, designate the required amount of qualified equity
14 investment authority as federal qualified equity investments. The
15 qualified community development entity or transferee, under
16 ~~paragraph (3) of subdivision (b) subparagraph (D)~~, must provide
17 the committee with evidence of the receipt of the cash investment
18 and designation of the qualified equity investment as a federal
19 qualified equity investment within 65 days of the applicant
20 receiving notice of certification. If the qualified community
21 development entity or any transferee, under ~~paragraph (3) of~~
22 ~~subdivision (b) subparagraph (D)~~, does not receive the cash
23 investment, *and* issue the qualified equity investment and, if
24 applicable, designate the required amount of qualified equity
25 investment authority as federal qualified equity investments within
26 60 *calendar* days ~~following receipt of of the committee sending~~
27 the certification notice, the certification shall lapse and the entity
28 may not issue the qualified equity investment without reapplying
29 to the committee for certification. *Only applicants that state in*
30 *their applications that the entity has been awarded a federal new*
31 *markets tax credit shall be required to show evidence, as*
32 *determined by the committee, that the qualified equity investment*
33 *authority qualifies as a federal qualified equity investment.* Lapsed
34 certifications revert back to the committee and shall be reissued
35 in the following order:

36 (i) First, pro rata to applicants whose qualified equity investment
37 allocations were reduced *pursuant to subparagraph (B) of*
38 *paragraph (5)* under the allocation limitation of forty million
39 dollars (\$40,000,000) in paragraph (8) of subdivision (c).

40 (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
3 names 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 of
6 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 the
11 investment of *at least* 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
17 investment.

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

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

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

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

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

32 (iii) The number of employment positions created and retained
33 as a result of qualified low-income community investments *and*
34 *the average annual salary of such positions*.

35 (iv) *The number of operating businesses assisted as a result of*
36 *qualified low-income community investments, by industry and*
37 *number of employees*.

38 (v) *Number of real estate projects and type of community*
39 *development facilities that resulted*.

1 ~~(iv) Average annual salary of positions in the projects described~~
2 ~~in subdivision (a).~~

3 (e) In the case where the credit allowed by this section exceeds
4 the “net tax,” the excess may be carried over to reduce the “net
5 tax” in the following year, and the six succeeding years if
6 necessary, until the credit is exhausted.

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

10 (g) (1) *The Franchise Tax Board may prescribe any rules or*
11 *regulations that may be necessary or appropriate to implement*
12 *this section. The Franchise Tax Board shall have access to any*
13 *documentation held by the committee relative to the application*
14 *and reporting of a qualified community development entity.*

15 (2) *A qualifying community development entity shall provide*
16 *the committee with the name, address, and tax identification*
17 *number of each investor and entity for which a credit was allocated*
18 *by the qualifying community development entity, pursuant to*
19 *paragraph (3) of subdivision (b). The committee shall provide this*
20 *information to the Franchise Tax Board in a manner determined*
21 *by the Franchise Tax Board.*

22 ~~(g)~~

23 (h) This section shall remain in effect only until December 1,
24 2028, and as of that date is repealed.

25 SEC. 5. *Section 18410.2 of the Revenue and Taxation Code is*
26 *amended to read:*

27 18410.2. (a) The California Competes Tax Credit Committee
28 is hereby established. The committee shall consist of the Treasurer,
29 the Director of Finance, and the Director of the Governor’s Office
30 of Business and Economic Development, who shall serve as chair
31 of the committee, or their designated representatives, and one
32 appointee each by the Speaker of the Assembly and the Senate
33 Committee on Rules. A Member of the Legislature shall not be
34 appointed.

35 (b) For purposes of Sections ~~17059.2 and 23689~~, 12283,
36 17053.9, 17059.2, 23622.9, and 23689 the California Competes
37 Tax Credit Committee shall do all of the following:

38 (1) Approve or reject any written agreement for a tax credit
39 allocation by resolution at a duly noticed public meeting held in
40 accordance with the Bagley-Keene Open Meeting Act (Article 9

1 (commencing with Section 11120) of Chapter 1 of Part 1 of
2 Division 3 of Title 2 of the Government Code), but only after
3 receipt of the fully executed written agreement between the
4 taxpayer and the Governor’s Office of Business and Economic
5 Development.

