

ASSEMBLY BILL

No. 1572

**Introduced by Committee on Jobs, Economic Development, and
the Economy**

March 4, 2021

An act to add Section 18410.3 to, and to add and repeal Sections 17053.9 and 23622.9 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, as introduced, Committee on Jobs, Economic Development, and the Economy. Personal income taxes: corporation taxes: credits: California New Markets Tax Credit.

Existing federal law allows a New Markets Tax Credit to a taxpayer holding a qualified equity investment in an amount equal to the applicable percentage of the amount paid to the qualified community development entity for investment in low-income communities. The state Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a California New Markets Tax Credit under the Personal Income Tax Law and the Corporation Tax Law, in modified conformity with the federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2023, and before January 1, 2028, 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 \$100,000,000 per calendar year. The bill would impose specified duties on the Governor's Office of Business and Economic Development (GO-Biz) with regard to the application for, and allocation of, the credit. The bill would require 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 Account established by the bill within the California Economic Development Fund, and use the revenue, upon annual appropriation by the Legislature, to defray the cost of applying to and administering the credits, as specified. The bill would only authorize the allocation for these credits for those taxable years for which moneys are appropriated to GO-Biz to administer these credits for those taxable years.

Existing law requires any bill authorizing a new personal income tax or corporation tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements, as provided.

This bill would also include that additional information required for any bill authorizing a new personal or corporation income tax credit.

The bill would provide that its provisions are severable.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: 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) Initially enacted in 2000, the federal government established
- 3 the New Markets Tax Credit (NMTC) Program, which uses a
- 4 market-based approach for expanding capital and technical
- 5 assistance to businesses in lower income communities. The federal
- 6 program is jointly administered by the Community Development
- 7 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
- 8 Service. The NMTC Program allocates federal tax incentives to
- 9 community development entities (CDEs) and community
- 10 development financial institutions (CDFIs), which they then use
- 11 to attract private investors who contribute funds that can be used
- 12 to finance and invest in businesses and develop real estate in
- 13 low-income communities.
- 14 (b) Through 14 application rounds (2003 to 2017, inclusive) of
- 15 the NMTC Program, the CDFI Fund has made 1,105 awards,
- 16 allocating a total of \$54 billion in tax credit authority to CDEs
- 17 through a competitive application process, including \$3 billion in
- 18 American Recovery and Reinvestment Act of 2009 awards and
- 19 \$1 billion of special allocation authority to be used for the recovery

1 and redevelopment of the Gulf Opportunity Zone. Since its
2 inception, the CDFI Fund has allocated tax credit authority to 413
3 CDEs headquartered in 45 states, the District of Columbia, Puerto
4 Rico, and Guam. Of the qualified equity investments deployed,
5 more than 75 percent were in severely distressed areas and 55
6 percent with unemployment rates 150 percent above the statewide
7 average.

8 (c) Based on program activities reported through Fiscal Year
9 2016, CDEs and CDFIs disbursed a total of \$44,421,718,023 in
10 qualified equity investment proceeds toward 5,333 projects. Since
11 2003, the NMTC Program has created or retained an estimated
12 197,585 jobs nationally. It has also supported the construction of
13 32.4 million square feet of manufacturing space, 74.8 million
14 square feet of office space, and 57.5 million square feet of retail
15 space. The United States Department of the Treasury reports that
16 a secondary benefit is that as these communities develop, they
17 become more attractive to investors, catalyzing a ripple effect that
18 spurs further investments and revitalization.

19 (d) For every \$1 invested by the federal government, the NMTC
20 Program generates over \$8 of private investment. The NMTC
21 Program catalyzes investment in the most economically challenged
22 areas of the state. Over 75 percent of New Markets Tax Credit
23 investments have been made in highly distressed areas, meaning
24 the household income was less than 60 percent of statewide median
25 income and the poverty rate was higher than 30 percent.

26 (e) The federal NMTC totals 39 percent of the original
27 investment amount in the CDE and is claimed over a period of
28 seven years (5 percent for each of the first three years and 6 percent
29 for each of the remaining four years). Any investment by any
30 taxpayer in the CDE redeemed before the end of the seven-year
31 period will be recaptured.

