

AMENDED IN ASSEMBLY JANUARY 11, 2016

AMENDED IN ASSEMBLY MAY 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 185

Introduced by Assembly Members Eduardo Garcia and Medina

January 26, 2015

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, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 185, as amended, Eduardo Garcia. 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 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, ~~2016~~, 2017, and before January 1, ~~2028~~, 2029, 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. 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 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 applying to, and administering the program, as specified. The bill would specify that the credit would not be allowed unless the Legislature makes an appropriation from the fund.

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) 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
- 8 to capital and technical assistance. Given that the state has many
- 9 needs and limited resources, moneys from the private sector are
- 10 necessary to fill this capital and investment gap.
- 11 (b) Initially enacted in 2000, the federal government established
- 12 the New Markets Tax Credit (NMTC) Program, which uses a
- 13 market-based approach for expanding capital and technical
- 14 assistance to businesses in lower income communities. The federal
- 15 program is jointly administered by the Community Development
- 16 Financial Institutions Fund (CDFI Fund) and the Internal Revenue

1 Service. The NMTC Program allocates federal tax incentives to
2 community development entities (CDE), which they then use to
3 attract private investors who contribute funds that can be used to
4 finance and invest in businesses and develop real estate in
5 low-income communities. Through the 2013–14 funding round,
6 the CDFI Fund had awarded approximately \$40,000,000,000 in
7 NMTC in 836 awards including \$3,000,000,000 in American
8 Recovery and Investment Act of 2009 awards and \$1,000,000,000
9 of special allocation authority to be used for the recovery and
10 redevelopment of the Gulf Opportunity Zone.

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

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

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

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

1 receiving a refund for, taxes paid under Part 1 (commencing with
2 Section 6001) of Division 2 of the Revenue and Taxation Code.

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

5 12283. (a) There is hereby created the California New Markets
6 Tax Credit Program as provided in this section, Section 17053.9,
7 and Section 23622.9. The purpose of this program is to stimulate
8 private sector investment in lower income communities by
9 providing a tax incentive to community and economic development
10 entities that can be leveraged by the entity to attract private sector
11 investment that in turn will be deployed by providing financing
12 and technical assistance to small- and medium-size businesses and
13 the development of commercial, industrial, and community
14 development projects, including, but not limited to, facilities for
15 nonprofit service organizations, light manufacturing, and mixed-use
16 and transit-oriented development. The committee and GO-Biz
17 shall administer this program as provided in this section, Section
18 17053.9, and Section 23622.9. The Director of GO-Biz may
19 delegate the administration of all or portions of the program within
20 GO-Biz.

21 (b) (1) For taxable years beginning on or after January 1, ~~2016,~~
22 ~~2017,~~ and before January 1, ~~2028,~~ ~~2029,~~ and subject to subdivision
23 (h), there shall be allowed as a credit against the tax described in
24 Sections 12201, 12204, 12206, and 12209, an amount determined
25 in accordance with Section 45D of the Internal Revenue Code, as
26 modified as set forth in this section.

27 (2) (A) For purposes of this section, “committee” means the
28 California Competes Tax Credit Committee established under
29 Section 18410.2.

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

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

34 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
35 applicable percentage, is modified by substituting for “(A) 5
36 percent with respect to the first 3 credit allowance dates, and (B)
37 6 percent with respect to the remainder of the credit allowance
38 dates” with the following:

39 (A) Zero percent with respect to the first two credit allowance
40 dates.

1 (B) Seven percent with respect to the third credit allowance
2 date.

3 (C) Eight percent with respect to the remainder of the credit
4 allowance dates.

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

14 (B) Section 45D(c)(2) of the Internal Revenue Code is modified
15 to only include a specialized small business investment company
16 or community development financial institution that entered into
17 an allocation agreement with the Community Development
18 Financial Institutions Fund of the United States Treasury
19 Department, with respect to credits authorized by Section 45D of
20 the Internal Revenue Code, that includes California within the
21 service area and is dated on or after January 1, 2012.

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

25 (A) By substituting “any low-income community in California”
26 for “any low-income community” every place it appears in Section
27 45D of the Internal Revenue Code.

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

37 (C) A qualified active low-income community business shall
38 only include a business that, at the time the initial investment is
39 made, has 250 or fewer employees and is located in one or more
40 California low-income communities. The operating business shall

1 meet all other conditions of a qualified active low-income
2 community business, except as modified by this paragraph. *This*
3 *requirement does not apply to a business that is controlled by, or*
4 *under common control with, a federally recognized tribe.*

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

15 (E) A qualified active low-income community business shall
16 not include any business that operates or derives revenues from
17 the operation of a country club, gaming establishment, massage
18 parlor, liquor store, or golf course.

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

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

32 (4) Section 45D(f) of the Internal Revenue Code, relating to
33 national limitation on amount of investments designated, is
34 modified as follows:

35 (A) The following shall apply in lieu of the provisions of
36 Section 45D(f)(1) of the Internal Revenue Code: “The aggregate
37 amount of qualified equity investments that may be allocated in
38 any calendar year for purposes of this section, Section 17053.9,
39 and Section 23622.9 shall be an amount as determined by GO-Biz
40 in consultation with the Department of Finance based upon any

1 unused portion of the one hundred million dollars (\$100,000,000)
2 in exclusions, authorized pursuant to Section 6010.8, as determined
3 by the California Alternative Energy and Advanced Transportation
4 Financing Authority and reported to the committee, not to exceed
5 an amount based upon a credit of forty million dollars
6 (\$40,000,000). The committee shall limit the allocation of
7 investments that may be designated under this section, Section
8 17053.9, and Section 23622.9 to a cumulative total amount based
9 on credits of no more than two hundred million dollars
10 (\$200,000,000). The allocation of any undesignated qualified
11 equity investments shall be returned to the committee by March
12 1 of the year following allocation and the value of the undesignated
13 qualified equity investment shall be available for allocation in the
14 following calendar years in accordance with the application
15 process. Any qualified equity investment attributable to recaptured
16 credits shall be available to the committee on March 1 of the year
17 following recapture and shall be available for allocation in the
18 following calendar years in accordance with subparagraph (B) of
19 paragraph (5). Reallocated qualified equity investments attributable
20 to recapture credits shall not count against the annual or the
21 cumulative limit.”

22 (B) The references to “the Secretary” in Section 45D(f)(2) of
23 the Internal Revenue Code, relating to allocation of limitation, is
24 modified to read “GO-Biz.”

