

AMENDED IN SENATE AUGUST 19, 2014
AMENDED IN SENATE AUGUST 4, 2014
AMENDED IN SENATE JULY 3, 2014
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 add Section 18410.3 to*, 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~~, *taxation*, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Medina. Income taxation: insurance taxation: credits: California New 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. *Existing law establishes the Governor's Office of Business and*

Economic Development, also known as “GO-Biz,” to, among other duties, serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth.

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 tax imposed on an insurer, in modified conformity with a federal New 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~~ *The* bill would impose specified duties on the California Competes Tax Credit Committee *and GO-Biz* with regard to the application for, and allocation of, the credit. The bill would require ~~the committee~~ *GO-Biz* to establish and impose reasonable fees upon entities that apply for the allocation of the credit, *to be deposited in the California New Markets Tax Credit Fund established by the bill,* and use the revenue, *upon appropriation by the Legislature,* to defray the cost of administering the program, ~~as specified, thereby making an appropriation.~~ *specified. The bill would specify that the credit would not be allowed unless the Legislature makes an appropriation from the fund.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: ~~yes~~-no. 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 effects. In some cases this has resulted in small and
- 7 medium businesses in low-income areas lacking sufficient access

1 to capital and technical assistance. Given that the state has many
2 needs and limited resources, moneys from the private sector are
3 necessary to fill this capital and investment gap.

4 (b) Initially enacted in 2000, the federal government established
5 the New Markets Tax Credit (NMTC) Program, which uses a
6 market-based approach for expanding capital and technical
7 assistance to businesses in lower income communities. The federal
8 program is jointly administered by the Community Development
9 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
10 Service. The NMTC Program allocates federal tax incentives to
11 community development entities (CDE), which they then use to
12 attract private investors who contribute funds that can be used to
13 finance and invest in businesses and develop real estate in
14 low-income communities. Through the 2013–14 funding round,
15 the CDFI Fund had awarded approximately \$40,000,000,000 in
16 NMTC in 836 awards including \$3,000,000,000 in American
17 Recovery and Investment Act of 2009 awards and \$1,000,000,000
18 of special allocation authority to be used for the recovery and
19 redevelopment of the Gulf Opportunity Zone.

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

26 (d) Fourteen states in the United States have adopted state
27 programs using the NMTC model including Alabama, Florida,
28 Illinois, Nevada, and Oregon. While some of the programs
29 substantially mirror the federal program, others vary in both the
30 percentage of the credit and some of the policies that form the
31 foundation of the credit. One of the reasons cited for establishing
32 state-level programs is to make their state more attractive to CDEs,
33 which results in increasing the amount of federal NMTCs being
34 utilized in their state. Further, several studies, including a January
35 1, 2011, case study by Pacific Community Ventures, showed that
36 for every dollar of forgone tax revenue, the federal NMTC
37 leverages \$12 to \$14 of private investment.

38 SEC. 2. Section 26011.9 is added to the Public Resources Code,
39 to read:

1 26011.9. The authority shall make a determination of the
2 amount of the one hundred million dollars (\$100,000,000) in
3 exclusions not granted in the assigned calendar year pursuant to
4 Section 26011.8. An amount equal to that amount shall be granted
5 in the subsequent calendar year through the California New
6 Markets Tax Credit Program pursuant to Sections 12283, 17053.9,
7 and 23622.9 of the Revenue and Taxation Code. This section shall
8 not prevent a taxpayer granted an exclusion pursuant to Section
9 6010.8 of the Revenue and Taxation Code from applying for, and
10 receiving a refund for, taxes paid under Part 1 (commencing with
11 Section 6001) of Division 2 of the Revenue and Taxation Code.

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

14 12283. (a) There is hereby created the California New Markets
15 Tax Credit Program as provided in this section, Section 17053.9,
16 and Section 23622.9. The purpose of this program is to stimulate
17 private sector investment in lower income communities by
18 providing a tax incentive to community and economic development
19 entities that can be leveraged by the entity to attract private sector
20 investment that in turn will be deployed by providing financing
21 and technical assistance to small- and medium-size businesses and
22 the development of commercial, industrial, and community
23 development projects, including, but not limited to, facilities for
24 nonprofit service organizations, light manufacturing, and mixed-use
25 and transit-oriented development. ~~The California Competes Tax~~
26 ~~Credit Committee committee and GO-Biz~~ shall administer this
27 program as provided in this section, Section 17053.9, and Section
28 23622.9.

29 (b) (1) For taxable years beginning on or after January 1, 2015,
30 and before January 1, 2027, *and subject to subdivision (h)*, there
31 shall be allowed as a credit against the tax described in Sections
32 12201, 12204, 12206, and 12209, an amount determined in
33 accordance with Section 45D of the Internal Revenue Code, as
34 amended by Public Law 111-5, Public Law 111-312, and Public
35 Law 112-240, as modified as set forth in this section.

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

1 ~~(3) A tax credit allowed under this section shall not be sold and~~
2 ~~is not a refundable credit. Tax credits allowed or allocated through~~
3 ~~a pass-thru entity may be allocated to the partners or shareholders~~
4 ~~of such entity for their use in accordance with the provisions of~~
5 ~~any agreement among such partners or shareholders. Such~~
6 ~~allocations shall not be considered a sale for the purposes of this~~
7 ~~section.~~

8 ~~(A) The credit shall be allocated to the partners of a partnership~~
9 ~~in accordance with the partnership agreement, regardless of how~~
10 ~~the federal New Markets Tax Credit is allocated to the partners,~~
11 ~~or whether the allocation of the credit under the terms of the~~
12 ~~agreement has substantial economic effect, within the meaning of~~
13 ~~Section 704(b) of the Internal Revenue Code.~~

14 ~~(B) To the extent the allocation of the credit to a partner under~~
15 ~~this section lacks substantial economic effect, any loss or deduction~~
16 ~~otherwise allowable under this part that is attributable to the sale~~
17 ~~or other disposition of that partner's partnership interest made prior~~
18 ~~to the expiration of the recapture period set forth in Section~~
19 ~~45D(g)(1) of the Internal Revenue Code shall not be allowed in~~
20 ~~the taxable year in which the sale or other disposition occurs, but~~
21 ~~shall instead be deferred until and treated as if it occurred in the~~
22 ~~first taxable year immediately following the taxable year in which~~
23 ~~that recapture period expires.~~

24 ~~(C) Credits awarded to an "S" corporation shall be allocated~~
25 ~~among the shareholders of the "S" corporation pro rata in~~
26 ~~accordance with their respective pro rata shares, determined in~~
27 ~~accordance with Subchapter S of Chapter 1 of Subtitle A of the~~
28 ~~Internal Revenue Code and the regulations promulgated thereunder.~~

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~~
32 ~~be allocated to the partners, members, managers, or shareholders~~
33 ~~of such entity for their use in accordance with the provisions of~~
34 ~~any 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 ~~(4) (A) For purposes of this section, "committee" means the~~
38 ~~California Competes Tax Credit Committee established under~~
39 ~~Section 18410.2.~~

1 (B) For purposes of this section, “GO-Biz” means the
2 Governor’s Office of Business and Economic Development.

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

5 (1) ~~(A)~~–The references to “the Secretary” in Section 45D of the
6 Internal Revenue Code, other than in Sections 45D(c)(1)(C) and
7 45D(d)(1)(C), are modified to read ~~“the committee.”~~ “GO-Biz.”

8 ~~(B) For purposes of this section, “committee” means the~~
9 ~~California Competes Tax Credit Committee established under~~
10 ~~Section 18410.2.~~

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

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

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

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

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

26 (4) (A) Section 45D(c)(1) of the Internal Revenue Code is
27 modified to additionally include:

28 (i) A subsidiary community development entity of any such
29 qualified community development entity.

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

1 to *appeal and* be heard ~~and appeal~~, by the committee, if the
2 committee *GO-Biz* finds that the nonprofit organization no longer
3 meets the requirements for certification. Such nonprofit
4 organization is not subject to the requirement of subparagraph (B).

5 (B) Section 45D(c)(1) of the Internal Revenue Code is modified
6 to only include a qualified community development entity *and its*
7 *subsidiary qualified community development entities* that ~~has~~ have
8 entered into an allocation agreement with the Community
9 Development Financial Institutions Fund of the United States
10 Treasury Department, with respect to credits authorized by Section
11 45D of the Internal Revenue Code, that includes California within
12 the service area and is dated on or after January 1, 2012.

13 (5) Section 45D(d)(1)(A) of the Internal Revenue Code is
14 modified to only include any capital or equity investment in, or
15 loan to, a qualified active low-income community business.

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

19 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code 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 is
23 modified as follows:

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

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

36 (iii) Adding the provision that if the business meets the
37 requirements of a qualified low-income community business at
38 the time the investment is made, the business shall be treated as
39 satisfying the requirements of Section 45D(d)(2)(A)(ii) for the
40 duration of the investment.

1 (C) An entity complies with Section 45D(d)(2)(A)(i) of the
2 Internal Revenue Code if, as calculated in subparagraph (B), it
3 uses 50 percent of its tangible property, whether owned or leased,
4 within any low-income community for any taxable year.

5 (D) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is
6 modified to allow the services of employees of a service-based
7 qualified business to be performed outside the low-income
8 community. A service-based qualified business is a business that
9 primarily earns revenue through providing intangible products and
10 services.

11 (E) (i) A qualified active low-income community business shall
12 ~~exclude~~ *not include* any business that derives, or projects to derive,
13 15 percent or more of its annual revenue from the rental or sale of
14 real estate. This exclusion does not apply to a business that is
15 controlled by, or under common control with, another business if
16 the second business: (I) does not derive or project to derive 15
17 percent or more of its annual revenue from the rental or sale of
18 real estate; and (II) is the primary tenant of the real estate leased
19 from the first business.