32 (f) Twelve states in the United States have adopted state
33 programs using the NMTC model including Alabama, Florida,
34 Illinois, Nevada, and Oregon. While some of the programs
35 substantially mirror the federal program, others vary in both the
36 percentage of the credit and some of the policies that form the
37 foundation of the credit. One of the reasons cited for establishing
38 state-level programs is to make a state more attractive to CDEs,
39 which results in increasing the amount of federal NMTCs being
40 utilized in a state. Further, several studies, including a January 1,

1 2011, case study by Pacific Community Ventures, showed that for
2 every dollar of forgone tax revenue, the federal NMTC leverages
3 twelve dollars (\$12) to fourteen dollars (\$14) of private investment.

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

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

19 (b) (1) For taxable years beginning on or after January 1, 2023,
20 and before January 1, 2028, and subject to subdivision (k), there
21 shall be allowed as a credit against the “net tax,” as defined in
22 Section 17039, in an amount determined in accordance with Section
23 45D of the Internal Revenue Code, relating to the new markets tax
24 credit, as modified in this section.

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

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

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

34 (A) Nine percent with respect to the first credit allowance date.

35 (B) Five percent with respect to the remainder of the credit
36 allowance dates.

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

1 (A) By substituting “any low-income community in California”
2 for “any low-income community” every place it appears in Section
3 45D of the Internal Revenue Code.

4 (B) A qualified active low-income community business shall
5 not include any business that derives, or projects to derive, 15
6 percent or more of its annual revenue from the rental or sale of
7 real estate. This exclusion does not apply to a business that is
8 controlled by, or under common control with, another business if
9 the second business: (i) does not derive or project to derive 15
10 percent or more of its annual revenue from the rental or sale of
11 real estate; and (ii) is the primary tenant of the real estate leased
12 from the first business.

13 (C) (i) Subject to clause (ii), a qualified active low-income
14 community business shall only include a business that, at the time
15 the initial investment is made, has 250 or fewer employees and is
16 located in one or more California low-income communities. The
17 operating business shall meet all other conditions of a qualified
18 active low-income community business, except as modified by
19 this paragraph.

20 (ii) The requirement specified in clause (i) does not apply to a
21 business that is located in a tribal trust land held communally by
22 a federally recognized tribe and managed by the tribal government.

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

33 (E) A qualified active low-income community business shall
34 not include any business that operates or derives revenues from
35 the operation of a country club, gaming establishment, massage
36 business or establishment, or liquor store.

37 (F) A qualified active low-income community business shall
38 not include any business that operates or derives revenues from
39 the operation of a sexually oriented business. A “sexually oriented
40 business” means a commercial enterprise that provides, or has

1 provided in the 24 months prior to the date of the submission of
2 an application described in subdivision (d) by the taxpayer, for an
3 audience of two or more individuals live nude entertainment or
4 live nude performances where the nudity is a function of everyday
5 business operations and where nudity is a planned and intentional
6 part of the entertainment or performance. “Nude” means clothed
7 in a manner that leaves uncovered or visible, through less than
8 fully opaque clothing, any portion of the genitals or, in the case
9 of a female, any portion of the breasts below the top of the areola
10 of the breasts.

11 (G) A qualified active low-income community business shall
12 not include a charter school.

13 (3) Section 45D(f) of the Internal Revenue Code, relating to
14 national limitation on amount of investments designated, is
15 modified as follows:

16 (A) The following shall apply in lieu of the provisions of Section
17 45D(f)(1) of the Internal Revenue Code: Subject to paragraph (3)
18 of subdivision (d), the aggregate amount of qualified equity
19 investments that may be allocated in any calendar year for purposes
20 of this section and Section 23622.9 shall be one hundred million
21 dollars (\$100,000,000) per calendar year. The allocation of any
22 undesignated qualified equity investments shall be returned to
23 GO-Biz by March 1 of the year following allocation and the value
24 of the undesignated qualified equity investment shall be available
25 for allocation in the following calendar years in accordance with
26 the application process. Any qualified equity investment
27 attributable to recaptured credits shall be available to GO-Biz on
28 March 1 of the year following recapture and shall be available for
29 allocation in the following calendar years in accordance with
30 subparagraph (B) of paragraph (4). Reallocated qualified equity
31 investments attributable to recapture credits shall not count against
32 the annual or the cumulative limit.