6 (2) Approve or reject any recommendation to recapture, in whole
7 or in part, a tax credit allocation by resolution at a duly noticed
8 public meeting held in accordance with the Bagley-Keene Open
9 Meeting Act (Article 9 (commencing with Section 11120) of
10 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
11 Code), but only after receipt of the recommendation from the
12 Governor’s Office of Business and Economic Development
13 pursuant to the terms of the fully executed written agreement.

14 ~~SEC. 5:~~

15 *SEC. 6.* Section 23622.9 is added to the Revenue and Taxation
16 Code, to read:

17 23622.9. (a) There is hereby created the California New
18 Markets Tax Credit Program as provided in this section, Section
19 12283, and Section 17053.9. The purpose of this program is to
20 stimulate economic development, and hasten California’s economic
21 recovery, by authorizing tax credits for investment in California,
22 including, but not limited to, retail businesses, real property,
23 financial institutions, and schools private sector investment in
24 lower income communities by providing a tax incentive to qualified
25 community and economic development entities that can be
26 leveraged by the entity to attract private sector investment that in
27 turn will be deployed by providing financing and technical
28 assistance to small- and medium-size businesses and the
29 development of commercial, industrial and community
30 development projects, including, but not limited to, facilities for
31 nonprofit service organizations, light manufacturing, and mixed-use
32 and transit-oriented development. The California Competes Tax
33 Credit Committee shall administer this program as provided in
34 this section, Section 12283, and Section 17053.9.

35 (b) (1) For taxable years beginning on or after January 1, 2015,
36 and before January 1, 2027, there shall be allowed as a credit
37 against the “tax,” as defined in Section 23036, an amount
38 determined in accordance with Section 45D of the Internal Revenue
39 Code, as amended by Public Law 111-5, Public Law 111-312, and
40 Public Law 112-240, as modified as set forth in this section.

1 (2) This credit shall be allowed only if the taxpayer holds the
 2 qualified equity investment, *or has been allocated a credit pursuant*
 3 *to paragraph (3)*, on the credit allowance date and each of the six
 4 following anniversary dates of that date.

5 (3) A tax credit allowed under this section shall not be sold and
 6 is not a refundable credit. Tax credits allowed *or allocated* to a
 7 partnership, limited liability company, or “S” corporation may be
 8 allocated to the partners, members, managers, or shareholders of
 9 such entity *for their use* in accordance with the provisions of any
 10 agreement among such partners, members, managers, or
 11 shareholders. Such allocations shall not be considered a sale for
 12 the purposes of this section.

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

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

17 (B) For purposes of this section, “committee” means the
 18 California Competes Tax Credit Committee established under
 19 Section 18410.2.

20 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
 21 applicable percentage, is modified by substituting for “(A) 5
 22 percent with respect to the first 3 credit allowance dates, and (B)
 23 6 percent with respect to the remainder of the credit allowance
 24 dates” with the following:

25 (A) Zero percent with respect to the first two credit allowance
 26 dates.

27 (B) Seven percent with respect to the third credit allowance
 28 date.

29 (C) Eight percent with respect to the remainder of the credit
 30 allowance dates.

31 ~~(3) Section 45D(b) of the Internal Revenue Code, relating to~~
 32 ~~qualified equity investment, is modified as follows:~~

33 ~~(A) Section 45D(b)(6) of the Internal Revenue Code, relating~~
 34 ~~to equity investments, is modified to also include long-term debt~~
 35 ~~securities issued by any qualified low-income community business~~
 36 ~~that substantially supports projects within a low-income~~
 37 ~~community.~~

38 ~~(B)~~

39 (3) Section 45D(b)(3) of the Internal Revenue Code, relating
 40 to safe harbor for determining use of cash, is modified by

1 substituting “qualified low-income community investments in
2 California” for “qualified low-income community investments.”

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

6 (A) A subsidiary community development entity of any such
7 qualified community development entity.