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

26 (iii) A qualified active low-income community business shall
27 only include a business located in census tracts with a poverty rate
28 greater than 30 percent, or census tracts, if located within a
29 non-metropolitan area, with a median family income that does not
30 exceed 60 percent of median family income for the State of
31 California, or census tracts, if located within a metropolitan area,
32 with a median family income that does not exceed 60 percent of
33 the greater of the California median family income or the
34 metropolitan area median family income, or census tracts with
35 unemployment rates at least 1.5 times the national average.

36 (iv) *A qualified active low-income community business shall*
37 *not include any business that operates or derives revenues from*
38 *the operation of a country club, gaming establishment, massage*
39 *parlor, liquor store, or golf course.*

1 (v) *A qualified active low-income community business shall not*
2 *include a sexually oriented business. A “sexually oriented*
3 *business” means a nightclub, bar, restaurant, or similar*
4 *commercial enterprise that provides for an audience of two or*
5 *more individuals live nude entertainment or live nude performances*
6 *where the nudity is a function of everyday business operations and*
7 *where nudity is a planned and intentional part of the entertainment*
8 *or performance. “Nude” means clothed in a manner that leaves*
9 *uncovered or visible, through less than fully opaque clothing, any*
10 *portion of the genitals or, in the case of a female, any portion of*
11 *the breasts below the top of the areola of the breasts.*

12 (vi) *A qualified active low-income community business shall*
13 *not include a charter school.*

14 (7) Section 45D(e)(1) of the Internal Revenue Code is modified
15 to add the following: “When the United States Census Bureau
16 discontinues using the decennial census to report median family
17 income on a census tract basis, census block group data shall be
18 used based on the American Community Survey.”

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

1 (\$40,000,000) annual limit or the two hundred million dollars
2 (\$200,000,000) cumulative limit.”

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

6 (A) ~~The committee~~ *GO-Biz* shall establish a process, in
7 consultation with the Department of Insurance, for the recapture
8 of credits allowed under this section from the entity that claimed
9 the credit on a return. The recapture process shall be applied if any
10 of the following conditions set forth occur.

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. The qualified community development entity shall send
15 notice to ~~the committee~~ *GO-Biz* within 30 calendar days of being
16 notified by the United States Treasury that any amount of a federal
17 tax credit available with respect to a qualified equity investment
18 that is eligible for a credit under this section is recaptured. The
19 committee shall send written acknowledgment within five calendar
20 days of receipt of the qualified community development entity’s
21 notice of potential noncompliance. In such case the recapture shall
22 be proportionate to the federal recapture with respect to such
23 qualified equity investment.

24 (ii) The qualified community development entity redeems ~~or~~
25 ~~makes principal repayment with respect to~~ a qualified equity
26 investment prior to the seventh anniversary of the issuance of such
27 qualified equity investment. The qualified community development
28 entity shall send notice to ~~the committee~~ *GO-Biz* within 30 calendar
29 days of ~~redeeming or making principal repayments with respect~~
30 ~~to~~ a qualified equity investment prior to the seventh anniversary
31 of the issuance of such qualified equity investment. ~~The committee~~
32 *GO-Biz* shall send written acknowledgment within five calendar
33 days of receipt of the qualified community development entity’s
34 notice of potential noncompliance. In such case ~~the committee’s~~
35 *GO-Biz’s* recapture shall be proportionate to the amount of the
36 ~~redemption or repayment with respect to~~ *of* such qualified equity
37 investment.

38 (iii) The qualified community development entity fails to invest
39 an amount equal to at least 85 percent of the purchase price of the
40 qualified equity investment in qualified low-income community

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

33 (B) Recaptured tax credits and the related qualified equity
34 investment authority revert back to ~~the committee GO-Biz~~ and
35 shall be ~~reissued in the following order:~~ *reissued. The reissue shall*
36 *not count toward the annual allocation limitation of forty million*
37 *dollars (\$40,000,000) or overall credit allocation limitation of*
38 *two hundred million dollars (\$200,000,000) in paragraph (8) of*
39 *subdivision (c). The reissue shall be done in the following order:*

1 (i) First, pro rata to applicants whose qualified equity investment
2 allocations were reduced pursuant to subparagraph (B) of paragraph
3 (5) of subdivision (d) by the allocation limitation of forty million
4 dollars (\$40,000,000) in paragraph (8) of subdivision (c).
5 (ii) Thereafter, in accordance with the application process.
6 (C) (i) Enforcement of each of the recapture provisions shall
7 be subject to a six-month cure period. Recapture shall not occur
8 until the qualified community development entity gives notice of
9 potential noncompliance to ~~the committee~~ *GO-Biz* and is afforded
10 six months from the date of such notice to cure the noncompliance.
11 The six-month cure period shall begin on the day ~~the committee~~
12 *GO-Biz* sends written acknowledgment of the qualified community
13 development entity's notice of the potential noncompliance. The
14 qualified community development entity is responsible for
15 addressing the circumstances of the potential noncompliance and
16 providing all documentation to ~~the committee~~ *GO-Biz* necessary
17 to demonstrate, to ~~the committee's~~ *GO-Biz's* satisfaction, that those
18 conditions no longer exist.
19 (ii) Not more than 45 calendar days following the close of the
20 cure period, ~~the committee~~ *GO-Biz* shall make a final determination
21 as to whether the credit is to be recaptured. This determination
22 shall be based on the review of the notice, information submitted
23 by the qualified community development entity, and any other
24 information ~~the committee~~ *GO-Biz* deems relevant to this
25 determination.
26 (iii) ~~The committee~~ *GO-Biz* shall post, and update monthly, a
27 tally of returned credits, pursuant to paragraph (8), and recaptured
28 credits pursuant to this paragraph. Within 30 calendar days of
29 making the final determination that the credit is to be recaptured,
30 ~~the committee~~ *GO-Biz* shall notify the Department of Insurance
31 of the determination including, but not limited to, the tax
32 identification number of the taxpayer.
33 (10) Section 45D(h) of the Internal Revenue Code, relating to
34 basis reduction, shall not apply.
35 (11) Section 45D(i) of the Internal Revenue Code, relating to
36 regulations, shall not apply.
37 (12) If a qualified community development entity makes a
38 capital or equity investment or a loan with respect to a qualified
39 low-income building under the state Low-Income Housing Tax

1 Credit Program, the investment or loan is not a qualified
2 low-income community investment under this section.

3 (d) (1) ~~The committee~~ *GO-Biz* shall adopt guidelines necessary
4 or appropriate to carry out the purposes of this section and meet
5 the requirements of Section 45D of the Internal Revenue Code, as
6 modified by this section. *In promulgating guidelines GO-Biz shall*
7 *look for guidance in the rules and regulations adopted under*
8 *Section 45D of the Internal Revenue Code to the extent that those*
9 *rules and regulations are consistent with this section.* The
10 guidelines shall not disqualify a low-income community investment
11 for the single reason that public or private incentives, loans, equity
12 investments, technical assistance, or other forms of support have
13 been or continue to be provided. The adoption of the guidelines
14 shall not be subject to the rulemaking provisions of the
15 Administrative Procedure Act of Chapter 3.5 (commencing with
16 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
17 Code.

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

27 (B) *The fees collected shall be deposited in the California New*
28 *Markets Tax Credit Fund established in Section 18410.3.*

29 (3) In developing guidelines ~~the committee~~ *GO-Biz* shall adopt
30 an allocation process that does all of the following:

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

34 (B) Sets minimum organizational capacity standards that
35 applicants must meet in order to receive an allocation of credits
36 including, but not limited to, its business strategy, targeted
37 community outcomes, capitalization strategy, and management
38 capacity.

- 1 (C) Considers the qualified community development entity's
 2 prior qualified low-income community investments under Section
 3 45D of the Internal Revenue Code.
- 4 (D) Considers the qualified community development entity's
 5 prior qualified low-income community investments under this
 6 section, including subparagraph (D) of paragraph (5).
- 7 (E) Does not require the qualified community development entity
 8 to identify the qualified active low-income community businesses
 9 in which the qualified community development entity will invest
 10 in an application for qualified equity investment allocation.
- 11 (4) (A) ~~The committee~~ *GO-Biz* shall begin accepting
 12 applications on or before ~~March~~ May 15, 2015, and shall award
 13 credits ~~at least two times a year at dates set annually by the~~
 14 ~~committee~~ through 2019, to the extent that allocations are available
 15 pursuant to Section 26011.9 of the Public Resources Code. To the
 16 extent reasonable and consistent in carrying out the purposes of
 17 this section, ~~the committee~~ *GO-Biz* shall consider how the timing
 18 of the state allocation rounds correspond with the allocation
 19 schedule of the federal New Markets Tax Credit Program.
- 20 (B) Within 20 calendar days after receipt of an application ~~the~~
 21 ~~committee~~ *GO-Biz* shall determine whether the application is
 22 complete or whether additional information is necessary in order
 23 to fully evaluate the application. If additional information is
 24 requested and the qualified community development entity provides
 25 that information within five business days, the application shall
 26 be considered completed as of the original date of receipt. If the
 27 qualified community development entity fails to provide the
 28 information within the five-business-day period, the application
 29 shall be denied and must be resubmitted in full with a new receipt
 30 date.
- 31 (C) Within 20 calendar days after receipt of an application
 32 determined to be complete ~~by the committee~~, *GO-Biz*, the
 33 committee shall grant or deny the application in full or in part. If
 34 the committee denies any part of the application, it shall inform
 35 the qualified community development entity of the grounds for
 36 the denial.
- 37 (5) (A) The committee shall award tax credits to qualified
 38 community development entities described in subparagraph (B)
 39 of paragraph (4) of subdivision (c) in the order applications are

1 received by the committee, subject to clause (i) or on a competitive
2 basis, pursuant to clause (ii).