33 (B) The references to “the Secretary” in Section 45D(f)(2) of
34 the Internal Revenue Code, relating to allocation of limitation, are
35 modified to read “GO-Biz.”

36 (C) The last sentence of Section 45D(f)(3) of the Internal
37 Revenue Code, relating to carryover of unused limitation, shall
38 not apply.

39 (4) Section 45D(g)(3) of the Internal Revenue Code, relating
40 to recapture event, is modified to add the following:

1 (A) GO-Biz shall establish a process, in consultation with the
2 Franchise Tax Board, for the recapture of credits allowed under
3 this section from the entity that claimed the credit on a return.

4 (B) Recaptured qualified equity investments revert back to
5 GO-Biz and shall be reissued. The reissue shall not count toward
6 the annual or cumulative allocation limitation.

7 (C) Enforcement of each of the recapture provisions shall be
8 subject to a six-month cure period.

9 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
10 to carry out its responsibilities with respect to the allocation,
11 monitoring, and management of the tax credit program authorized
12 by this section.

13 (2) (A) GO-Biz shall establish and impose reasonable fees upon
14 entities that apply for the allocation pursuant to this subdivision
15 that in the aggregate defray the cost of reviewing applications for
16 the program. GO-Biz may impose other reasonable fees upon
17 entities that receive the allocation pursuant to this subdivision that
18 in the aggregate defray the cost of administering the program.

19 (B) The fees collected shall be deposited in the California New
20 Markets Tax Credit Account established in Section 18410.3.

21 (3) In developing guidelines, GO-Biz shall adopt an allocation
22 process that does all of the following:

23 (A) Creates an equitable distribution process that ensures that
24 low-income community populations across the state have an
25 opportunity to benefit from the program.

26 (B) Sets minimum organizational capacity standards that
27 applicants are required to meet in order to receive an allocation of
28 authority to designate qualified equity investments, including, but
29 not limited to, its business strategy, targeted community outcomes,
30 capitalization strategy, and management capacity.

31 (C) Considers the qualified community development entity's
32 prior qualified low-income community investments under Section
33 45D of the Internal Revenue Code and other similar programs, as
34 determined by GO-Biz.

35 (D) Gives priority to both of the following:

36 (i) Applications that commit to addressing the hardest to serve
37 and undercapitalized lower income populations.

38 (ii) Applications that support neighborhood revitalization
39 strategies driven by local grassroots stakeholders.

1 (4) Subject to subdivision (k), GO-Biz shall begin accepting
2 applications on or before October 15, 2022, and shall award
3 authority to designate qualified equity investments annually
4 through 2027.

5 (5) In the instance where GO-Biz determines that an application
6 has a minor, nonsubstantive error or omission, the qualified
7 community development entity shall be given five business days
8 to correct the deficiency or provide the omitted information.

9 (6) A member of the review committee, established to review
10 applications pursuant to this section, shall not have a financial
11 interest, which includes, but is not limited to, asking, consenting,
12 or agreeing to receive any commission, emolument, gratuity,
13 money, property, or thing of value for their own use, benefit, or
14 personal advantage for procuring or endeavoring to procure for
15 any person, partnership, joint venture, association, or corporation
16 any qualified equity investment or other assistance from any
17 applicant.

18 (e) An approved applicant may transfer all or a portion of its
19 certified qualified equity investment authority to its controlling
20 entity or any subsidiary qualified community development entity
21 of the controlling entity, provided that the applicant and the
22 transferee notify GO-Biz within 30 calendar days of such transfer
23 and include the information required in the application with respect
24 to such transferee with such notice. The transferee shall be subject
25 to the same rules, requirements, and limitations applicable to the
26 transferor.

27 (f) Within 200 calendar days of GO-Biz sending notice of
28 certification, the qualified community development entity or any
29 transferee, under subdivision (e), shall issue the qualified equity
30 investment and receive cash in the amount of the certified amount.
31 The qualified community development entity or transferee, under
32 subdivision (e), shall provide GO-Biz with evidence of the receipt
33 of the cash investment within 205 calendar days of the applicant
34 receiving notice of certification. If the qualified community
35 development entity or any transferee, under subdivision (e), does
36 not receive the cash investment and issue the qualified equity
37 investment within 200 calendar days of GO-Biz sending the
38 certification notice, the certification shall lapse and the entity may
39 not issue the qualified equity investment without reapplying to
40 GO-Biz for certification. Lapsed certifications revert back to

1 GO-Biz and shall be reissued in accordance with the application
2 process.

3 (g) A qualified community development entity that issues
4 qualified equity investments shall notify GO-Biz of the names of
5 taxpayers that are eligible to utilize tax credits pursuant to this
6 section and any transfer of a qualified equity investment.