8 (B) A nonprofit ~~organization~~ *organization, pursuant to Section*
9 *23701*, certified by the committee as having a primary mission of
10 serving or providing investment capital in low-income communities
11 and the entity maintains accountability to residents of low-income
12 communities through their representation on any governing board
13 of the entity or on an advisory board of the entity. The committee
14 shall establish guidelines for certifying nonprofit organizations
15 pursuant to this subparagraph. *The committee may include*
16 *reasonable conditions on the certification to effectuate the intent*
17 *of this section and may suspend or revoke a certification, after*
18 *affording the nonprofit organization notice and the opportunity*
19 *to be heard, if the committee finds that the nonprofit organization*
20 *no longer meets the requirements for certification.*

21 (5) Section 45D(d)(1)(A) of the Internal Revenue Code, relating
22 to qualified low-income community investments, is modified to
23 *only* include any capital or equity investment in, or loan to, ~~any~~
24 ~~real estate project located in a low-income community or any~~
25 ~~operating business that, at the time the initial investment is made,~~
26 ~~has 250 or fewer employees and is located in a low-income~~
27 ~~community. The real estate project or operating business shall~~
28 ~~meet all other requirements of a qualified active low-income~~
29 ~~community business, except as modified by paragraphs (6) and~~
30 ~~(7) a qualified active low-income community business.~~

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

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

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

1 (i) Substituting “any low-income community in California” for
2 “any low-income community.”

3 (ii) In determining whether the qualified active low-income
4 community business uses a substantial portion of its tangible
5 personal property within any low-income community, the term
6 “substantial portion” shall mean “at least 40 percent” as calculated
7 by the average value of the tangible property owned or leased and
8 used within a California low-income community by the entity
9 divided by the average value of the total tangible property owned
10 or leased and used by the entity *in California* during the taxable
11 year. The value assigned to the leased property by the entity must
12 be reasonable.

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

18 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,
19 relating to qualified active low-income community businesses ~~that~~
20 *which* limits the services of employees to substantially those
21 performed within the low-income community, shall not apply *to*
22 *a qualified community development entity that does not hold a*
23 *federal new markets tax credit.*

24 (D) *An entity complies with Section 45D(d)(2)(A)(i) of the*
25 *Internal Revenue Code, relating to qualified active low-income*
26 *community business, if, as calculated in subparagraph (B), it uses*
27 *50 percent of its tangible property, whether owned or leased, within*
28 *any low-income community for any taxable year.*

29 (E) (i) *A qualified active low-income community business shall*
30 *exclude any business that derives, or projects to derive, 15 percent*
31 *or more of its annual revenue from the rental or sale of real estate.*
32 *This exclusion does not apply to a business that is controlled by,*
33 *or under common control with, another business if the second*
34 *business: (I) does not derive or project to derive 15 percent or*
35 *more of its annual revenue from the rental or sale of real estate;*
36 *and (II) is the primary tenant of the real estate leased from the*
37 *first business.*

38 ~~(D) The following shall apply in lieu of the provisions of Section~~
39 ~~45D(d)(2)(C) of the Internal Revenue Code, relating to qualified~~
40 ~~active low-income community business: “A ‘qualified active~~

1 ~~low-income community business' shall include an operating~~
2 ~~business~~

3 *(ii) A qualified active low-income community business shall*
4 *only include a business that, at the time the initial investment is*
5 *made, has 250 or fewer employees and is located in a California*
6 *low-income community. The operating business shall meet all*
7 *other conditions of a qualified active low-income business, except*
8 *as modified by this paragraph and paragraph-(7).²² (7).*

9 (7) Section 45D(e)(1) of the Internal Revenue Code, relating to
10 determining the eligible low-income community is modified to
11 add the following: "When the United States Census Bureau
12 discontinues using the decennial census to report median family
13 income on a census tract basis, census block group data shall be
14 used based on the American Community Survey."