3 (i) (I) In 2015, the committee shall only award tax credits to a
4 qualified community development entity in the order applications
5 are received by the committee. In the 2016 to 2019 award cycles,
6 inclusive, at least 60 percent of the credit allocation shall be
7 awarded in the order applications are received by the committee
8 to a qualified community development entity. Applications received
9 on the same day shall be deemed to have been received
10 simultaneously. At the committee's discretion, a higher percentage
11 of credits may be awarded ~~in the order that they are received.~~
12 *pursuant to the first sentence in this subparagraph.* Qualified
13 community development entities that receive tax credit awards
14 pursuant to this clause shall commit to making investments in a
15 manner that engages community-based partnerships and local
16 grassroots stakeholders.

17 (II) An entity described in clause (ii) of subparagraph (A) of
18 paragraph (4) of subdivision (c) shall not receive a tax credit award
19 pursuant to this clause.

20 (ii) The committee shall award up to 40 percent of the credit
21 allocation in the 2016 to 2019, inclusive, award cycles, to a
22 qualified community development entity, as described in clause
23 (ii) of subparagraph (A) of paragraph (4) of subdivision (c) and
24 subparagraph (B) of paragraph (4) of subdivision (c), on a
25 competitive basis using blind scoring and a review committee that
26 is comprised of ~~at least a majority of~~ community development
27 finance practitioners ~~and at least one-third of the members~~ having
28 demonstrated experience in assessing organizational business
29 strategy, community outcomes, capitalization strategy, and
30 management capacity. A member of the review committee shall
31 not have a financial interest, which includes, but is not limited to,
32 asking, consenting, or agreeing to receive any commission,
33 emolument, gratuity, money, property, or thing of value for his or
34 her own use, benefit, or personal advantage for procuring or
35 endeavoring to procure for any person, partnership, joint venture,
36 association, or corporation any tax credit or other assistance from
37 any applicant.

38 (iii) In awarding credits on a competitive basis, priority shall
39 be given to applications that can demonstrate that the credits will
40 allow the entity to undertake qualified low-income community

1 investments in a rural, suburban, or urban ~~area~~ *areas* that ~~has~~ *have*
2 been historically underserved and result in the greatest benefit to
3 the hardest to serve ~~and undercapitalized~~ *lower income populations*
4 ~~and most undercapitalized~~; *populations*, or in newly established
5 businesses, or in activities that support neighborhood revitalization
6 strategies driven by local grassroots stakeholders in multiple
7 low-income communities across one or more regions or the state
8 for the purpose of scaling economic development activities that
9 compliment regional industry clusters that result in the greatest
10 benefit to the largest number of lower income individuals. All
11 competitive applications shall demonstrate strong linkages with
12 communities and neighborhoods in California low-income
13 neighborhoods.

14 (B) For applications described in clause (i) of subparagraph
15 (A), in the event tax credit requests exceed the applicable annual
16 allocation limitation of up to forty million dollars (\$40,000,000)
17 in paragraph (8) of subdivision (c), the committee shall certify,
18 consistent with remaining qualified equity investment capacity,
19 qualified equity investments of applicants in proportionate
20 percentages based upon the ratio of the amount of qualified equity
21 investments requested in such applications to the total amount of
22 qualified equity investments requested in all such applications
23 received on the same day.

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

28 (D) An approved applicant may transfer all or a portion of its
29 certified qualified equity investment authority to its controlling
30 entity or any subsidiary qualified community development entity
31 of the controlling entity, provided that the applicant and the
32 transferee notify the committee within 30 calendar days of such
33 transfer and include the information required in the application
34 with respect to such transferee with such notice.

35 (E) Within 60 calendar days of ~~the committee~~ *GO-Biz* sending
36 notice of certification, the qualified community development entity
37 or any transferee, under subparagraph (D), shall issue the qualified
38 equity investment and receive cash in the amount of the certified
39 amount. The qualified community development entity or transferee,
40 under subparagraph (D), must provide ~~the committee~~ *GO-Biz* with

1 evidence of the receipt of the cash investment within 65 calendar
2 days of the applicant receiving notice of certification. If the
3 qualified community development entity or any transferee, under
4 subparagraph (D), does not receive the cash investment and issue
5 the qualified equity investment within 60 calendar days of ~~the~~
6 ~~committee GO-Biz~~ sending the certification notice, the certification
7 shall lapse and the entity may not issue the qualified equity
8 investment without reapplying to ~~the committee GO-Biz~~ for
9 certification. Lapsed certifications revert back to ~~the committee~~
10 ~~GO-Biz~~ and shall be reissued in the following order:

11 (i) First, pro rata to applicants whose qualified equity investment
12 allocations were reduced pursuant to subparagraph (B) ~~of paragraph~~
13 ~~(5)~~ under the annual allocation limitation of forty million dollars
14 (\$40,000,000) in paragraph (8) of subdivision (c).

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

16 (F) A qualified community development entity that issues
17 qualified equity investments must notify ~~the committee GO-Biz~~
18 of the names of the entities that are eligible to utilize tax credits
19 under paragraph (3) of subdivision (b) pursuant to an allocation
20 of tax credits or change in allocation of tax credits or due to a
21 transfer of a qualified equity investment.

22 (6) (A) A qualified community development entity that issues
23 qualified equity investments shall submit a report to ~~the committee~~
24 ~~GO-Biz~~ within the first five business days after the first anniversary
25 of the initial credit allowance date that provides documentation as
26 to the investment of at least 85 percent of the purchase price in
27 qualified low-income community investments in qualified active
28 low-income community businesses located in California. Such
29 report shall include all of the following:

30 (i) A bank statement of such qualified community development
31 entity evidencing each qualified low-income community
32 investment.

33 (ii) Evidence that such business was a qualified active
34 low-income community business at the time of such qualified
35 low-income community investment.

36 (iii) Any other information required by ~~the committee GO-Biz~~
37 *as being necessary to meet the requirements of this section.*

38 (B) Thereafter, the qualified community development entity
39 shall submit an annual report to ~~the committee GO-Biz~~ within 60
40 calendar days of the beginning of the calendar year during the

1 seven years following submittal of the report, pursuant to
2 subparagraph (A). No annual report shall be due prior to the first
3 anniversary of the initial credit allowance date. The report shall
4 include, but is not limited to, the following:

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

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

8 (iii) The number of employment positions created and retained
9 as a result of qualified low-income community investments and
10 the average annual salary of such positions.

11 (iv) The number of operating businesses assisted as a result of
12 qualified low-income community investments, by industry and
13 number of employees.

14 (v) Number of owner-occupied real estate projects described in
15 subparagraph (E) of paragraph (6) of subdivision (c).

16 (vi) Location of the qualified low-income community businesses.

17 (e) In the case where the credit allowed by this section exceeds
18 the tax described in Sections 12201, 12204, 12206, and 12209, the
19 excess may be carried over to reduce that tax in the following year,
20 and the six succeeding years if necessary, until the credit is
21 exhausted.

22 (f) ~~The committee~~ *GO-Biz* shall annually report on its Internet
23 Web site the information provided by low-income community
24 development entities and on the geographic distribution of the
25 ~~credits~~ *qualified active low-income community businesses assisted*.

26 (g) (1) The Insurance Commissioner may prescribe any rules
27 or regulations that may be necessary or appropriate to implement
28 this section. The Insurance Commissioner shall have access to any
29 documentation held by the committee relative to the application
30 and reporting of a qualified community development entity.

31 (2) A qualifying community development entity shall provide
32 ~~the committee~~ *GO-Biz* with the name, address, and tax
33 identification number of each investor and entity for which a credit
34 was allocated by the qualifying community development entity,
35 pursuant to paragraph (3) of subdivision (b). ~~The committee~~
36 *GO-Biz* shall provide this information to the ~~Franchise Tax Board~~
37 *Insurance Commissioner* in a manner determined by the ~~Franchise~~
38 ~~Tax Board~~ *Insurance Commissioner*.

39 (h) *The credit allowed under this section shall only be allowed*
40 *for taxable years in which the Legislature appropriates funds in*

1 *the California New Markets Tax Credit Fund pursuant to*
2 *subdivision (b) of Section 18410.3.*

3 ~~(h)~~

4 (i) This section shall remain in effect only until December 1,
5 2028, and as of that date is repealed.

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

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

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

30 (2) This credit shall be allowed only if the taxpayer holds the
31 qualified equity investment, or has been allocated a credit pursuant
32 to paragraph (3), on the credit allowance date and each of the six
33 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 or allocated through~~
36 ~~a pass-thru entity may be allocated to the partners or shareholders~~
37 ~~of such entity for their use in accordance with the provisions of~~
38 ~~any agreement among such partners or shareholders. Such~~
39 ~~allocations shall not be considered a sale for the purposes of this~~
40 ~~section.~~

1 (A) The credit shall be allocated to the partners of a partnership
2 in accordance with the partnership agreement, regardless of how
3 the federal New Markets Tax Credit is allocated to the partners,
4 or whether the allocation of the credit under the terms of the
5 agreement has substantial economic effect, within the meaning of
6 Section 704(b) of the Internal Revenue Code.