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

28 (5) Section 45D(g)(3) of the Internal Revenue Code, relating
29 to recapture event, is modified to add the following:

30 (A) (i) The qualified community development entity fails to
31 comply with subparagraph (D) of paragraph (5) of subdivision (d).
32 In this case, recapture shall be 100 percent of the credit. The
33 qualified community development entity shall send notice to
34 GO-Biz within 30 calendar days of the close of any calendar year
35 in which the qualified community development entity has failed
36 to invest at least 15 percent of the purchase price of the qualified
37 equity investment in satisfaction of the requirements of
38 subparagraph (D) of paragraph (5) of subdivision (d).

39 (ii) The qualified community development entity made an
40 investment without performing a revenue impact assessment that

1 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In
2 this case, recapture shall be 100 percent of the credit, unless
3 GO-Biz has approved a waiver pursuant to clause (ii) of
4 subparagraph (J) of paragraph (5) of subdivision (d). The qualified
5 community development entity shall send notice to GO-Biz within
6 30 calendar days of the close of any calendar year in which the
7 qualified community development entity has made an investment
8 that fails to meet the requirements set forth in subparagraph (J) of
9 paragraph (5) of subdivision (d).

10 (B) GO-Biz shall establish a process, in consultation with the
11 Department of Insurance, for the recapture of credits allowed under
12 this section from the entity that claimed the credit on a return.

13 (C) Recaptured qualified equity investments revert back to
14 GO-Biz and shall be reissued. The reissue shall not count toward
15 the annual or cumulative allocation limitation. The reissue shall
16 be done in the following order:

17 (i) First, pro rata to applicants whose qualified equity investment
18 allocations were reduced pursuant to subparagraph (F) of paragraph
19 (5) of subdivision (d) by the annual allocation limitation.

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

21 (D) (i) Enforcement of each of the recapture provisions shall
22 be subject to a six-month cure period.

23 (ii) Not more than 45 calendar days following the close of the
24 cure period, GO-Biz shall make a final determination as to whether
25 the noncompliance has been cured. This determination shall be
26 based on information submitted by the qualified community
27 development entity, and any other information GO-Biz deems
28 relevant to this determination. Within 30 calendar days of making
29 the final determination, GO-Biz shall notify the Department of
30 Insurance and the Franchise Tax Board of the determination and
31 other related information including, but not limited to, the tax
32 identification number of the qualified community development
33 entity.

34 (iii) GO-Biz shall post, and update monthly, a tally of
35 undesigned qualified equity investments, pursuant to paragraph
36 (4), and recaptured credits pursuant to this paragraph.

37 (6) If a qualified community development entity makes a capital
38 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) GO-Biz shall adopt guidelines necessary or appropriate
4 to carry out its responsibilities with respect to the allocation of the
5 qualified equity investments and recapture of credit allowed by
6 this section. The adoption of the guidelines shall not be subject to
7 the rulemaking provisions of the Administrative Procedure Act of
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
9 3 of Title 2 of the Government Code.

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

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

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

20 (A) Creates an equitable distribution process that ensures that
21 low-income community populations across the state are engaged
22 and have an opportunity to benefit from the program.

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

28 (C) Considers the qualified community development entity's
29 prior qualified low-income community investments under Section
30 45D of the Internal Revenue Code.

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

34 (4) GO-Biz shall begin accepting applications on or before May
35 15, ~~2016~~, 2017, and shall award authority to designate qualified
36 equity investments annually through ~~2020~~, 2021, to the extent that
37 allocations are available pursuant to Section 26011.9 of the Public
38 Resources Code. To the extent reasonable and consistent in
39 carrying out the purposes of this section, GO-Biz shall consider
40 how the timing of the state allocation rounds correspond with the

1 allocation schedule of the federal New Markets Tax Credit
2 Program. In the instance where GO-Biz determines that an
3 application is incomplete, the qualified community development
4 entity shall be given five business days to provide the omitted
5 information.

6 (5) (A) In the ~~2016~~ 2017 awards cycle, the committee shall
7 award authority to designate qualified equity investments to
8 qualified community development entities described in paragraph
9 (2) of subdivision (c) in the order applications are received by the
10 committee. Applications received on the same day shall be deemed
11 to have been received simultaneously.

12 (B) In the ~~2017 to 2020~~ 2018 to 2021 award cycles, inclusive,
13 at least 60 percent of the authority to designate qualified equity
14 investments shall be awarded pursuant to subparagraph (A). At
15 the committee's discretion, a higher percentage of authority to
16 designate qualified equity investments may be awarded pursuant
17 to subparagraph (A).

18 (C) The committee shall award up to 40 percent of the authority
19 to designate qualified equity investments in the ~~2017 to 2020~~, 2018
20 to 2021, inclusive, award cycles, to qualified community
21 development entities on a competitive basis using blind scoring
22 and a review committee that is comprised of community
23 development finance practitioners and members having
24 demonstrated experience in assessing organizational business
25 strategy, community outcomes, capitalization strategy, and
26 management capacity. A member of the review committee shall
27 not have a financial interest, which includes, but is not limited to,
28 asking, consenting, or agreeing to receive any commission,
29 emolument, gratuity, money, property, or thing of value for his or
30 her own use, benefit, or personal advantage for procuring or
31 endeavoring to procure for any person, partnership, joint venture,
32 association, or corporation any qualified equity investment or other
33 assistance from any applicant.

34 (D) (i) For qualified equity investments derived from the ~~2016~~
35 to ~~2020~~, 2017 to 2021, inclusive, awards cycles, pursuant to
36 subparagraphs (A), (B), and (C), a qualified community
37 development entity shall invest at least 15 percent of the qualified
38 equity investment in a qualified low-income community business
39 in consultation or in partnership with either of the following:

1 (I) A qualified community development entity certified under
2 Section 45D of the Internal Revenue Code that has not received a
3 federal New Markets Tax Credit allocation on or after January 1,
4 2012, and has either a local service area that includes one or more
5 California communities or a California statewide service area, but
6 excluding qualified community development entities with a
7 national service area.

8 (II) A nonprofit organization ~~certified by GO-Biz, pursuant to~~
9 ~~clause (iii): that does the following:~~

10 (ia) *Meets the requirements of Section 23701 of the Revenue*
11 *and Taxation Code.*

12 (ib) *Is registered with the Attorney General.*

13 (ic) *Has articles of incorporation that state the primary mission*
14 *of the organization is focused on improving the economic*
15 *well-being of low-income communities or individuals.*

16 (id) *Has bylaws that provide that the organization maintains*
17 *accountability to residents of low-income communities through*
18 *their representation on any governing board or on an advisory*
19 *board of the nonprofit organization.*

20 (ii) The 15-percent investment shall be calculated by multiplying
21 the total purchase price of the qualified equity investments issued
22 by the qualified community development entity by 15 percent.
23 Each community development entity application shall indicate
24 how the qualified community development entity will meet this
25 requirement.