15 (8) The following shall apply in lieu of the provisions of Section
16 45(D)(f)(1) of the Internal Revenue Code, relating to national
17 limitation on amount of investments designated: "The aggregate
18 amount of credit that may be allocated in any calendar year
19 pursuant to this section, ~~and~~ Section 12283, and Section 17053.9
20 shall be an amount equal to any unused portion of the one hundred
21 million dollars (\$100,000,000) in exclusions, authorized pursuant
22 to Section 6010.8, as determined by the California Alternative
23 Energy and Advanced Transportation Financing Authority and
24 reported to the committee, not to exceed forty million dollars
25 (\$40,000,000). The committee shall limit the allocation of credits
26 permitted under this section, ~~and~~ Section 12283, and Section
27 ~~23622.9 17053.9~~ to a cumulative total of no more than two hundred
28 million dollars (\$200,000,000). Any unused ~~or recaptured~~ credits
29 shall be returned to the committee on March 1 of the year following
30 allocation and the value of the unused ~~or recaptured~~ credit shall
31 be available for ~~reallocation~~ *allocation* in the following calendar
32 *years in accordance with the application process. Any recaptured*
33 *credits shall be returned to the committee by March 1 of the year*
34 *following recapture and the value of the recaptured credit shall*
35 *be available for allocation in the following calendar years in*
36 *accordance with clause (ii) of subparagraph (B) of paragraph (9).*
37 Reallocation credits shall not count against the forty million dollars
38 (\$40,000,000) annual limit or the two hundred million dollars
39 (\$200,000,000) cumulative limit."

1 (9) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,
 2 relating to credit recapture amount, is modified to substitute
 3 “Section 19101 of this code” for “section 6621”.

4 ~~(9)~~

5 (B) Section 45D(g)(3) of the Internal Revenue Code, relating
 6 to recapture event, does not apply and is replaced with the
 7 following:

8 ~~(A)~~-(i) The committee shall recapture, from the entity that
 9 claimed the credit on a return, the tax credit allowed under this
 10 section if any of the following:

11 (I) Any amount of a federal tax credit available with respect to
 12 a qualified equity investment that is eligible for a credit under this
 13 section is recaptured under Section 45D of the Internal Revenue
 14 Code. In such case the committee’s recapture shall be proportionate
 15 to the federal recapture with respect to such qualified equity
 16 investment.

17 (II) The qualified community development entity redeems or
 18 makes principal repayment with respect to a qualified equity
 19 investment prior to the seventh anniversary of the issuance of such
 20 qualified equity investment. In such case the committee’s recapture
 21 shall be proportionate to the amount of the redemption or
 22 repayment with respect to such qualified equity investment.

23 (III) The qualified community development entity fails to invest
 24 an amount equal to *at least* 85 percent of the purchase price of the
 25 qualified equity investment in qualified low-income community
 26 investments in California within 12 months of the issuance of the
 27 qualified equity investment and maintain at least 85 percent of
 28 such level of investment in qualified low-income community
 29 investments in California until the last credit allowance date for
 30 the qualified equity investment. For purposes of this section, an
 31 investment shall be considered held by a qualified community
 32 development entity even if the investment has been sold or repaid
 33 if the qualified community development entity reinvests an amount
 34 equal to the capital returned to, or recovered by, the qualified
 35 community development entity from the original investment,
 36 exclusive of any profits realized, in another qualified low-income
 37 community investment within 12 months of the receipt of such
 38 capital. Periodic amounts received as repayment of principal
 39 pursuant to regularly scheduled amortization payments on a loan
 40 that is a qualified low-income community investment shall be

1 treated as continuously invested in a qualified low-income
2 community investment if the amounts are reinvested in one or
3 more qualified low-income community investments by the end of
4 the following calendar year. A qualified community development
5 entity shall not be required to reinvest capital returned from
6 qualified low-income community investments after the sixth
7 anniversary of the issuance of the qualified equity investment, and
8 the qualified low-income community investment shall be
9 considered held by the qualified community development entity
10 through the seventh anniversary of the qualified equity investment's
11 issuance.

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

15 (I) First, pro rata to applicants whose qualified equity investment
16 allocations were reduced *pursuant to subparagraph (B) of*
17 *paragraph (5) of subdivision (d)* by the allocation limitation of
18 forty million dollars (\$40,000,000) in paragraph (8) of subdivision
19 (c).

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

21 (iii) Enforcement of each of the recapture provisions shall be
22 subject to a six month cure period. No recapture shall occur until
23 the qualified community development entity shall have been given
24 notice of noncompliance and afforded six months from the date
25 of such notice to cure the noncompliance.