7 (B) To the extent the allocation of the credit to a partner under
8 this section lacks substantial economic effect, any loss or deduction
9 otherwise allowable under this part that is attributable to the sale
10 or other disposition of that partner's partnership interest made prior
11 to the expiration of the recapture period set forth in Section
12 45D(g)(1) of the Internal Revenue Code shall not be allowed in
13 the taxable year in which the sale or other disposition occurs, but
14 shall instead be deferred until and treated as if it occurred in the
15 first taxable year immediately following the taxable year in which
16 that recapture period expires.

17 (C) Credits awarded to an "S" corporation shall be allocated
18 among the shareholders of the "S" corporation pro rata in
19 accordance with their respective pro rata shares, determined in
20 accordance with Subchapter S of Chapter 1 of Subtitle A of the
21 Internal Revenue Code and the regulations promulgated thereunder.

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

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

32 (1) (A) The references to "the Secretary" in Section 45D of the
33 Internal Revenue Code, other than in Sections 45D(c)(1)(C) and
34 45D(d)(1)(C), are modified to read "the committee." "GO-Biz."

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

38 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
39 applicable percentage, is modified by substituting for "(A) 5
40 percent with respect to the first 3 credit allowance dates, and (B)

1 6 percent with respect to the remainder of the credit allowance
2 dates” with the following:

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

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

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

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

13 (4) (A) Section 45D(c)(1) of the Internal Revenue Code is
14 modified to additionally include:

15 (i) A subsidiary community development entity of any such
16 qualified community development entity.

17 (ii) A nonprofit organization, pursuant to Section 23701,
18 certified by ~~the committee~~ *GO-Biz* as having a primary mission
19 of serving or providing investment capital in low-income
20 communities and the entity maintains accountability to residents
21 of low-income communities through their representation on any
22 governing board of the entity or on an advisory board of the entity.
23 ~~The committee~~ *GO-Biz* shall establish guidelines for certifying
24 nonprofit organizations pursuant to this subparagraph. ~~The~~
25 ~~committee~~ *GO-Biz* may include reasonable conditions on the
26 certification to effectuate the intent of this section and may suspend
27 or revoke a certification, after affording the nonprofit organization
28 notice and the opportunity to *appeal and be heard and appeal*, by
29 ~~the committee~~, if ~~the committee~~ *GO-Biz* finds that the nonprofit
30 organization no longer meets the requirements for certification.
31 Such nonprofit organization is not subject to the requirement of
32 subparagraph (B).

33 (B) Section 45D(c)(1) of the Internal Revenue Code is modified
34 to only include a qualified community development entity *and its*
35 *subsidiary qualified community development entities* that ~~has~~ *have*
36 entered into an allocation agreement with the Community
37 Development Financial Institutions Fund of the United States
38 Treasury Department, with respect to credits authorized by Section
39 45D of the Internal Revenue Code, that includes California within
40 the service area and is dated on or after January 1, 2012.

1 (5) Section 45D(d)(1)(A) of the Internal Revenue Code is
2 modified to only include any capital or equity investment in, or
3 loan to, a qualified active low-income community business.

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

7 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code 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 is
11 modified as follows:

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

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

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

29 (C) An entity complies with Section 45D(d)(2)(A)(i) of the
30 Internal Revenue Code if, as calculated in subparagraph (B), it
31 uses 50 percent of its tangible property, whether owned or leased,
32 within any low-income community for any taxable year.

33 (D) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is
34 modified to allow the services of employees of a service-based
35 qualified business to be performed outside the low-income
36 community. A service-based qualified business is a business that
37 primarily earns revenue through providing intangible products and
38 services.

39 (E) (i) A qualified active low-income community business shall
40 ~~exclude~~ *not include* any business that derives, or projects to derive,

1 15 percent or more of its annual revenue from the rental or sale of
2 real estate. This exclusion does not apply to a business that is
3 controlled by, or under common control with, another business if
4 the second business: (I) does not derive or project to derive 15
5 percent or more of its annual revenue from the rental or sale of
6 real estate; and (II) is the primary tenant of the real estate leased
7 from the first business.

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

14 (iii) A qualified active low-income community business shall
15 only include a business located in census tracts with a poverty rate
16 greater than 30 percent, or census tracts, if located within a
17 non-metropolitan area, with a median family income that does not
18 exceed 60 percent of median family income for the State of
19 California, or census tracts, if located within a metropolitan area,
20 with a median family income that does not exceed 60 percent of
21 the greater of the California median family income or the
22 metropolitan area median family income, or census tracts with
23 unemployment rates at least 1.5 times the national average.

24 (iv) *A qualified active low-income community business shall*
25 *not include any business that operates or derives revenues from*
26 *the operation of a country club, gaming establishment, massage*
27 *parlor, liquor store, or golf course.*

28 (v) *A qualified active low-income community business shall not*
29 *include a sexually oriented business. A “sexually oriented*
30 *business” means a nightclub, bar, restaurant, or similar*
31 *commercial enterprise that provides for an audience of two or*
32 *more individuals live nude entertainment or live nude performances*
33 *where the nudity is a function of everyday business operations and*
34 *where nudity is a planned and intentional part of the entertainment*
35 *or performance. “Nude” means clothed in a manner that leaves*
36 *uncovered or visible, through less than fully opaque clothing, any*
37 *portion of the genitals or, in the case of a female, any portion of*
38 *the breasts below the top of the areola of the breasts.*

39 (vi) *A qualified active low-income community business shall*
40 *not include a charter school.*

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

6 (8) The following shall apply in lieu of the provisions of Section
7 45D(f) of the Internal Revenue Code, relating to national limitation
8 on amount of investments designated: “The aggregate amount of
9 credit that may be allocated in any calendar year pursuant to this
10 section, Section 12283, and Section 23622.9 shall be an amount
11 equal to any unused portion of the one hundred million dollars
12 (\$100,000,000) in exclusions, authorized pursuant to Section
13 6010.8, as determined by the California Alternative Energy and
14 Advanced Transportation Financing Authority and reported to the
15 committee, not to exceed forty million dollars (\$40,000,000). The
16 committee shall limit the allocation of credits permitted under this
17 section, Section 12283, and Section 23622.9 to a cumulative total
18 of no more than two hundred million dollars (\$200,000,000). Any
19 unused credits shall be returned to the committee by March 1 of
20 the year following allocation and the value of the unused credit
21 shall be available for allocation in the following calendar years in
22 accordance with the application process. Any recaptured credits
23 shall be returned to the committee by March 1 of the year following
24 recapture and the value of the recaptured credit shall be available
25 for allocation in the following calendar years in accordance with
26 clause (ii) of subparagraph (B) of paragraph (9). Reallocation
27 credits *and recapture credits* shall not count against the forty
28 million dollars (\$40,000,000) annual limit or the two hundred
29 million dollars (\$200,000,000) cumulative limit.”

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

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

36 (i) ~~The committee~~ *GO-Biz* shall establish a process, in
37 consultation with the Franchise Tax Board, for the recapture of
38 credits allowed under this section from the entity that claimed the
39 credit on a return. The recapture process shall be applied if any of
40 the following conditions set forth occur.

1 (I) Any amount of a federal tax credit available with respect to
2 a qualified equity investment that is eligible for a credit under this
3 section is recaptured under Section 45D of the Internal Revenue
4 Code. The qualified community development entity shall send
5 notice to ~~the committee~~ *GO-Biz* within 30 calendar days of being
6 notified by the United States Treasury that any amount of a federal
7 tax credit available with respect to a qualified equity investment
8 that is eligible for a credit under this section is recaptured. ~~The~~
9 ~~committee~~ *GO-Biz* shall send written acknowledgment within five
10 calendar days of receipt of the qualified community development
11 entity's notice of potential noncompliance. In such case the
12 recapture shall be proportionate to the federal recapture with respect
13 to such qualified equity 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. The qualified community development
18 entity shall send notice to ~~the committee~~ *GO-Biz* within 30 calendar
19 days of redeeming ~~or making principal repayments with respect~~
20 ~~to~~ a qualified equity investment prior to the seventh anniversary
21 of the issuance of such qualified equity investment. ~~The committee~~
22 *GO-Biz* shall send written acknowledgment within five calendar
23 days of receipt of the qualified community development entity's
24 notice of potential noncompliance. In such case ~~the committee's~~
25 *GO-Biz's* recapture shall be proportionate to the amount of the
26 redemption ~~or repayment with respect to~~ *of* such qualified equity
27 investment.

28 (III) The qualified community development entity fails to invest
29 an amount equal to at least 85 percent of the purchase price of the
30 qualified equity investment in qualified low-income community
31 investments in California within 12 months of the issuance of the
32 qualified equity investment and maintain at least 85 percent of
33 such level of investment in qualified low-income community
34 investments in California until the last credit allowance date for
35 the qualified equity investment. For purposes of this section, an
36 investment shall be considered held by a qualified community
37 development entity even if the investment has been sold or repaid
38 if the qualified community development entity reinvests an amount
39 equal to the capital returned to, or recovered by, the qualified
40 community development entity from the original investment,

1 exclusive of any profits realized, in another qualified low-income
 2 community investment within 12 months of the receipt of such
 3 capital. The qualified community development entity shall send
 4 notice to ~~the committee GO-Biz~~ within 30 calendar days of the
 5 12-month deadline for the reinvestment if the entity fails to meet
 6 any of the reinvestment requirements. ~~The committee GO-Biz~~ shall
 7 send written acknowledgment within five calendar days of receipt
 8 of the qualified community development entity’s notice of potential
 9 noncompliance. ~~Periodic amounts received as repayment of~~
 10 ~~principal pursuant to regularly scheduled amortization payments~~
 11 ~~on a loan that is a qualified low-income community investment~~
 12 ~~shall be treated as continuously invested in a qualified low-income~~
 13 ~~community investment if the amounts are reinvested in one or~~
 14 ~~more qualified low-income community investments by the end of~~
 15 ~~the following calendar year.~~ A qualified community development
 16 entity shall not be required to reinvest capital returned from
 17 qualified low-income community investments after the sixth
 18 anniversary of the issuance of the qualified equity investment, and
 19 the qualified low-income community investment shall be
 20 considered held by the qualified community development entity
 21 through the seventh anniversary of the qualified equity investment’s
 22 issuance.