26 ~~(iii) GO-Biz shall establish guidelines for certifying a nonprofit~~
27 ~~organization pursuant to this subparagraph. A nonprofit~~
28 ~~organization shall meet the requirements of Section 23701 and be~~
29 ~~certified by GO-Biz as having a primary mission of serving or~~
30 ~~providing investment capital in low-income communities in~~
31 ~~California. The nonprofit organization shall maintain accountability~~
32 ~~to residents of low-income communities through their~~
33 ~~representation on any governing board or on an advisory board of~~
34 ~~the nonprofit organization. GO-Biz may include reasonable~~
35 ~~conditions on the certification to effectuate the intent of this section~~
36 ~~and may suspend or revoke a certification, after affording the~~
37 ~~nonprofit organization notice and the opportunity to appeal and~~
38 ~~be heard by the committee, if GO-Biz finds that the nonprofit~~
39 ~~organization no longer meets the requirements for certification.~~

1 (E) In making competitive awards of authority to designate
2 qualified equity investments, priority shall be given to applications
3 that can demonstrate that the qualified equity investment authority
4 will allow the qualified community development entity to undertake
5 qualified low-income community investments in rural, suburban,
6 or urban areas that have been historically underserved and result
7 in the greatest benefit to the hardest to serve and undercapitalized
8 lower income populations, or in newly established businesses, or
9 in activities that support neighborhood revitalization strategies
10 driven by local grassroots stakeholders in multiple low-income
11 communities across one or more regions or the state for the purpose
12 of scaling economic development activities that compliment
13 regional industry clusters that result in the greatest benefit to the
14 largest number of lower income individuals.

15 (F) (i) For applications described in subparagraph (A), in the
16 event requests for authority to designate qualified equity
17 investments exceed the applicable annual allocation limitation,
18 GO-Biz shall certify, consistent with remaining qualified equity
19 investment capacity, qualified equity investments of applicants in
20 proportionate percentages based upon the ratio of the amount of
21 qualified equity investments requested in such applications to the
22 total amount of qualified equity investments requested in all such
23 applications received on the same day.

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

28 (G) 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. The transferee
35 shall be subject to the same rules, requirements, and limitations
36 applicable to the transferor.

37 (H) Within ~~60~~ 200 calendar days of GO-Biz sending notice of
38 certification, the qualified community development entity or any
39 transferee, under subparagraph (G), shall issue the qualified equity
40 investment and receive cash in the amount of the certified amount.

1 The qualified community development entity or transferee, under
2 subparagraph (G), ~~must~~ shall provide GO-Biz with evidence of
3 the receipt of the cash investment within ~~65~~ 205 calendar days of
4 the applicant receiving notice of certification. If the qualified
5 community development entity or any transferee, under
6 subparagraph (G), does not receive the cash investment and issue
7 the qualified equity investment within ~~60~~ 200 calendar days of
8 GO-Biz sending the certification notice, the certification shall lapse
9 and the entity may not issue the qualified equity investment without
10 reapplying to GO-Biz for certification. Lapsed certifications revert
11 back to GO-Biz and shall be reissued in the following order:

12 (i) First, pro rata to applicants whose qualified equity investment
13 allocations were reduced pursuant to subparagraph (F) under the
14 annual allocation limitation of forty million dollars (\$40,000,000)
15 in paragraph (4) of subdivision (c).

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

17 (I) A qualified community development entity that issues
18 qualified equity investments ~~must~~ shall notify GO-Biz of the names
19 of taxpayers that are eligible to utilize tax credits pursuant to this
20 section and any transfer of a qualified equity investment.

21 (J) (i) A qualified community development entity shall only
22 make a qualified low-income community investment that
23 demonstrates a positive revenue impact on the state over a 10-year
24 period against the aggregate tax credit utilization over the same
25 10-year period. GO-Biz shall approve one or more nationally
26 recognized revenue impact assessment models that shall be used
27 by the qualified community development entity to demonstrate
28 positive revenue impact. If it is demonstrated that the qualified
29 low-income community investment has a positive revenue impact
30 on the state at the time the investment is made, it shall be treated
31 as if the investment continues to meet the requirement of this
32 subparagraph for the duration of the seven-year program period.

33 (ii) Upon application and approval by GO-Biz, the requirement
34 of this subparagraph may be waived.

35 (6) (A) A qualified community development entity that issues
36 qualified equity investments shall submit a report to GO-Biz within
37 the first five business days after the first anniversary of the initial
38 credit allowance date that provides documentation as to the
39 investment of at least 85 percent of the purchase price in qualified
40 low-income community investments in qualified active low-income

1 community businesses located in California. Such report shall
 2 include all of the following:

3 (i) A bank statement of such qualified community development
 4 entity evidencing each qualified low-income community
 5 investment.

6 (ii) Evidence that such business was a qualified active
 7 low-income community business at the time of such qualified
 8 low-income community investment.

9 (iii) Evidence that the community development entity complied
 10 with subparagraph (D) of paragraph (5).

11 (iv) Evidence that each qualified low-income community
 12 investment was determined to have a positive revenue impact on
 13 the state. This requirement does not apply for any qualified
 14 low-income community investment for which GO-Biz approved
 15 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph
 16 (5) or to reinvestments of redeemed qualified low-income
 17 investments.

18 (v) Any other information required by GO-Biz as being
 19 necessary to meet the requirements of this section.

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

27 (i) The social, environmental, and economic impact the credit
 28 had on the low-income community during the report period and
 29 cumulatively.

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

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

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

38 (v) Number of owner-occupied real estate projects.

39 (vi) Location of each qualified low-income community business
 40 assisted by a qualified low-income community investment.

1 (vii) Summary of the outcomes of each of the revenue impact
2 assessments undertaken by the qualified community development
3 entity during the year.

4 (viii) Any other information requested by GO-Biz.

5 (e) (1) In the case where the credit allowed by this section
6 exceeds the tax described in Sections 12201, 12204, 12206, and
7 12209, the excess may be carried over to reduce that tax in the
8 following year, and the six succeeding years if necessary, until the
9 credit is exhausted.

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

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

16 (f) GO-Biz shall annually report on its Internet Web site the
17 information provided by low-income community development
18 entities and on the geographic distribution of the qualified active
19 low-income community businesses assisted.

20 (g) (1) The Insurance Commissioner and the Franchise Tax
21 Board may prescribe any rules or regulations that may be necessary
22 or appropriate to implement this section. The Insurance
23 Commissioner and the Franchise Tax Board shall have access to
24 any documentation held by the committee relative to the application
25 and reporting of a qualified community development entity.