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

28 (11) *Section 45D(h) of the Internal Revenue Code, relating to*
29 *basis, shall not apply.*

30 ~~(11)~~

31 (12) If a qualified community development entity makes a
32 capital or equity investment or a loan with respect to a qualified
33 low-income building under the state ~~Low Income~~ *Low-Income*
34 Tax Credit Program, the investment or loan is not a qualified
35 low-income community investment under this section.

36 (d) (1) The committee shall adopt guidelines necessary or
37 appropriate to carry out the purposes of this section. The guidelines
38 shall not disqualify a low-income community investment for the
39 single reason that public or private incentives, loans, equity
40 investments, technical assistance, or other forms of support have

1 been or continue to be provided. The adoption of the guidelines
2 shall not be subject to the rulemaking provisions of the
3 Administrative Procedure Act of Chapter 3.5 (commencing with
4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
5 Code.

6 (2) The committee shall establish and impose reasonable fees
7 upon entities that apply for the allocation pursuant to this
8 subdivision and use the revenue to defray the cost of administering
9 the program. The committee shall establish the fees in a manner
10 that ensures that (A) the total amount collected equals the amount
11 reasonably necessary to defray the committee's costs in performing
12 its administrative duties under this section, and (B) the amount
13 paid by each entity reasonably corresponds with the value of the
14 services provided to the entity.

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

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

20 (B) Sets minimum organizational capacity standards that
21 applicants must meet in order to receive an allocation of credits
22 *including, but not limited to, its business strategy, community*
23 *outcomes, capitalization strategy, and management capacity.*

24 (C) Provides for the annual return of unused credits ~~on~~ *by* March
25 1 of the year following the year the credits are awarded so that
26 they may be reallocated to other community development entities.

27 (4) (A) The committee shall begin accepting applications on
28 March 15, ~~2019~~, *2015*, and shall award credits at least two times
29 a year at dates set annually by the committee through ~~2025~~, *2019*,
30 to the extent that allocations are available pursuant to Section
31 26011.9 of the Public Resources Code.

32 (B) Within 20 calendar days after receipt of an application the
33 committee shall determine whether the application is complete or
34 whether additional information is necessary in order to fully
35 evaluate the application. If additional information is requested and
36 the qualified community development entity provides that
37 information within five ~~working~~ *business* days, the application
38 shall be considered completed as of the original date of ~~submission~~
39 *receipt*. If the qualified community development entity fails to
40 provide the information within the ~~five-working-day~~

1 *five-business-day* period, the application shall be denied and must
2 be resubmitted in full with a new ~~submission~~ *receipt* date.

3 (C) Within 20 *calendar* days after receipt of an application
4 determined to be complete by the committee, the committee shall
5 grant or deny the application in full or in part. If the committee
6 denies any part of the application, it shall inform the qualified
7 community development entity of the grounds for the denial.

8 (5) (A) The committee shall award tax credits *to applicants*
9 *with federal new markets tax credits* in the order applications are
10 received by the committee. Applications received on the same day
11 shall be deemed to have been received simultaneously.

12 (i) *In 2015, the committee shall only award tax credits to a*
13 *qualified community development entity that also has federal new*
14 *markets tax credits, that will be used for projects and activities in*
15 *California. In the 2016 to 2019 award cycles, inclusive, at least*
16 *60 percent of the credit allocation shall be awarded to a qualified*
17 *community development entity with an allocation of federal new*
18 *markets tax credits. At the committee's discretion, a higher*
19 *percentage of credits may be targeted to applicants with federal*
20 *new markets tax credits.*

21 (ii) *The committee shall award credits to a qualified community*
22 *development entity without federal new markets tax credits on a*
23 *competitive basis with priority given to rural, urban, and suburban*
24 *applications that can demonstrate that the credits will allow the*
25 *entity to undertake qualified low-income community investments*
26 *in an area that has been historically underserved, newly established*
27 *businesses, and real estate development that results in the greatest*
28 *benefit to the largest number of lower income individuals.*

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

39 (C) If a pending request cannot be fully certified due to this
40 limit, the committee shall certify the portion that may be certified

1 unless the qualified community development entity elects to
2 withdraw its request rather than receive partial certification.