7 (h) (1) A qualified community development entity that issues
8 qualified equity investments shall submit a report to GO-Biz that
9 provides documentation as to the investment of at least 85 percent
10 of the funds being deployed within one year of issuance in qualified
11 low-income community investments in qualified active low-income
12 community businesses located in California.

13 (2) The qualified community development entity shall submit
14 an annual report to GO-Biz during the seven years following
15 submittal of the report, pursuant to paragraph (1). No annual report
16 shall be due prior to the first anniversary of the initial credit
17 allowance date. The report shall include, but is not limited to, the
18 following:

19 (A) The social, environmental, and economic impact the credit
20 had on the low-income community during the report period and
21 cumulatively.

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

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

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

30 (E) Number of owner-occupied real estate projects.

31 (F) Location of each qualified low-income community business
32 assisted by a qualified low-income community investment.

33 (G) Documentation that demonstrates the investment of the
34 funds being deployed within the reporting period in qualified
35 low-income community investments in qualified low-income
36 community businesses located in California.

37 (H) Any other information requested by GO-Biz.

38 (i) (1) In the case where the credit allowed by this section
39 exceeds the “net tax,” the excess may be carried over to reduce

1 the “net tax” in the following year, and the six succeeding years
2 if necessary, until the credit is exhausted.

3 (2) A taxpayer allowed a credit under this section for a qualified
4 equity investment shall not be eligible for any other credit under
5 this part with respect to that investment.

6 (3) The credit allowed under this section may be in addition to
7 any credit allowed under Section 45D of the Internal Revenue
8 Code.

9 (j) GO-Biz shall annually report on its internet website the
10 information provided by low-income community development
11 entities and on the geographic distribution of the qualified active
12 low-income community businesses assisted.

13 (k) (1) The credit authorized by this section shall only be
14 allocated by GO-Biz for those taxable years for which moneys are
15 appropriated to GO-Biz to administer the California New Markets
16 Tax Credit pursuant to 18410.3 for that taxable year. The
17 appropriation shall specifically identify the California New Markets
18 Tax Credit.

19 (2) For those taxable years for which those moneys are
20 appropriated pursuant to paragraph (1), GO-Biz shall post notice
21 of the appropriation on the homepage of its internet website and
22 send notice of such appropriation to the Secretary of State and the
23 Legislative Counsel.

24 (l) The Franchise Tax Board shall prescribe any rules or
25 regulations that may be necessary or appropriate to implement the
26 program authorized by this section and Section 23622.9. The
27 Franchise Tax Board shall have access to any documentation held
28 by GO-Biz relative to the application and reporting of the qualified
29 community development entity.

30 (m) This section shall be repealed on December 1, 2028.

31 SEC. 3. Section 18410.3 is added to the Revenue and Taxation
32 Code, to read:

33 18410.3. (a) The California New Markets Tax Credit Account
34 is hereby established in the California Economic Development
35 Fund created pursuant to Section 13997.6 of the Government Code.

36 (b) Upon annual appropriation, moneys in the fund shall be used
37 for the purposes described in subdivision (d) of Section 17053.9
38 and subdivision (d) of Section 23622.9.

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

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

14 (b) (1) For taxable years beginning on or after January 1, 2023,
15 and before January 1, 2028, and subject to subdivision (k), there
16 shall be allowed as a credit against the “tax,” as defined in Section
17 23036, in an amount determined in accordance with Section 45D
18 of the Internal Revenue Code, relating to the new markets tax
19 credit, as modified in this section.

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

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

24 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
25 applicable percentage, is modified by substituting for “(A) 5
26 percent with respect to the first 3 credit allowance dates, and (B)
27 6 percent with respect to the remainder of the credit allowance
28 dates” with the following:

29 (A) Nine percent with respect to the first credit allowance date.

30 (B) Five percent with respect to the remainder of the credit
31 allowance dates.