26 (2) A qualifying community development entity shall provide
27 GO-Biz with the name, address, and tax identification number of
28 each investor and entity for which a qualified equity investment
29 was designated by the qualifying community development entity,
30 pursuant to this section. GO-Biz shall provide this information to
31 the Insurance Commissioner and the Franchise Tax Board in a
32 manner determined by the Insurance Commissioner and the
33 Franchise Tax Board.

34 (h) GO-Biz and the committee shall only make awards pursuant
35 to paragraph (4) of subdivision (d) in a calendar year in which the
36 Legislature appropriates funds in the California New Markets Tax
37 Credit Fund pursuant to subdivision (b) of Section 18410.3.

38 (i) This section shall remain in effect only until December 1,
39 ~~2028~~, 2029, and as of that date is repealed.

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

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

19 (b) (1) For taxable years beginning on or after January 1, ~~2016~~,
20 ~~2017~~, and before January 1, ~~2028~~, ~~2029~~, and subject to subdivision
21 (h), there shall be allowed as a credit against the “net tax,” as
22 defined in Section 17039, an amount determined in accordance
23 with Section 45D of the Internal Revenue Code, as modified as
24 set forth in this section.

25 (2) (A) For purposes of this section, “committee” means the
26 California Competes Tax Credit Committee established under
27 Section 18410.2.

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

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

32 (1) 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 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is
4 modified to only include a qualified community development
5 entity, that is certified by the Secretary of the Treasury, and its
6 subsidiary qualified community development entities that have
7 entered into an allocation agreement with the Community
8 Development Financial Institutions Fund of the United States
9 Treasury Department, with respect to credits authorized by Section
10 45D of the Internal Revenue Code, that includes California within
11 the service area and is dated on or after January 1, 2012.

12 (B) Section 45D(c)(2) of the Internal Revenue Code is modified
13 to only include a specialized small business investment company
14 or community development financial institution that entered into
15 an allocation agreement with the Community Development
16 Financial Institutions Fund of the United States Treasury
17 Department, with respect to credits authorized by Section 45D of
18 the Internal Revenue Code, that includes California within the
19 service area and is dated on or after January 1, 2012.

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

23 (A) By substituting “any low-income community in California”
24 for “any low-income community” every place it appears in Section
25 45D of the Internal Revenue Code.

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

35 (C) A qualified active low-income community business shall
36 only include a business that, at the time the initial investment is
37 made, has 250 or fewer employees and is located in one or more
38 California low-income communities. The operating business shall
39 meet all other conditions of a qualified active low-income
40 community business, except as modified by this paragraph. *This*

1 *requirement does not apply to a business that is controlled by, or*
2 *under common control with, a federally recognized tribe.*

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

13 (E) A qualified active low-income community business shall
14 not include any business that operates or derives revenues from
15 the operation of a country club, gaming establishment, massage
16 parlor, liquor store, or golf course.

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

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

30 (4) Section 45D(f) of the Internal Revenue Code, relating to
31 national limitation on amount of investments designated, is
32 modified as follows:

33 (A) The following shall apply in lieu of the provisions of Section
34 45D(f)(1) of the Internal Revenue Code: “The aggregate amount
35 of qualified equity investments that may be allocated in any
36 calendar year for purposes of this section, Section 12283, and
37 Section 23622.9 shall be an amount as determined by GO-Biz in
38 consultation with the Department of Finance based upon any
39 unused portion of the one hundred million dollars (\$100,000,000)
40 in exclusions, authorized pursuant to Section 6010.8, as determined

1 by the California Alternative Energy and Advanced Transportation
2 Financing Authority and reported to the committee, not to exceed
3 an amount based upon a credit of forty million dollars
4 (\$40,000,000). The committee shall limit the allocation of
5 investments that may be designated under this section, Section
6 12283, and Section 23622.9 to a cumulative total amount based
7 on credits of no more than two hundred million dollars
8 (\$200,000,000). The allocation of any undesignated qualified
9 equity investments shall be returned to the committee by March
10 1 of the year following allocation and the value of the undesignated
11 qualified equity investment shall be available for allocation in the
12 following calendar years in accordance with the application
13 process. Any qualified equity investment attributable to recaptured
14 credits shall be available to the committee on March 1 of the year
15 following recapture and shall be available for allocation in the
16 following calendar years in accordance with clause (ii) of
17 subparagraph (B) of paragraph (5). Reallocated qualified equity
18 investments attributable to recapture credits shall not count against
19 the annual or the cumulative limit.”

20 (B) The references to “the Secretary” in Section 45D(f)(2) of
21 the Internal Revenue Code, relating to allocation of limitation, is
22 modified to read “GO-Biz.”

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

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

29 (B) Section 45D(g)(3) of the Internal Revenue Code, relating
30 to recapture event, is modified to add the following:

31 (i) (I) The qualified community development entity fails to
32 comply with subparagraph (D) of paragraph (5) of subdivision (d).
33 In this case, recapture shall be 100 percent of the credit. The
34 qualified community development entity shall send notice to
35 GO-Biz within 30 calendar days of the close of any calendar year
36 in which the qualified community development entity has failed
37 to invest at least 15 percent of the purchase price of the qualified
38 equity investment in satisfaction of the requirements of
39 subparagraph (D) of paragraph (5) of subdivision (d).

1 (II) The qualified community development entity made an
2 investment without performing a revenue impact assessment that
3 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In
4 this case, recapture shall be 100 percent of the credit, unless
5 GO-Biz has approved a waiver pursuant to clause (ii) of
6 subparagraph (J) of paragraph (5) of subdivision (d). The qualified
7 community development entity shall send notice to GO-Biz within
8 30 calendar days of the close of any calendar year in which the
9 qualified community development entity has made an investment
10 that fails to meet the requirements set forth in subparagraph (J) of
11 paragraph (5) of subdivision (d).

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

15 (iii) Recaptured qualified equity investments revert back to
16 GO-Biz and shall be reissued. The reissue shall not count toward
17 the annual or cumulative allocation limitation. The reissue shall
18 be done in the following order:

19 (I) First, pro rata to applicants whose qualified equity
20 investment allocations were reduced pursuant to subparagraph (F)
21 of paragraph (5) of subdivision (d) by the annual allocation
22 limitation.

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

24 (iv) (I) Enforcement of each of the recapture provisions shall
25 be subject to a six-month cure period.

26 (II) Not more than 45 calendar days following the close of the
27 cure period, GO-Biz shall make a final determination as to whether
28 the noncompliance has been cured. This determination shall be
29 based on information submitted by the qualified community
30 development entity, and any other information GO-Biz deems
31 relevant to this determination. Within 30 calendar days of making
32 the final determination, GO-Biz shall notify the Franchise Tax
33 Board of the determination and other related information including,
34 but not limited to, the tax identification number of the qualified
35 community development entity.