23 (ii) Recaptured tax credits and the related qualified equity
 24 investment authority revert back to ~~the committee GO-Biz~~ and
 25 shall be ~~reissued in the following order:~~ *reissued. The reissue shall*
 26 *not count toward the annual allocation limitation of forty million*
 27 *dollars (\$40,000,000) or overall credit allocation limitation of*
 28 *two hundred million dollars (\$200,000,000) in paragraph (8) of*
 29 *subdivision (c). The reissue shall be done in the following order:*

30 (I) First, pro rata to applicants whose qualified equity
 31 investment allocations were reduced pursuant to subparagraph (B)
 32 of paragraph (5) of subdivision (d) by the allocation limitation of
 33 forty million dollars (\$40,000,000) in paragraph (8) of subdivision
 34 (c).

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

36 (iii) (I) Enforcement of each of the recapture provisions shall
 37 be subject to a six-month cure period. Recapture shall not occur
 38 until the qualified community development entity gives notice of
 39 potential noncompliance to ~~the committee GO-Biz~~ and is afforded
 40 six months from the date of such notice to cure the noncompliance.

1 The six-month cure period shall begin on the day ~~the committee~~
2 *GO-Biz* sends written acknowledgment of the qualified community
3 development entity's notice of the potential noncompliance. The
4 qualified community development entity is responsible for
5 addressing the circumstances of the potential noncompliance and
6 providing all documentation to ~~the committee~~ *GO-Biz* necessary
7 to demonstrate, to ~~the committee's~~ *GO-Biz's* satisfaction, that those
8 conditions no longer exist.

9 (II) Not more than 45 calendar days following the close of the
10 cure period, ~~the committee~~ *GO-Biz* shall make a final determination
11 as to whether the credit is to be recaptured. This determination
12 shall be based on the review of the notice, information submitted
13 by the qualified community development entity, and any other
14 information ~~the committee~~ *GO-Biz* deems relevant to this
15 determination.

16 (III) ~~The committee~~ *GO-Biz* shall post, and update monthly, a
17 tally of returned credits, pursuant to paragraph (8), and recaptured
18 credits pursuant to this paragraph. Within 30 calendar days of
19 making the final determination that the credit is to be recaptured,
20 ~~the committee~~ *GO-Biz* shall notify the Department of Insurance
21 of the determination including, but not limited to, the tax
22 identification number of the taxpayer.

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

25 (11) If a qualified community development entity makes a
26 capital or equity investment or a loan with respect to a qualified
27 low-income building under the state Low-Income Housing Tax
28 Credit Program, the investment or loan is not a qualified
29 low-income community investment under this section.

30 (d) (1) ~~The committee~~ *GO-Biz* shall adopt guidelines necessary
31 or appropriate to carry out the purposes of this section and meet
32 the requirements of Section 45D of the Internal Revenue Code, as
33 modified by this section. *In promulgating guidelines GO-Biz shall*
34 *look for guidance in the rules and regulations adopted under*
35 *Section 45D of the Internal Revenue Code to the extent that those*
36 *rules and regulations are consistent with this section.* The
37 guidelines shall not disqualify a low-income community investment
38 for the single reason that public or private incentives, loans, equity
39 investments, technical assistance, or other forms of support have
40 been or continue to be provided. The adoption of the guidelines

1 shall not be subject to the rulemaking provisions of the
2 Administrative Procedure Act of Chapter 3.5 (commencing with
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
4 Code.

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

14 (B) *The fees collected shall be deposited in the California New*
15 *Markets Tax Credit Fund established in Section 18410.3.*

16 (3) In developing guidelines ~~the committee GO-Biz~~ shall adopt
17 an allocation process that does all of the following:

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

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

26 (C) *Considers the qualified community development entity's*
27 *prior qualified low-income community investments under Section*
28 *45D of the Internal Revenue Code.*

29 (D) *Considers the qualified community development entity's*
30 *prior qualified low-income community investments under this*
31 *section, including subparagraph (D) of paragraph (5).*

32 (E) *Does not require the qualified community development entity*
33 *to identify the qualified active low-income community businesses*
34 *in which the qualified community development entity will invest*
35 *in an application for qualified equity investment allocation.*

36 (4) (A) ~~The committee—GO-Biz~~ shall begin accepting
37 applications on or before ~~March~~ *May* 15, 2015, and shall award
38 credits ~~at least two times a year at dates set annually by the~~
39 ~~committee~~ through 2019, to the extent that allocations are available
40 pursuant to Section 26011.9 of the Public Resources Code. To the

1 extent reasonable and consistent in carrying out the purposes of
2 this section, ~~the committee~~ *GO-Biz* shall consider how the timing
3 of the state allocation rounds correspond with the allocation
4 schedule of the federal New Markets Tax Credit Program.

5 (B) Within 20 calendar days after receipt of an application ~~the~~
6 ~~committee~~ *GO-Biz* shall determine whether the application is
7 complete or whether additional information is necessary in order
8 to fully evaluate the application. If additional information is
9 requested and the qualified community development entity provides
10 that information within five business days, the application shall
11 be considered completed as of the original date of receipt. If the
12 qualified community development entity fails to provide the
13 information within the five-business-day period, the application
14 shall be denied and must be resubmitted in full with a new receipt
15 date.

16 (C) Within 20 calendar days after receipt of an application
17 determined to be complete by ~~the committee~~, *GO-Biz*, the
18 committee shall grant or deny the application in full or in part. If
19 the committee denies any part of the application, it shall inform
20 the qualified community development entity of the grounds for
21 the denial.

22 (5) (A) The committee shall award tax credits to qualified
23 community development entities described in subparagraph (B)
24 of paragraph (4) of subdivision (c) in the order applications are
25 received by the committee, subject to clause (i) or on a competitive
26 basis, pursuant to clause (ii).

27 (i) (I) In 2015, the committee shall only award tax credits to a
28 qualified community development entity in the order applications
29 are received by the committee. In the 2016 to 2019 award cycles,
30 inclusive, at least 60 percent of the credit allocation shall be
31 awarded in the order applications are received by the committee
32 to a qualified community development entity. Applications received
33 on the same day shall be deemed to have been received
34 simultaneously. At the committee's discretion, a higher percentage
35 of credits may be awarded ~~in the order that they are received.~~
36 *pursuant to the first sentence in this subparagraph.* Qualified
37 community development entities that receive tax credit awards
38 pursuant to this clause shall commit to making investments in a
39 manner that engages community-based partnerships and local
40 grassroots stakeholders.

1 (II) An entity described in clause (ii) of subparagraph (A) of
 2 paragraph (4) of subdivision (c) shall not receive a tax credit award
 3 pursuant to this clause.

4 (ii) The committee shall award up to 40 percent of the credit
 5 allocation in the 2016 to 2019, inclusive, award cycles, to a
 6 qualified community development entity, as described in clause
 7 (ii) of subparagraph (A) of paragraph (4) of subdivision (c) and
 8 subparagraph (B) of paragraph (4) of subdivision (c), on a
 9 competitive basis using blind scoring and a review committee that
 10 is comprised of ~~at least a majority of~~ community development
 11 finance practitioners ~~and at least one-third of the members~~ having
 12 demonstrated experience in assessing organizational business
 13 strategy, community outcomes, capitalization strategy, and
 14 management capacity. A member of the review committee shall
 15 not have a financial interest, which includes, but is not limited to,
 16 asking, consenting, or agreeing to receive any commission,
 17 emolument, gratuity, money, property, or thing of value for his or
 18 her own use, benefit, or personal advantage for procuring or
 19 endeavoring to procure for any person, partnership, joint venture,
 20 association, or corporation any tax credit or other assistance from
 21 any applicant.

22 (iii) In awarding credits on a competitive basis, priority shall
 23 be given to applications that can demonstrate that the credits will
 24 allow the entity to undertake qualified low-income community
 25 investments in a rural, suburban, or urban ~~area~~ *areas* that ~~has~~ *have*
 26 been historically underserved and result in the greatest benefit to
 27 the hardest to serve ~~and undercapitalized~~ lower income ~~populations~~
 28 ~~and most undercapitalized~~, *populations*, or in newly established
 29 businesses, or in activities that support neighborhood revitalization
 30 strategies driven by local grassroots stakeholders in multiple
 31 low-income communities across one or more regions or the state
 32 for the purpose of scaling economic development activities that
 33 compliment regional industry clusters that result in the greatest
 34 benefit to the largest number of lower income individuals. All
 35 competitive applications shall demonstrate strong linkages with
 36 communities and neighborhoods in California low-income
 37 neighborhoods.

38 (B) For applications described in clause (i) of subparagraph
 39 (A), in the event tax credit requests exceed the applicable annual
 40 allocation limitation of up to forty million dollars (\$40,000,000)

1 in paragraph (8) of subdivision (c), the committee shall certify,
2 consistent with remaining qualified equity investment capacity,
3 qualified equity investments of applicants in proportionate
4 percentages based upon the ratio of the amount of qualified equity
5 investments requested in such applications to the total amount of
6 qualified equity investments requested in all such applications
7 received on the same day.