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

35 (A) By substituting “any low-income community in California”
36 for “any low-income community” every place it appears in Section
37 45D of the Internal Revenue Code.

38 (B) A qualified active low-income community business shall
39 not include any business that derives, or projects to derive, 15
40 percent or more of its annual revenue from the rental or sale of

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

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

14 (ii) The requirement specified in clause (i) does not apply to a
15 business that is located in a tribal trust land held communally by
16 a federally recognized tribe and managed by the tribal government.

17 (D) A qualified active low-income community business shall
18 only include a business located in census tracts with a poverty rate
19 greater than 30 percent, or census tracts, if located within a
20 nonmetropolitan area, with a median family income that does not
21 exceed 60 percent of median family income for this state, or census
22 tracts, if located within a metropolitan area, with a median family
23 income that does not exceed 60 percent of the greater of the
24 California median family income or the metropolitan area median
25 family income, or census tracts with unemployment rates at least
26 1.5 times the national average.

27 (E) A qualified active low-income community business shall
28 not include any business that operates or derives revenues from
29 the operation of a country club, gaming establishment, massage
30 business or establishment, or liquor store.

31 (F) A qualified active low-income community business shall
32 not include any business that operates or derives revenues from
33 the operation of a sexually oriented business. A “sexually oriented
34 business” means a commercial enterprise that provides, or has
35 provided in the 24 months prior to the date of the submission of
36 an application described in subdivision (d) by the taxpayer, for an
37 audience of two or more individuals live nude entertainment or
38 live nude performances where the nudity is a function of everyday
39 business operations and where nudity is a planned and intentional
40 part of the entertainment or performance. “Nude” means clothed

1 in a manner that leaves uncovered or visible, through less than
2 fully opaque clothing, any portion of the genitals or, in the case
3 of a female, any portion of the breasts below the top of the areola
4 of the breasts.

5 (G) A qualified active low-income community business shall
6 not include a charter school.

7 (3) Section 45D(f) of the Internal Revenue Code, relating to
8 national limitation on amount of investments designated, is
9 modified as follows:

10 (A) The following shall apply in lieu of the provisions of Section
11 45D(f)(1) of the Internal Revenue Code: Subject to paragraph (3)
12 of subdivision (d), the aggregate amount of qualified equity
13 investments that may be allocated in any calendar year for purposes
14 of this section and Section 17053.9 shall be one hundred million
15 dollars (\$100,000,000) per calendar year. The allocation of any
16 undesigned qualified equity investments shall be returned to
17 GO-Biz by March 1 of the year following allocation and the value
18 of the undesigned qualified equity investment shall be available
19 for allocation in the following calendar years in accordance with
20 the application process. Any qualified equity investment
21 attributable to recaptured credits shall be available to GO-Biz on
22 March 1 of the year following recapture and shall be available for
23 allocation in the following calendar years in accordance with
24 subparagraph (B) of paragraph (4). Reallocated qualified equity
25 investments attributable to recapture credits shall not count against
26 the annual or the cumulative limit.

27 (B) The references to “the Secretary” in Section 45D(f)(2) of
28 the Internal Revenue Code, relating to allocation of limitation, are
29 modified to read “GO-Biz.”

30 (C) The last sentence of Section 45D(f)(3) of the Internal
31 Revenue Code, relating to carryover of unused limitation, shall
32 not apply.

33 (4) Section 45D(g)(3) of the Internal Revenue Code, relating
34 to recapture event, is modified to add the following:

35 (A) GO-Biz shall establish a process, in consultation with the
36 Franchise Tax Board, for the recapture of credits allowed under
37 this section from the entity that claimed the credit on a return.

38 (B) Recaptured qualified equity investments revert back to
39 GO-Biz and shall be reissued. The reissue shall not count toward
40 the annual or cumulative allocation limitation.