36 (III) GO-Biz shall post, and update monthly, a tally of
37 undesignated qualified equity investments, pursuant to paragraph
38 (4), and recaptured credits pursuant to this paragraph.

39 (6) If a qualified community development entity makes a capital
40 or equity investment or a loan with respect to a qualified

1 low-income building under the state Low-Income Housing Tax
2 Credit Program, the investment or loan is not a qualified
3 low-income community investment under this section.

4 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
5 to carry out its responsibilities with respect to the allocation of the
6 qualified equity investments and recapture of credit allowed by
7 this section. The adoption of the guidelines shall not be subject to
8 the rulemaking provisions of the Administrative Procedure Act of
9 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
10 3 of Title 2 of the Government Code.

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

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

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

21 (A) Creates an equitable distribution process that ensures that
22 low-income community populations across the state are engaged
23 and have an opportunity to benefit from the program.

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

29 (C) Considers the qualified community development entity's
30 prior qualified low-income community investments under Section
31 45D of the Internal Revenue Code.

32 (D) Considers the qualified community development entity's
33 prior qualified low-income community investments under this
34 section, including subparagraph (D) of paragraph (5).

35 (4) GO-Biz shall begin accepting applications on or before May
36 15, ~~2016~~, 2017, and shall award authority to designate qualified
37 equity investments annually through ~~2020~~, 2021, to the extent that
38 allocations are available pursuant to Section 26011.9 of the Public
39 Resources Code. To the extent reasonable and consistent in
40 carrying out the purposes of this section, GO-Biz shall consider

1 how the timing of the state allocation rounds correspond with the
2 allocation schedule of the federal New Markets Tax Credit
3 Program. In the instance where GO-Biz determines that an
4 application is incomplete, the qualified community development
5 entity shall be given five business days to provide the omitted
6 information.

7 (5) (A) In the ~~2016~~ 2017 awards cycle, the committee shall
8 award authority to designate qualified equity investments to
9 qualified community development entities described in paragraph
10 (2) of subdivision (c) in the order applications are received by the
11 committee. Applications received on the same day shall be deemed
12 to have been received simultaneously.

13 (B) In the ~~2017 to 2020~~ 2018 to 2021 award cycles, inclusive,
14 at least 60 percent of the authority to designate qualified equity
15 investments shall be awarded pursuant to subparagraph (A). At
16 the committee's discretion, a higher percentage of authority to
17 designate qualified equity investments may be awarded pursuant
18 to subparagraph (A).

19 (C) The committee shall award up to 40 percent of the authority
20 to designate qualified equity investments in the ~~2017 to 2020~~, 2018
21 to 2021, inclusive, award cycles, to qualified community
22 development entities on a competitive basis using blind scoring
23 and a review committee that is comprised of community
24 development finance practitioners and members having
25 demonstrated experience in assessing organizational business
26 strategy, community outcomes, capitalization strategy, and
27 management capacity. A member of the review committee shall
28 not have a financial interest, which includes, but is not limited to,
29 asking, consenting, or agreeing to receive any commission,
30 emolument, gratuity, money, property, or thing of value for his or
31 her own use, benefit, or personal advantage for procuring or
32 endeavoring to procure for any person, partnership, joint venture,
33 association, or corporation any qualified equity investment or other
34 assistance from any applicant.

35 (D) (i) For qualified equity investments derived from the ~~2016~~
36 ~~to 2020~~, 2017 to 2021, inclusive, awards cycles, pursuant to
37 subparagraphs (A), (B), and (C), a qualified community
38 development entity shall invest at least 15 percent of the qualified
39 equity investment in a qualified low-income community business
40 in consultation or in partnership with either of the following:

1 (I) A qualified community development entity certified under
2 Section 45D of the Internal Revenue Code that has not received a
3 federal New Markets Tax Credit allocation on or after January 1,
4 2012, and has either a local service area that includes one or more
5 California communities or a California statewide service area, but
6 excluding qualified community development entities with a
7 national service area.

8 (II) A nonprofit organization ~~certified by GO-Biz, pursuant to~~
9 ~~clause (iii): that does the following:~~

10 (ia) *Meets the requirements of Section 23701.*

11 (ib) *Is registered with the Attorney General.*

12 (ic) *Has articles of incorporation that state the primary mission*
13 *of the organization is focused on improving the economic*
14 *well-being of low-income communities or individuals.*

15 (id) *Has bylaws that provide that the organization maintains*
16 *accountability to residents of low-income communities through*
17 *their representation on any governing board or on an advisory*
18 *board of the nonprofit organization.*

19 (ii) The 15-percent investment shall be calculated by multiplying
20 the total purchase price of the qualified equity investments issued
21 by the qualified community development entity by 15 percent.
22 Each community development entity application shall indicate
23 how the qualified community development entity will meet this
24 requirement.

25 ~~(iii) GO-Biz shall establish guidelines for certifying a nonprofit~~
26 ~~organization pursuant to this subparagraph. A nonprofit~~
27 ~~organization shall meet the requirements of Section 23701 and be~~
28 ~~certified by GO-Biz as having a primary mission of serving or~~
29 ~~providing investment capital in low-income communities in~~
30 ~~California. The nonprofit organization shall maintain accountability~~
31 ~~to residents of low-income communities through their~~
32 ~~representation on any governing board or on an advisory board of~~
33 ~~the nonprofit organization. GO-Biz may include reasonable~~
34 ~~conditions on the certification to effectuate the intent of this section~~
35 ~~and may suspend or revoke a certification, after affording the~~
36 ~~nonprofit organization notice and the opportunity to appeal and~~
37 ~~be heard by the committee, if GO-Biz finds that the nonprofit~~
38 ~~organization no longer meets the requirements for certification.~~

39 (E) In making competitive awards of authority to designate
40 qualified equity investments, priority shall be given to applications

1 that can demonstrate that the qualified equity investment authority
 2 will allow the qualified community development entity to undertake
 3 qualified low-income community investments in rural, suburban,
 4 or urban areas that have been historically underserved and result
 5 in the greatest benefit to the hardest to serve and undercapitalized
 6 lower income populations, or in newly established businesses, or
 7 in activities that support neighborhood revitalization strategies
 8 driven by local grassroots stakeholders in multiple low-income
 9 communities across one or more regions or the state for the purpose
 10 of scaling economic development activities that compliment
 11 regional industry clusters that result in the greatest benefit to the
 12 largest number of lower income individuals.

13 (F) (i) For applications described in subparagraph (A), in the
 14 event requests for authority to designate qualified equity
 15 investments exceed the applicable annual allocation limitation,
 16 GO-Biz shall certify, consistent with remaining qualified equity
 17 investment capacity, qualified equity investments of applicants in
 18 proportionate percentages based upon the ratio of the amount of
 19 qualified equity investments requested in such applications to the
 20 total amount of qualified equity investments requested in all such
 21 applications received on the same day.