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

12 (D) An approved applicant may transfer all or a portion of its
13 certified qualified equity investment authority to its controlling
14 entity or any subsidiary qualified community development entity
15 of the controlling entity, provided that the applicant and the
16 transferee notify the committee within 30 calendar days of such
17 transfer and include the information required in the application
18 with respect to such transferee with such notice.

19 (E) Within 60 calendar days of ~~the committee~~ *GO-Biz* sending
20 notice of certification, the qualified community development entity
21 or any transferee, under subparagraph (D), shall issue the qualified
22 equity investment and receive cash in the amount of the certified
23 amount. The qualified community development entity or transferee,
24 under subparagraph (D), must provide ~~the committee~~ *GO-Biz* with
25 evidence of the receipt of the cash investment within 65 calendar
26 days of the applicant receiving notice of certification. If the
27 qualified community development entity or any transferee, under
28 subparagraph (D), does not receive the cash investment and issue
29 the qualified equity investment within 60 calendar days of ~~the~~
30 ~~committee~~ *GO-Biz* sending the certification notice, the certification
31 shall lapse and the entity may not issue the qualified equity
32 investment without reapplying to ~~the committee~~ *GO-Biz* for
33 certification. Lapsed certifications revert back to ~~the committee~~
34 *GO-Biz* and shall be reissued in the following order:

35 (i) First, pro rata to applicants whose qualified equity investment
36 allocations were reduced pursuant to subparagraph (B) ~~of paragraph~~
37 ~~(5)~~ under the annual allocation limitation of forty million dollars
38 (\$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~~ *GO-Biz*
3 of the names of the entities that are eligible to utilize tax credits
4 under paragraph (3) of subdivision (b) pursuant to an allocation
5 of tax credits or change in allocation of tax credits or due to a
6 transfer 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 *GO-Biz* within the first five business days after the first anniversary
10 of the initial credit allowance date that provides documentation as
11 to the investment of at least 85 percent of the purchase price in
12 qualified low-income community investments in qualified active
13 low-income community businesses located in California. Such
14 report shall 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~~ *GO-Biz*
22 *as being necessary to meet the requirements of this section.*

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

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

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

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

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

39 (v) Number of owner-occupied real estate projects described in
40 subparagraph (E) of paragraph (6) of subdivision (c).

1 (vi) Location of the qualified low-income community businesses.

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

6 (f) ~~The committee~~ *GO-Biz* shall annually report on its Internet
7 Web site the information provided by low-income community
8 development entities and on the geographic distribution of the
9 ~~credits~~ *qualified active low-income community businesses assisted*.

10 (g) (1) The Franchise Tax Board may prescribe any rules or
11 regulations that may be necessary or appropriate to implement this
12 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~~ *GO-Biz* with the name, address, and tax
17 identification number of each investor and entity for which a credit
18 was allocated by the qualifying community development entity,
19 pursuant to paragraph (3) of subdivision (b). ~~The committee~~
20 *GO-Biz* shall provide this information to the Franchise Tax Board
21 in a manner determined by the Franchise Tax Board.

22 (h) *The credit allowed under this section shall only be allowed*
23 *for taxable years in which the Legislature appropriates funds in*
24 *the California New Markets Tax Credit Fund pursuant to*
25 *subdivision (b) of Section 18410.3.*

26 ~~(h)~~

27 (i) This section shall remain in effect only until December 1,
28 2028, and as of that date is repealed.

29 *SEC. 5. Section 18410.3 is added to the Revenue and Taxation*
30 *Code, to read:*

31 *18410.3. (a) The California New Markets Tax Credit Fund is*
32 *hereby established in the State Treasury.*

33 *(b) Upon appropriation, moneys in the fund shall be used for*
34 *the purposes described in subdivision (d) of Section 12283,*
35 *subdivision (d) of Section 17053.9, and subdivision (d) of Section*
36 *23622.9.*

37 ~~SEC. 5.~~

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

1 23622.9. (a) There is hereby created the California New
 2 Markets Tax Credit Program as provided in this section, Section
 3 12283, and Section 17053.9. The purpose of this program is to
 4 stimulate private sector investment in lower income communities
 5 by providing a tax incentive to 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~~ *committee and GO-Biz* shall
 14 administer this program as provided in this section, Section 12283,
 15 and Section 17053.9.

16 (b) (1) For taxable years beginning on or after January 1, 2015,
 17 and before January 1, 2027, *and subject to subdivision (h)*, there
 18 shall be allowed as a credit against the “tax,” as defined in Section
 19 23036, an amount determined in accordance with Section 45D of
 20 the Internal Revenue Code, as amended by Public Law 111-5,
 21 Public Law 111-312, and Public Law 112-240, as modified as set
 22 forth in this section.

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

27 ~~(3) A tax credit allowed under this section shall not be sold and~~
 28 ~~is not a refundable credit. Tax credits allowed or allocated through~~
 29 ~~a pass-thru entity may be allocated to the partners or shareholders~~
 30 ~~of such entity for their use in accordance with the provisions of~~
 31 ~~any agreement among such partners or shareholders. Such~~
 32 ~~allocations shall not be considered a sale for the purposes of this~~
 33 ~~section.~~

34 ~~(A) The credit shall be allocated to the partners of a partnership~~
 35 ~~in accordance with the partnership agreement, regardless of how~~
 36 ~~the federal New Markets Tax Credit is allocated to the partners,~~
 37 ~~or whether the allocation of the credit under the terms of the~~
 38 ~~agreement has substantial economic effect, within the meaning of~~
 39 ~~Section 704(b) of the Internal Revenue Code.~~

1 ~~(B) To the extent the allocation of the credit to a partner under~~
2 ~~this section lacks substantial economic effect, any loss or deduction~~
3 ~~otherwise allowable under this part that is attributable to the sale~~
4 ~~or other disposition of that partner's partnership interest made prior~~
5 ~~to the expiration of the recapture period set forth in Section~~
6 ~~45D(g)(1) of the Internal Revenue Code shall not be allowed in~~
7 ~~the taxable year in which the sale or other disposition occurs, but~~
8 ~~shall instead be deferred until and treated as if it occurred in the~~
9 ~~first taxable year immediately following the taxable year in which~~
10 ~~that recapture period expires.~~

11 ~~(C) Credits awarded to an "S" corporation shall be allocated~~
12 ~~among the shareholders of the "S" corporation pro rata in~~
13 ~~accordance with their respective pro rata shares, determined in~~
14 ~~accordance with Subchapter S of Chapter 1 of Subtitle A of the~~
15 ~~Internal Revenue Code and the regulations promulgated thereunder.~~

16 *(3) A tax credit allowed under this section shall not be sold and*
17 *is not a refundable credit. Tax credits allowed or allocated to a*
18 *partnership, limited liability company, or "S" corporation may*
19 *be allocated to the partners, members, managers, or shareholders*
20 *of such entity for their use in accordance with the provisions of*
21 *any agreement among such partners, members, managers, or*
22 *shareholders. Such allocations shall not be considered a sale for*
23 *the purposes of this section.*

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

26 (1) ~~(A)~~ The references to "the Secretary" in Section 45D of the
27 Internal Revenue Code, other than in Sections 45D(c)(1)(C) and
28 45D(d)(1)(C), are modified to read "~~the committee.~~" "*GO-Biz.*"

29 ~~(B) For purposes of this section, "committee" means the~~
30 ~~California Competes Tax Credit Committee established under~~
31 ~~Section 18410.2.~~

32 (2) Section 45D(a)(2) of the Internal Revenue Code, relating to
33 applicable percentage, is modified by substituting for "(A) 5
34 percent with respect to the first 3 credit allowance dates, and (B)
35 6 percent with respect to the remainder of the credit allowance
36 dates" with the following:

37 (A) Zero percent with respect to the first two credit allowance
38 dates.

39 (B) Seven percent with respect to the third credit allowance
40 date.

1 (C) Eight percent with respect to the remainder of the credit
 2 allowance dates.

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

7 (4) (A) Section 45D(c)(1) of the Internal Revenue Code is
 8 modified to additionally include:

9 (i) A subsidiary community development entity of any such
 10 qualified community development entity.

11 (ii) A nonprofit organization, pursuant to Section 23701,
 12 certified by ~~the committee~~ *GO-Biz* as having a primary mission
 13 of serving or providing investment capital in low-income
 14 communities and the entity maintains accountability to residents
 15 of low-income communities through their representation on any
 16 governing board of the entity or on an advisory board of the entity.
 17 ~~The committee~~ *GO-Biz* shall establish guidelines for certifying
 18 nonprofit organizations pursuant to this subparagraph. ~~The~~
 19 ~~committee~~ *GO-Biz* may include reasonable conditions on the
 20 certification to effectuate the intent of this section and may suspend
 21 or revoke a certification, after affording the nonprofit organization
 22 notice and the opportunity to *appeal and be heard* ~~and appeal~~, by
 23 ~~the committee~~, if ~~the committee~~ *GO-Biz* finds that the nonprofit
 24 organization no longer meets the requirements for certification.
 25 Such nonprofit organization is not subject to the requirement of
 26 subparagraph (B).

27 (B) Section 45D(c)(1) of the Internal Revenue Code is modified
 28 to only include a qualified community development entity *and its*
 29 *subsidiary qualified community development entities* that ~~has~~ *have*
 30 entered into an allocation agreement with the Community
 31 Development Financial Institutions Fund of the United States
 32 Treasury Department, with respect to credits authorized by Section
 33 45D of the Internal Revenue Code, that includes California within
 34 the service area and is dated on or after January 1, 2012.