- 1 (C) Enforcement of each of the recapture provisions shall be
- 2 subject to a six-month cure period.
- 3 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
- 4 to carry out its responsibilities with respect to the allocation,
- 5 monitoring, and management of the tax credit program authorized
- 6 by this section.
- 7 (2) (A) GO-Biz shall establish and impose reasonable fees upon
- 8 entities that apply for the allocation pursuant to this subdivision
- 9 that in the aggregate defray the cost of reviewing applications for
- 10 the program. GO-Biz may impose other reasonable fees upon
- 11 entities that receive the allocation pursuant to this subdivision that
- 12 in the aggregate defray the cost of administering the program.
- 13 (B) The fees collected shall be deposited in the California New
- 14 Markets Tax Credit Account established in Section 18410.3.
- 15 (3) In developing guidelines, GO-Biz shall adopt an allocation
- 16 process that does all of the following:
- 17 (A) Creates an equitable distribution process that ensures that
- 18 low-income community populations across the state have an
- 19 opportunity to benefit from the program.
- 20 (B) Sets minimum organizational capacity standards that
- 21 applicants are required to meet in order to receive an allocation of
- 22 authority to designate qualified equity investments, including, but
- 23 not limited to, its business strategy, targeted community outcomes,
- 24 capitalization strategy, and management capacity.
- 25 (C) Considers the qualified community development entity's
- 26 prior qualified low-income community investments under Section
- 27 45D of the Internal Revenue Code and other similar programs, as
- 28 determined by GO-Biz.
- 29 (D) Gives priority to both of the following:
- 30 (i) Applications that commit to addressing the hardest to serve
- 31 and undercapitalized lower income populations.
- 32 (ii) Applications that support neighborhood revitalization
- 33 strategies driven by local grassroots stakeholders.
- 34 (4) Subject to subdivision (k), GO-Biz shall begin accepting
- 35 applications on or before October 15, 2022, and shall award
- 36 authority to designate qualified equity investments annually
- 37 through 2027.
- 38 (5) In the instance where GO-Biz determines that an application
- 39 has a minor, nonsubstantive error or omission, the qualified

1 community development entity shall be given five business days
2 to correct the deficiency or provide the omitted information.

3 (6) A member of the review committee, established to review
4 applications pursuant to this section, shall not have a financial
5 interest, which includes, but is not limited to, asking, consenting,
6 or agreeing to receive any commission, emolument, gratuity,
7 money, property, or thing of value for their own use, benefit, or
8 personal advantage for procuring or endeavoring to procure for
9 any person, partnership, joint venture, association, or corporation
10 any qualified equity investment or other assistance from any
11 applicant.

12 (e) 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 GO-Biz within 30 calendar days of such transfer
17 and include the information required in the application with respect
18 to such transferee with such notice. The transferee shall be subject
19 to the same rules, requirements, and limitations applicable to the
20 transferor.

21 (f) Within 200 calendar days of GO-Biz sending notice of
22 certification, the qualified community development entity or any
23 transferee, under subdivision (e), shall issue the qualified equity
24 investment and receive cash in the amount of the certified amount.
25 The qualified community development entity or transferee, under
26 subdivision (e), shall provide GO-Biz with evidence of the receipt
27 of the cash investment within 205 calendar days of the applicant
28 receiving notice of certification. If the qualified community
29 development entity or any transferee, under subdivision (e), does
30 not receive the cash investment and issue the qualified equity
31 investment within 200 calendar days of GO-Biz sending the
32 certification notice, the certification shall lapse and the entity may
33 not issue the qualified equity investment without reapplying to
34 GO-Biz for certification. Lapsed certifications revert back to
35 GO-Biz and shall be reissued in accordance with the application
36 process.

37 (g) A qualified community development entity that issues
38 qualified equity investments shall notify GO-Biz of the names of
39 taxpayers that are eligible to utilize tax credits pursuant to this
40 section and any transfer of a qualified equity investment.

1 (h) (1) A qualified community development entity that issues
2 qualified equity investments shall submit a report to GO-Biz that
3 provides documentation as to the investment of at least 85 percent
4 of the funds being deployed within one year of issuance in qualified
5 low-income community investments in qualified active low-income
6 community businesses located in California.

7 (2) The qualified community development entity shall submit
8 an annual report to GO-Biz during the seven years following
9 submittal of the report, pursuant to paragraph (1). No annual report
10 shall be due prior to the first anniversary of the initial credit
11 allowance date. The report shall include, but is not limited to, the
12 following:

13 (A) The social, environmental, and economic impact the credit
14 had on the low-income community during the report period and
15 cumulatively.

16 (B) The amount of moneys used for qualified low-income
17 investments in qualified low-income community businesses.