22 (ii) If a pending request cannot be fully certified due to this
 23 limit, GO-Biz shall certify the portion that may be certified unless
 24 the qualified community development entity elects to withdraw
 25 its request rather than receive partial certification.

26 (G) An approved applicant may transfer all or a portion of its
 27 certified qualified equity investment authority to its controlling
 28 entity or any subsidiary qualified community development entity
 29 of the controlling entity, provided that the applicant and the
 30 transferee notify the committee within 30 calendar days of such
 31 transfer and include the information required in the application
 32 with respect to such transferee with such notice. The transferee
 33 shall be subject to the same rules, requirements, and limitations
 34 applicable to the transferor.

35 (H) Within ~~60~~ 200 calendar days of GO-Biz sending notice of
 36 certification, the qualified community development entity or any
 37 transferee, under subparagraph (G), shall issue the qualified equity
 38 investment and receive cash in the amount of the certified amount.
 39 The qualified community development entity or transferee, under
 40 subparagraph (G), ~~must~~ shall provide GO-Biz with evidence of

1 the receipt of the cash investment within ~~65~~ 205 calendar days of
2 the applicant receiving notice of certification. If the qualified
3 community development entity or any transferee, under
4 subparagraph (G), does not receive the cash investment and issue
5 the qualified equity investment within ~~60~~ 200 calendar days of
6 GO-Biz sending the certification notice, the certification shall lapse
7 and the entity may not issue the qualified equity investment without
8 reapplying to GO-Biz for certification. Lapsed certifications revert
9 back to GO-Biz and shall be reissued in the following order:

10 (i) First, pro rata to applicants whose qualified equity investment
11 allocations were reduced pursuant to subparagraph (F) under the
12 annual allocation limitation of forty million dollars (\$40,000,000)
13 in paragraph (4) of subdivision (c).

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

15 (I) A qualified community development entity that issues
16 qualified equity investments ~~must~~ shall notify GO-Biz of the names
17 of taxpayers that are eligible to utilize tax credits pursuant to this
18 section and any transfer of a qualified equity investment.

19 (J) (i) A qualified community development entity shall only
20 make a qualified low-income community investment that
21 demonstrates a positive revenue impact on the state over a 10-year
22 period against the aggregate tax credit utilization over the same
23 10-year period. GO-Biz shall approve one or more nationally
24 recognized revenue impact assessment models that shall be used
25 by the qualified community development entity to demonstrate
26 positive revenue impact. If it is demonstrated that the qualified
27 low-income community investment has a positive revenue impact
28 on the state at the time the investment is made, it shall be treated
29 as if the investment continues to meet the requirement of this
30 subparagraph for the duration of the seven-year program period.

31 (ii) Upon application and approval by GO-Biz, the requirement
32 of this subparagraph may be waived.

33 (6) (A) A qualified community development entity that issues
34 qualified equity investments shall submit a report to GO-Biz within
35 the first five business days after the first anniversary of the initial
36 credit allowance date that provides documentation as to the
37 investment of at least 85 percent of the purchase price in qualified
38 low-income community investments in qualified active low-income
39 community businesses located in California. Such report shall
40 include all of the following:

- 1 (i) A bank statement of such qualified community development
2 entity evidencing each qualified low-income community
3 investment.
- 4 (ii) Evidence that such business was a qualified active
5 low-income community business at the time of such qualified
6 low-income community investment.
- 7 (iii) Evidence that the community development entity complied
8 with subparagraph (D) of paragraph (5).
- 9 (iv) Evidence that each qualified low-income community
10 investment was determined to have a positive revenue impact on
11 the state. This requirement does not apply for any qualified
12 low-income community investment for which GO-Biz approved
13 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph
14 (5) or to reinvestments of redeemed qualified low-income
15 investments.
- 16 (v) Any other information required by GO-Biz as being
17 necessary to meet the requirements of this section.
- 18 (B) Thereafter, the qualified community development entity
19 shall submit an annual report to GO-Biz within 60 calendar days
20 of the beginning of the calendar year during the seven years
21 following submittal of the report, pursuant to subparagraph (A).
22 No annual report shall be due prior to the first anniversary of the
23 initial credit allowance date. The report shall include, but is not
24 limited to, the following:
- 25 (i) The social, environmental, and economic impact the credit
26 had on the low-income community during the report period and
27 cumulatively.
- 28 (ii) The amount of moneys used for qualified low-income
29 investments in qualified low-income community businesses.
- 30 (iii) The number of employment positions created and retained
31 as a result of qualified low-income community investments and
32 the average annual salary of such positions.
- 33 (iv) The number of operating businesses assisted as a result of
34 qualified low-income community investments, by industry and
35 number of employees.
- 36 (v) Number of owner-occupied real estate projects.
- 37 (vi) Location of each qualified low-income community business
38 assisted by a qualified low-income community investment.

1 (vii) Summary of the outcomes of each of the revenue impact
2 assessments undertaken by the qualified community development
3 entity during the year.

4 (viii) Any other information requested by GO-Biz.

5 (e) (1) In the case where the credit allowed by this section
6 exceeds the “net tax,” the excess may be carried over to reduce
7 the “net tax” in the following year, and the six succeeding years
8 if necessary, until the credit is exhausted.

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

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

15 (f) GO-Biz shall annually report on its Internet Web site the
16 information provided by low-income community development
17 entities and on the geographic distribution of the qualified active
18 low-income community businesses assisted.

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

24 (2) A qualifying community development entity shall provide
25 GO-Biz with the name, address, and tax identification number of
26 each investor and entity for which a qualified equity investment
27 was designated by the qualifying community development entity,
28 pursuant to this section. GO-Biz shall provide this information to
29 the Franchise Tax Board in a manner determined by the Franchise
30 Tax Board.

31 (h) GO-Biz and the committee shall only make awards pursuant
32 to paragraph (4) of subdivision (d) in a calendar year in which the
33 Legislature appropriates funds in the California New Markets Tax
34 Credit Fund pursuant to subdivision (b) of Section 18410.3.

35 (i) This section shall remain in effect only until December 1,
36 ~~2028~~, 2029, and as of that date is repealed.

37 SEC. 5. Section 18410.3 is added to the Revenue and Taxation
38 Code, to read:

39 18410.3. (a) The California New Markets Tax Credit Fund is
40 hereby established in the State Treasury.

1 (b) Upon appropriation, moneys in the fund shall be used for
2 the purposes described in subdivision (d) of Section 12283,
3 subdivision (d) of Section 17053.9, and subdivision (d) of Section
4 23622.9.