35 (5) Section 45D(d)(1)(A) of the Internal Revenue Code is
 36 modified to only include any capital or equity investment in, or
 37 loan to, a qualified active low-income community business.

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

1 (A) Section 45D(d)(2)(A)(i) of the Internal Revenue Code is
2 modified by substituting “any low-income community in
3 California” for “any low-income community.”

4 (B) Section 45D(d)(2)(A)(ii) of the Internal Revenue Code is
5 modified as follows:

6 (i) Substituting “any low-income community in California” for
7 “any low-income community.”

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

18 (iii) Adding the provision that if the business meets the
19 requirements of a qualified low-income community business at
20 the time the investment is made, the business shall be treated as
21 satisfying the requirements of Section 45D(d)(2)(A)(ii) for the
22 duration of the investment.

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

27 (D) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is
28 modified to allow the services of employees of a service-based
29 qualified business to be performed outside the low-income
30 community. A service-based qualified business is a business that
31 primarily earns revenue through providing intangible products and
32 services.

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

1 real estate; and (II) is the primary tenant of the real estate leased
 2 from the first 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 *community*
 8 business, except as modified by this paragraph and paragraph (7).

9 (iii) A qualified active low-income community business shall
 10 only include a business located in census tracts with a poverty rate
 11 greater than 30 percent, or census tracts, if located within a
 12 non-metropolitan area, with a median family income that does not
 13 exceed 60 percent of median family income for the State of
 14 California, or census tracts, if located within a metropolitan area,
 15 with a median family income that does not exceed 60 percent of
 16 the greater of the California median family income or the
 17 metropolitan area median family income, or census tracts with
 18 unemployment rates at least 1.5 times the national average.

19 (iv) *A qualified active low-income community business shall*
 20 *not include any business that operates or derives revenues from*
 21 *the operation of a country club, gaming establishment, massage*
 22 *parlor, liquor store, or golf course.*

23 (v) *A qualified active low-income community business shall not*
 24 *include a sexually oriented business. A “sexually oriented*
 25 *business” means a nightclub, bar, restaurant, or similar*
 26 *commercial enterprise that provides for an audience of two or*
 27 *more individuals live nude entertainment or live nude performances*
 28 *where the nudity is a function of everyday business operations and*
 29 *where nudity is a planned and intentional part of the entertainment*
 30 *or performance. “Nude” means clothed in a manner that leaves*
 31 *uncovered or visible, through less than fully opaque clothing, any*
 32 *portion of the genitals or, in the case of a female, any portion of*
 33 *the breasts below the top of the areola of the breasts.*

34 (vi) *A qualified active low-income community business shall*
 35 *not include a charter school.*

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

1 (8) The following shall apply in lieu of the provisions of Section
2 45D(f) of the Internal Revenue Code, relating to national limitation
3 on amount of investments designated: “The aggregate amount of
4 credit that may be allocated in any calendar year pursuant to this
5 section, Section 12283, and Section 17053.9 shall be an amount
6 equal to any unused portion of the one hundred million dollars
7 (\$100,000,000) in exclusions, authorized pursuant to Section
8 6010.8, as determined by the California Alternative Energy and
9 Advanced Transportation Financing Authority and reported to the
10 committee, not to exceed forty million dollars (\$40,000,000). The
11 committee shall limit the allocation of credits permitted under this
12 section, Section 12283, and Section 17053.9 to a cumulative total
13 of no more than two hundred million dollars (\$200,000,000). Any
14 unused credits shall be returned to the committee by March 1 of
15 the year following allocation and the value of the unused credit
16 shall be available for allocation in the following calendar years in
17 accordance with the application process. Any recaptured credits
18 shall be returned to the committee by March 1 of the year following
19 recapture and the value of the recaptured credit shall be available
20 for allocation in the following calendar years in accordance with
21 clause (ii) of subparagraph (B) of paragraph (9). Reallocation
22 credits *and recapture credits* shall not count against the forty
23 million dollars (\$40,000,000) annual limit or the two hundred
24 million dollars (\$200,000,000) cumulative limit.”

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

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

31 (i) ~~The committee~~ *GO-Biz* shall establish a process, in
32 consultation with the Franchise Tax Board, for the recapture of
33 credits allowed under this section from the entity that claimed the
34 credit on a return. The recapture process shall be applied if any of
35 the following conditions set forth occur.

36 (I) Any amount of a federal tax credit available with respect to
37 a qualified equity investment that is eligible for a credit under this
38 section is recaptured under Section 45D of the Internal Revenue
39 Code. The qualified community development entity shall send
40 notice to ~~the committee~~ *GO-Biz* within 30 calendar days of being

1 notified by the United States Treasury that any amount of a federal
2 tax credit available with respect to a qualified equity investment
3 that is eligible for a credit under this section is recaptured. ~~The~~
4 ~~committee~~ *GO-Biz* shall send written acknowledgment within five
5 calendar days of receipt of the qualified community development
6 entity's notice of potential noncompliance. In such case the
7 recapture shall be proportionate to the federal recapture with respect
8 to such qualified equity investment.

9 (II) The qualified community development entity redeems ~~or~~
10 ~~makes principal repayment with respect to~~ a qualified equity
11 investment prior to the seventh anniversary of the issuance of such
12 qualified equity investment. The qualified community development
13 entity shall send notice to ~~the committee~~ *GO-Biz* within 30 calendar
14 days of redeeming ~~or making principal repayments with respect~~
15 ~~to~~ a qualified equity investment prior to the seventh anniversary
16 of the issuance of such qualified equity investment. ~~The committee~~
17 *GO-Biz* shall send written acknowledgment within five calendar
18 days of receipt of the qualified community development entity's
19 notice of potential noncompliance. In such case ~~the committee's~~
20 *GO-Biz's* recapture shall be proportionate to the amount of the
21 redemption ~~or repayment with respect to~~ *of* such qualified equity
22 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. The qualified community development entity shall send
39 notice to ~~the committee~~ *GO-Biz* within 30 calendar days of the
40 12-month deadline for the reinvestment if the entity fails to meet

1 any of the reinvestment requirements. ~~The committee GO-Biz shall~~
2 send written acknowledgment within five calendar days of receipt
3 of the qualified community development entity's notice of potential
4 noncompliance. ~~Periodic amounts received as repayment of~~
5 ~~principal pursuant to regularly scheduled amortization payments~~
6 ~~on a loan that is a qualified low-income community investment~~
7 ~~shall be treated as continuously invested in a qualified low-income~~
8 ~~community investment if the amounts are reinvested in one or~~
9 ~~more qualified low-income community investments by the end of~~
10 ~~the following calendar year.~~ A qualified community development
11 entity shall not be required to reinvest capital returned from
12 qualified low-income community investments after the sixth
13 anniversary of the issuance of the qualified equity investment, and
14 the qualified low-income community investment shall be
15 considered held by the qualified community development entity
16 through the seventh anniversary of the qualified equity investment's
17 issuance.

18 (ii) Recaptured tax credits and the related qualified equity
19 investment authority revert back to ~~the committee GO-Biz~~ and
20 shall be reissued in the following order: *reissued. The reissue shall*
21 *not count toward the annual allocation limitation of forty million*
22 *dollars (\$40,000,000) or overall credit allocation limitation of*
23 *two hundred million dollars (\$200,000,000) in paragraph (8) of*
24 *subdivision (c). The reissue shall be done in the following order:*

25 (I) First, pro rata to applicants whose qualified equity investment
26 allocations were reduced pursuant to subparagraph (B) of paragraph
27 (5) of subdivision (d) by the allocation limitation of forty million
28 dollars (\$40,000,000) in paragraph (8) of subdivision (c).

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

30 (iii) (I) Enforcement of each of the recapture provisions shall
31 be subject to a six month cure period. Recapture shall not occur
32 until the qualified community development entity ~~shall~~ gives notice
33 of potential noncompliance to ~~the committee GO-Biz~~ and is
34 afforded six months from the date of such notice to cure the
35 noncompliance. The six-month cure period shall begin on the day
36 ~~the committee GO-Biz~~ sends written acknowledgment of the
37 qualified community development entity's notice of the potential
38 noncompliance. The qualified community development entity is
39 responsible for addressing the circumstances of the potential
40 noncompliance and providing all documentation to ~~the committee~~

1 *GO-Biz* necessary to demonstrate, to the ~~committee's~~ *GO-Biz's*
2 satisfaction, that those conditions no longer exist.

3 (II) Not more than 45 calendar days following the close of the
4 cure period, ~~the committee~~ *GO-Biz* shall make a final determination
5 as to whether the credit is to be recaptured. This determination
6 shall be based on the review of the notice, information submitted
7 by the qualified community development entity, and any other
8 information ~~the committee~~ *GO-Biz* deems relevant to this
9 determination.

10 (III) ~~The committee~~ *GO-Biz* shall post, and update monthly, a
11 tally of returned credits, pursuant to paragraph (8), and recaptured
12 credits pursuant to this paragraph. Within 30 calendar days of
13 making the final determination that the credit is to be recaptured,
14 ~~the committee~~ *GO-Biz* shall notify the Department of Insurance
15 of the determination including, but not limited to, the tax
16 identification number of the taxpayer.