18 (C) The number of employment positions created and retained
19 as a result of qualified low-income community investments and
20 the average annual salary of such positions.

21 (D) The number of operating businesses assisted as a result of
22 qualified low-income community investments, by industry and
23 number of employees.

24 (E) Number of owner-occupied real estate projects.

25 (F) Location of each qualified low-income community business
26 assisted by a qualified low-income community investment.

27 (G) Documentation that demonstrates the investment of the
28 funds being deployed within the reporting period in qualified
29 low-income community investments in qualified low-income
30 community businesses located in California.

31 (H) Any other information requested by GO-Biz.

32 (i) (1) In the case where the credit allowed by this section
33 exceeds the “tax,” the excess may be carried over to reduce the
34 “tax” in the following year, and the six succeeding years if
35 necessary, until the credit is exhausted.

36 (2) A taxpayer allowed a credit under this section for a qualified
37 equity investment shall not be eligible for any other credit under
38 this part with respect to that investment.

1 (3) The credit allowed under this section may be in addition to
2 any credit allowed under Section 45D of the Internal Revenue
3 Code.

4 (j) GO-Biz shall annually report on its internet website the
5 information provided by low-income community development
6 entities and on the geographic distribution of the qualified active
7 low-income community businesses assisted.

8 (k) (1) The credit authorized by this section shall only be
9 allocated by GO-Biz for those taxable years for which moneys are
10 appropriated to GO-Biz to administer the California New Markets
11 Tax Credit pursuant to 18410.3 for that taxable year. The
12 appropriation shall specifically identify the California New Markets
13 Tax Credit.

14 (2) For those taxable years for which those moneys are
15 appropriated pursuant to paragraph (1), GO-Biz shall post notice
16 of the appropriation on the homepage of its internet website and
17 send notice of such appropriation to the Secretary of State and the
18 Legislative Counsel.

19 (l) The Franchise Tax Board shall prescribe any rules or
20 regulations that may be necessary or appropriate to implement the
21 program authorized by this section and Section 17053.9. The
22 Franchise Tax Board shall have access to any documentation held
23 by GO-Biz relative to the application and reporting of the qualified
24 community development entity.

25 (m) This section shall be repealed on December 1, 2028.

26 SEC. 5. For the purposes of complying with Section 41 of the
27 Revenue and Taxation Code, with respect to Sections 17053.9 and
28 23622.9 of the Revenue and Taxation Code, as proposed to be
29 added by Sections 2 and 4 of this act, the Legislature finds and
30 declares as follows:

31 (a) Specific goals, purposes, and objectives: attract private sector
32 investment in lower income communities in California.

33 (b) Performance indicators:

34 (1) Amount of qualified low-income community investments
35 issued.

36 (2) Amount of dollars deployed in qualified low-income
37 community investments.

38 (3) Number of operating businesses assisted as a result of
39 qualified low-income community investments. This data shall be
40 compared to business development, including startups, tax

1 revenues, and new investments within the most immediate
2 geographic area for which data is reasonably available for the 12
3 and 24 months prior to the date on which any tax credits are
4 allowed by Section 17053.9 or 23622.9 of the Revenue and
5 Taxation Code.

6 (4) Number of employment positions created and retained as a
7 result of qualified low-income community investments and the
8 average annual salary of those positions. These numbers shall be
9 compared to the area median income and unemployment and
10 poverty rates for the most immediate geographic areas for which
11 data is reasonably available for the 12 and 24 months prior to the
12 date on which any tax credits are allowed by Section 17053.9 or
13 23622.9 of the Revenue and Taxation Code.

14 (c) Data collection requirements and baseline measurements:

15 (1) The baseline measurements include:

16 (A) The amount of tax credits issued in the year.

17 (B) The unemployment rate of the area.

18 (C) The poverty rate of the area.

19 (2) Data to collect includes:

20 (A) The amount of tax credits issued in the year.

21 (B) The number of operating businesses located in a low-income
22 community that are assisted.

23 (C) The number of jobs created and retained as a result of
24 qualified low-income community investments.

25 SEC. 6. The provisions of this act are severable. If any
26 provision of this act or its application is held invalid, that invalidity
27 shall not affect other provisions or applications that can be given
28 effect without the invalid provision or application.

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