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

7 23622.9. (a) There is hereby created the California New
8 Markets Tax Credit Program as provided in this section, Section
9 12283, and Section 17053.9. The purpose of this program is to
10 stimulate private sector investment in lower income communities
11 by providing a tax incentive to community and economic
12 development entities that can be leveraged by the entity to attract
13 private sector investment that in turn will be deployed by providing
14 financing and technical assistance to small- and medium-size
15 businesses and the development of commercial, industrial, and
16 community development projects, including, but not limited to,
17 facilities for nonprofit service organizations, light manufacturing,
18 and mixed-use and transit-oriented development. The committee
19 and GO-Biz shall administer this program as provided in this
20 section, Section 12283, and Section 17053.9. The Director of
21 GO-Biz may delegate the administration of all or portions of the
22 program within GO-Biz.

23 (b) (1) For taxable years beginning on or after January 1, ~~2016,~~
24 ~~2017,~~ and before January 1, ~~2028,~~ ~~2029,~~ and subject to subdivision
25 (h), there shall be allowed as a credit against the “tax,” as defined
26 in Section 23036, an amount determined in accordance with Section
27 45D of the Internal Revenue Code, as modified as set forth in this
28 section.

29 (2) (A) For purposes of this section, “committee” means the
30 California Competes Tax Credit Committee established under
31 Section 18410.2.

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

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

36 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
37 applicable percentage, is modified by substituting for “(A) 5
38 percent with respect to the first 3 credit allowance dates, and (B)
39 6 percent with respect to the remainder of the credit allowance
40 dates” with the following:

1 (A) Zero percent with respect to the first two credit allowance
2 dates.

3 (B) Seven percent with respect to the third credit allowance
4 date.

5 (C) Eight percent with respect to the remainder of the credit
6 allowance dates.

7 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is
8 modified to only include a qualified community development
9 entity, that is certified by the Secretary of the Treasury, and its
10 subsidiary qualified community development entities that have
11 entered into an allocation agreement with the Community
12 Development Financial Institutions Fund of the United States
13 Treasury Department, with respect to credits authorized by Section
14 45D of the Internal Revenue Code, that includes California within
15 the service area and is dated on or after January 1, 2012.

16 (B) Section 45D(c)(2) of the Internal Revenue Code is modified
17 to only include a specialized small business investment company
18 or community development financial institution that entered into
19 an allocation agreement with the Community Development
20 Financial Institutions Fund of the United States Treasury
21 Department, with respect to credits authorized by Section 45D of
22 the Internal Revenue Code, that includes California within the
23 service area and is dated on or after January 1, 2012.

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

27 (A) By substituting “any low-income community in California”
28 for “any low-income community” every place it appears in Section
29 45D of the Internal Revenue Code.

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

39 (C) A qualified active low-income community business shall
40 only include a business that, at the time the initial investment is

1 made, has 250 or fewer employees and is located in one or more
 2 California low-income communities. The operating business shall
 3 meet all other conditions of a qualified active low-income
 4 community business, except as modified by this paragraph. *This*
 5 *requirement does not apply to a business that is controlled by, or*
 6 *under common control with, a federally recognized tribe.*

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

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

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

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

34 (4) Section 45D(f) of the Internal Revenue Code, relating to
 35 national limitation on amount of investments designated, is
 36 modified as follows:

37 (A) The following shall apply in lieu of the provisions of Section
 38 45D(f)(1) of the Internal Revenue Code: “The aggregate amount
 39 of qualified equity investments that may be allocated in any
 40 calendar year for purposes of this section, Section 12283, and

1 Section 17053.9 shall be an amount as determined by GO-Biz in
2 consultation with the Department of Finance based upon any
3 unused portion of the one hundred million dollars (\$100,000,000)
4 in exclusions, authorized pursuant to Section 6010.8, as determined
5 by the California Alternative Energy and Advanced Transportation
6 Financing Authority and reported to the committee, not to exceed
7 an amount based upon a credit of forty million dollars
8 (\$40,000,000). The committee shall limit the allocation of
9 investments that may be designated under this section, Section
10 12283, and Section 17053.9 to a cumulative total amount based
11 on credits of no more than two hundred million dollars
12 (\$200,000,000). The allocation of any undesignated qualified
13 equity investments shall be returned to the committee by March
14 1 of the year following allocation and the value of the undesignated
15 qualified equity investment shall be available for allocation in the
16 following calendar years in accordance with the application
17 process. Any qualified equity investment attributable to recaptured
18 credits shall be available to the committee on March 1 of the year
19 following recapture and shall be available for allocation in the
20 following calendar years in accordance with clause (ii) of
21 subparagraph (B) of paragraph (5). Reallocated qualified equity
22 investments attributable to recapture credits shall not count against
23 the annual or the cumulative limit.”

24 (B) The references to “the Secretary” in Section 45D(f)(2) of
25 the Internal Revenue Code, relating to allocation of limitation, is
26 modified to read “GO-Biz.”

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

30 (5) (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, is modified to add the following:

35 (i) (I) The qualified community development entity fails to
36 comply with subparagraph (D) of paragraph (5) of subdivision (d).
37 In this case, recapture shall be 100 percent of the credit. The
38 qualified community development entity shall send notice to
39 GO-Biz within 30 calendar days of the close of any calendar year
40 in which the qualified community development entity has failed

1 to invest at least 15 percent of the purchase price of the qualified
2 equity investment in satisfaction of the requirements of
3 subparagraph (D) of paragraph (5) of subdivision (d).

4 (II) The qualified community development entity made an
5 investment without performing a revenue impact assessment that
6 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In
7 this case, recapture shall be 100 percent of the credit, unless
8 GO-Biz has approved a waiver pursuant to clause (ii) of
9 subparagraph (J) of paragraph (5) of subdivision (d). The qualified
10 community development entity shall send notice to GO-Biz within
11 30 calendar days of the close of any calendar year in which the
12 qualified community development entity has made an investment
13 that fails to meet the requirements set forth in subparagraph (J) of
14 paragraph (5) of subdivision (d).

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

18 (iii) Recaptured qualified equity investments revert back to
19 GO-Biz and shall be reissued. The reissue shall not count toward
20 the annual or cumulative allocation limitation. The reissue shall
21 be done in the following order:

22 (I) First, pro rata to applicants whose qualified equity investment
23 allocations were reduced pursuant to subparagraph (F) of paragraph
24 (5) of subdivision (d) by the annual allocation limitation.

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

26 (iv) (I) Enforcement of each of the recapture provisions shall
27 be subject to a six-month cure period.

28 (II) Not more than 45 calendar days following the close of the
29 cure period, GO-Biz shall make a final determination as to whether
30 the noncompliance has been cured. This determination shall be
31 based on information submitted by the qualified community
32 development entity, and any other information GO-Biz deems
33 relevant to this determination. Within 30 calendar days of making
34 the final determination, GO-Biz shall notify the Franchise Tax
35 Board of the determination and other related information including,
36 but not limited to, the tax identification number of the qualified
37 community development entity.