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

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

24 (d) (1) ~~The committee~~ *GO-Biz* shall adopt guidelines necessary
25 or appropriate to carry out the purposes of this section and meet
26 the requirements of Section 45D of the Internal Revenue Code, as
27 modified by this section. *In promulgating guidelines GO-Biz shall*
28 *look for guidance in the rules and regulations adopted under*
29 *Section 45D of the Internal Revenue Code to the extent that those*
30 *rules and regulations are consistent with this section.* The
31 guidelines shall not disqualify a low-income community investment
32 for the single reason that public or private incentives, loans, equity
33 investments, technical assistance, or other forms of support have
34 been or continue to be provided. The adoption of the guidelines
35 shall not be subject to the rulemaking provisions of the
36 Administrative Procedure Act of Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
38 Code.

39 (2) (A) ~~The committee~~ *GO-Biz* shall establish and impose
40 reasonable fees upon entities that apply for the allocation pursuant

1 to this subdivision ~~and use the revenue to~~ *that in the aggregate*
2 ~~defray the cost of administering the program. The committee shall~~
3 ~~establish the fees in a manner that ensures that (A) the total amount~~
4 ~~collected equals the amount reasonably necessary to defray the~~
5 ~~committee's costs in performing its administrative duties under~~
6 ~~this section, and (B) the amount paid by each entity reasonably~~
7 ~~corresponds with the value of the services provided to the entity.~~

8 *(B) The fees collected shall be deposited in the California New*
9 *Markets Tax Credit Fund established in Section 18410.3.*

10 (3) In developing guidelines ~~the committee~~ *GO-Biz* shall adopt
11 an allocation process that does all of the following:

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

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

20 *(C) Considers the qualified community development entity's*
21 *prior qualified low-income community investments under Section*
22 *45D of the Internal Revenue Code.*

23 *(D) Considers the qualified community development entity's*
24 *prior qualified low-income community investments under this*
25 *section, including subparagraph (D) of paragraph (5).*

26 *(E) Does not require the qualified community development entity*
27 *to identify the qualified active low-income community businesses*
28 *in which the qualified community development entity will invest*
29 *in an application for qualified equity investment allocation.*

30 (4) (A) ~~The committee~~ *GO-Biz* shall begin accepting
31 applications on or before ~~March~~ *May* 15, 2015, and shall award
32 credits ~~at least two times a year at dates set annually by the~~
33 ~~committee~~ through 2019, to the extent that allocations are available
34 pursuant to Section 26011.9 of the Public Resources Code. To the
35 extent reasonable and consistent in carrying out the purposes of
36 this section, ~~the committee~~ *GO-Biz* shall consider how the timing
37 of the state allocation rounds correspond with the allocation
38 schedule of the federal New Markets Tax Credit Program.

39 (B) Within 20 calendar days after receipt of an application ~~the~~
40 ~~committee~~ *GO-Biz* shall determine whether the application is

1 complete or whether additional information is necessary in order
 2 to fully evaluate the application. If additional information is
 3 requested and the qualified community development entity provides
 4 that information within five business days, the application shall
 5 be considered completed as of the original date of receipt. If the
 6 qualified community development entity fails to provide the
 7 information within the five-business-day period, the application
 8 shall be denied and must be resubmitted in full with a new receipt
 9 date.

10 (C) Within 20 calendar days after receipt of an application
 11 determined to be complete by ~~the committee~~, *GO-Biz*, the
 12 committee shall grant or deny the application in full or in part. If
 13 the committee denies any part of the application, it shall inform
 14 the qualified community development entity of the grounds for
 15 the denial.

16 (5) (A) The committee shall award tax credits to qualified
 17 community development entities described in subparagraph (B)
 18 of paragraph (4) of subdivision (c) in the order applications are
 19 received by the committee, subject to clause (i) or on a competitive
 20 basis, pursuant to clause (ii).

21 (i) *(I)* In 2015, the committee shall only award tax credits to a
 22 qualified community development entity in the order applications
 23 are received by the committee. In the 2016 to 2019 award cycles,
 24 inclusive, at least 60 percent of the credit allocation shall be
 25 awarded in the order applications are received by the committee
 26 to a qualified community development entity. Applications received
 27 on the same day shall be deemed to have been received
 28 simultaneously. At the committee’s discretion, a higher percentage
 29 of credits may be awarded ~~in the order that they are received.~~
 30 *pursuant to the first sentence in this subparagraph.* Qualified
 31 community development entities that receive tax credit awards
 32 pursuant to this clause shall commit to making investments in a
 33 manner that engages community-based partnerships and local
 34 grassroots stakeholders.

35 (II) An entity described in clause (ii) of subparagraph (A) of
 36 paragraph (4) of subdivision (c) shall not receive a tax credit award
 37 pursuant to this clause.

38 (ii) The committee shall award up to 40 percent of the credit
 39 allocation in the 2016 to 2019, inclusive, award cycles, to a
 40 qualified community development entity, as described in clause

1 (ii) of subparagraph (A) of paragraph (4) of subdivision (c) and
2 subparagraph (B) of paragraph (4) of subdivision (c), on a
3 competitive basis using blind scoring and a review committee that
4 is comprised of ~~at least a majority of~~ community development
5 finance practitioners ~~and at least one-third of the members~~ having
6 demonstrated experience in assessing organizational business
7 strategy, community outcomes, capitalization strategy, and
8 management capacity. A member of the review committee shall
9 not have a financial interest, which includes, but is not limited to,
10 asking, consenting, or agreeing to receive any commission,
11 emolument, gratuity, money, property, or thing of value for his or
12 her own use, benefit, or personal advantage for procuring or
13 endeavoring to procure for any person, partnership, joint venture,
14 association, or corporation any tax credit or other assistance from
15 any applicant.

16 (iii) In awarding credits on a competitive basis, priority shall
17 be given to applications that can demonstrate that the credits will
18 allow the entity to undertake qualified low-income community
19 investments in a rural, suburban, or urban ~~area~~ *areas* that ~~has~~ *have*
20 been historically underserved and result in the greatest benefit to
21 the hardest to serve ~~and undercapitalized~~ lower income ~~populations~~
22 ~~and most undercapitalized~~, *populations*, or in newly established
23 businesses, or in activities that support neighborhood revitalization
24 strategies driven by local grassroots stakeholders in multiple
25 low-income communities across one or more regions or the state
26 for the purpose of scaling economic development activities that
27 compliment regional industry clusters that result in the greatest
28 benefit to the largest number of lower income individuals. All
29 competitive applications shall demonstrate strong linkages with
30 communities and neighborhoods in California low-income
31 neighborhoods.

32 (B) For applications described in clause (i) of subparagraph
33 (A), in the event tax credit requests exceed the applicable annual
34 allocation limitation of up to forty million dollars (\$40,000,000)
35 in paragraph (8) of subdivision (c), the committee shall certify,
36 consistent with remaining qualified equity investment capacity,
37 qualified equity investments of applicants in proportionate
38 percentages based upon the ratio of the amount of qualified equity
39 investments requested in such applications to the total amount of

1 qualified equity investments requested in all such applications
2 received on the same day.

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

7 (D) An approved applicant may transfer all or a portion of its
8 certified qualified equity investment authority to its controlling
9 entity or any subsidiary qualified community development entity
10 of the controlling entity, provided that the applicant and the
11 transferee notify the committee within 30 calendar days of such
12 transfer and include the information required in the application
13 with respect to such transferee with such notice.

14 (E) Within 60 calendar days of ~~the committee~~ *GO-Biz* sending
15 notice of certification, the qualified community development entity
16 or any transferee, under subparagraph (D), shall issue the qualified
17 equity investment and receive cash in the amount of the certified
18 amount. The qualified community development entity or transferee,
19 under subparagraph (D), must provide ~~the committee~~ *GO-Biz* with
20 evidence of the receipt of the cash investment within 65 calendar
21 days of the applicant receiving notice of certification. If the
22 qualified community development entity or any transferee, under
23 subparagraph (D), does not receive the cash investment and issue
24 the qualified equity investment within 60 calendar days of ~~the~~
25 ~~committee~~ *GO-Biz* sending the certification notice, the certification
26 shall lapse and the entity may not issue the qualified equity
27 investment without reapplying to ~~the committee~~ *GO-Biz* for
28 certification. Lapsed certifications revert back to ~~the committee~~
29 *GO-Biz* and shall be reissued in the following order:

30 (i) First, pro rata to applicants whose qualified equity investment
31 allocations were reduced pursuant to subparagraph (B) of paragraph
32 (5) under the annual allocation limitation of forty million dollars
33 (\$40,000,000) in paragraph (8) of subdivision (c).

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

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

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

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

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

15 (iii) Any other information required by ~~the committee~~. *GO-Biz*
16 *as being necessary to meet the requirements of this section.*

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

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

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

27 (iii) The number of employment positions created and retained
28 as a result of qualified low-income community investments and
29 the average annual salary of such positions.

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

33 (v) Number of owner-occupied real estate projects described in
34 subparagraph (E) of paragraph (6) of subdivision (c).

35 (vi) Location of the qualified low-income community businesses.

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

1 (f) ~~The committee~~ *GO-Biz* shall annually report on its Internet
2 Web site the information provided by low-income community
3 development entities and on the geographic distribution of the
4 ~~credits~~. *qualified active low-income community businesses assisted.*

5 (g) (1) The Franchise Tax Board may prescribe any rules or
6 regulations that may be necessary or appropriate to implement this
7 section. The Franchise Tax Board shall have access to any
8 documentation held by the committee relative to the application
9 and reporting of a qualified community development entity.

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

17 (h) *The credit allowed under this section shall only be allowed*
18 *for taxable years in which the Legislature appropriates funds in*
19 *the California New Markets Tax Credit Fund pursuant to*
20 *subdivision (b) of Section 18410.3.*

21 ~~(h)~~

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

24 ~~SEC. 6.~~

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