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

10 (E) Within 60 *calendar* days of the ~~applicant receiving~~
11 *committee sending* notice of certification, the qualified community
12 development entity or any transferee, under ~~paragraph (3) of~~
13 ~~subdivision (b) subparagraph (D)~~, shall issue the qualified equity
14 investment, receive cash in the amount of the certified amount,
15 and, if applicable, designate the required amount of qualified equity
16 investment authority as federal qualified equity investments. The
17 qualified community development entity or transferee, under
18 ~~paragraph (3) of subdivision (b) subparagraph (D)~~, must provide
19 the committee with evidence of the receipt of the cash investment
20 and designation of the qualified equity investment as a federal
21 qualified equity investment within 65 days of the applicant
22 receiving notice of certification. If the qualified community
23 development entity or any transferee, under ~~paragraph (3) of~~
24 ~~subdivision (b) subparagraph (D)~~, does not receive the cash
25 investment, *and* issue the qualified equity investment and, if
26 applicable, designate the required amount of qualified equity
27 investment authority as federal qualified equity investments within
28 60 *calendar* days ~~following receipt of~~ *of the committee sending*
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. *Only applicants that state in*
32 *their applications that the entity has been awarded a federal new*
33 *markets tax credit shall be required to show evidence, as*
34 *determined by the committee, that the qualified equity investment*
35 *authority qualifies as a federal qualified equity investment.* Lapsed
36 certifications revert back to the committee and shall be reissued
37 in the following order:

38 (i) First, pro rata to applicants whose qualified equity investment
39 allocations were reduced *pursuant to subparagraph (B) of*

1 *paragraph (5)* under the allocation limitation of forty million
2 dollars (\$40,000,000) in *paragraph (8)* of subdivision (c).

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

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

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

18 (i) A bank statement of such qualified community development
19 entity evidencing each qualified low-income community
20 investment.

21 (ii) Evidence that such business was a qualified active
22 low-income community business at the time of such qualified
23 low-income community investment.

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

25 (B) Thereafter, the qualified community development entity
26 shall submit an annual report to the committee within 60 days of
27 the beginning of the calendar year during the ~~compliance period~~
28 *seven years following submittal of the report, pursuant to*
29 *subparagraph (A)*. No annual report shall be due prior to the first
30 anniversary of the initial credit allowance date. The report shall
31 include, but is not limited to, the following:

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

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

35 (iii) The number of employment positions created and retained
36 as a result of qualified low-income community investments *and*
37 *the average annual salary of such positions*.

38 ~~(iv) Average annual salary of positions in the projects described~~
39 ~~in subdivision (a).~~

1 (iv) *The number of operating businesses assisted as a result of*
2 *qualified low-income community investments, by industry and*
3 *number of employees.*

4 (v) *Number of real estate projects and type of community*
5 *development facilities that resulted.*

6 (e) In the case where the credit allowed by this section exceeds
7 the “tax,” the excess may be carried over to reduce the “tax” in
8 the following year, and the six succeeding years if necessary, until
9 the credit is exhausted.

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

13 (g) (1) *The Franchise Tax Board may prescribe any rules or*
14 *regulations that may be necessary or appropriate to implement*
15 *this section. The Franchise Tax Board shall have access to any*
16 *documentation held by the committee relative to the application*
17 *and reporting of a qualified community development entity.*

18 (2) *A qualifying community development entity shall provide*
19 *the committee with the name, address, and tax identification*
20 *number of each investor and entity for which a credit was allocated*
21 *by the qualifying community development entity, pursuant to*
22 *paragraph (3) of subdivision (b). The committee shall provide this*
23 *information to the Franchise Tax Board in a manner determined*
24 *by the Franchise Tax Board.*

25 ~~(g)~~

26 (h) This section shall remain in effect only until December 1,
27 2028, and as of that date is repealed.

28 ~~SEC. 6.~~

29 SEC. 7. This act provides for a tax levy within the meaning of
30 Article IV of the Constitution and shall go into immediate effect.