38 (III) GO-Biz shall post, and update monthly, a tally of
39 undesigned qualified equity investments, pursuant to paragraph
40 (4), and recaptured credits pursuant to this paragraph.

1 (6) If a qualified community development entity makes a capital
2 or equity investment or a loan with respect to a qualified
3 low-income building under the state Low-Income Housing Tax
4 Credit Program, the investment or loan is not a qualified
5 low-income community investment under this section.

6 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
7 to carry out its responsibilities with respect to the allocation of the
8 qualified equity investments and recapture of credit allowed by
9 this section. The adoption of the guidelines shall not be subject to
10 the rulemaking provisions of the Administrative Procedure Act of
11 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
12 3 of Title 2 of the Government Code.

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 Fund 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 are engaged
25 and have an opportunity to benefit from the program.

26 (B) Sets minimum organizational capacity standards that
27 applicants must meet in order to receive an allocation of authority
28 to designate qualified equity investments including, but not limited
29 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.

34 (D) Considers the qualified community development entity's
35 prior qualified low-income community investments under this
36 section, including subparagraph (D) of paragraph (5).

37 (4) GO-Biz shall begin accepting applications on or before May
38 15, ~~2016~~, 2017, and shall award authority to designate qualified
39 equity investments annually through ~~2020~~, 2021, to the extent that
40 allocations are available pursuant to Section 26011.9 of the Public

1 Resources Code. To the extent reasonable and consistent in
2 carrying out the purposes of this section, GO-Biz shall consider
3 how the timing of the state allocation rounds correspond with the
4 allocation schedule of the federal New Markets Tax Credit
5 Program. In the instance where GO-Biz determines that an
6 application is incomplete, the qualified community development
7 entity shall be given five business days to provide the omitted
8 information.

9 (5) (A) In the ~~2016~~ 2017 awards cycle, the committee shall
10 award authority to designate qualified equity investments to
11 qualified community development entities described in paragraph
12 (2) of subdivision (c) in the order applications are received by the
13 committee. Applications received on the same day shall be deemed
14 to have been received simultaneously.

15 (B) In the ~~2017 to 2020~~ 2018 to 2021 award cycles, inclusive,
16 at least 60 percent of the authority to designate qualified equity
17 investments shall be awarded pursuant to subparagraph (A). At
18 the committee's discretion, a higher percentage of authority to
19 designate qualified equity investments may be awarded pursuant
20 to subparagraph (A).

21 (C) The committee shall award up to 40 percent of the authority
22 to designate qualified equity investments in the ~~2017 to 2020~~, 2018
23 to 2021, inclusive, award cycles, to qualified community
24 development entities on a competitive basis using blind scoring
25 and a review committee that is comprised of community
26 development finance practitioners and members having
27 demonstrated experience in assessing organizational business
28 strategy, community outcomes, capitalization strategy, and
29 management capacity. A member of the review committee shall
30 not have a financial interest, which includes, but is not limited to,
31 asking, consenting, or agreeing to receive any commission,
32 emolument, gratuity, money, property, or thing of value for his or
33 her own use, benefit, or personal advantage for procuring or
34 endeavoring to procure for any person, partnership, joint venture,
35 association, or corporation any qualified equity investment or other
36 assistance from any applicant.

37 (D) (i) For qualified equity investments derived from the ~~2016~~
38 to ~~2020~~, 2017 to 2021, inclusive, awards cycles, pursuant to
39 subparagraphs (A), (B), and (C), a qualified community
40 development entity shall invest at least 15 percent of the qualified

1 equity investment in a qualified low-income community business
2 in consultation or in partnership with either of the following:

3 (I) A qualified community development entity certified under
4 Section 45D of the Internal Revenue Code that has not received a
5 federal New Markets Tax Credit allocation on or after January 1,
6 2012, and has either a local service area that includes one or more
7 California communities or a California statewide service area, but
8 excluding qualified community development entities with a
9 national service area.

10 (II) A nonprofit organization ~~certified by GO-Biz, pursuant to~~
11 ~~clause (iii): that does the following:~~

12 (ia) *Meets the requirements of Section 23701.*

13 (ib) *Is registered with the Attorney General.*

14 (ic) *Has articles of incorporation that state the primary mission*
15 *of the organization is focused on improving the economic*
16 *well-being of low-income communities or individuals.*

17 (id) *Has bylaws that provide that the organization maintains*
18 *accountability to residents of low-income communities through*
19 *their representation on any governing board or on an advisory*
20 *board of the nonprofit organization.*

21 (ii) The 15-percent investment shall be calculated by multiplying
22 the total purchase price of the qualified equity investments issued
23 by the qualified community development entity by 15 percent.
24 Each community development entity application shall indicate
25 how the qualified community development entity will meet this
26 requirement.

27 ~~(iii) GO-Biz shall establish guidelines for certifying a nonprofit~~
28 ~~organization pursuant to this subparagraph. A nonprofit~~
29 ~~organization shall meet the requirements of Section 23701 and be~~
30 ~~certified by GO-Biz as having a primary mission of serving or~~
31 ~~providing investment capital in low-income communities in~~
32 ~~California. The nonprofit organization shall maintain accountability~~
33 ~~to residents of low-income communities through their~~
34 ~~representation on any governing board or on an advisory board of~~
35 ~~the nonprofit organization. GO-Biz may include reasonable~~
36 ~~conditions on the certification to effectuate the intent of this section~~
37 ~~and may suspend or revoke a certification, after affording the~~
38 ~~nonprofit organization notice and the opportunity to appeal and~~
39 ~~be heard by the committee, if GO-Biz finds that the nonprofit~~
40 ~~organization no longer meets the requirements for certification.~~

1 (E) In making competitive awards of authority to designate
2 qualified equity investments, priority shall be given to applications
3 that can demonstrate that the qualified equity investment authority
4 will allow the qualified community development entity to undertake
5 qualified low-income community investments in rural, suburban,
6 or urban areas that have been historically underserved and result
7 in the greatest benefit to the hardest to serve and undercapitalized
8 lower income populations, or in newly established businesses, or
9 in activities that support neighborhood revitalization strategies
10 driven by local grassroots stakeholders in multiple low-income
11 communities across one or more regions or the state for the purpose
12 of scaling economic development activities that compliment
13 regional industry clusters that result in the greatest benefit to the
14 largest number of lower income individuals.

15 (F) (i) For applications described in subparagraph (A), in the
16 event requests for authority to designate qualified equity
17 investments exceed the applicable annual allocation limitation,
18 GO-Biz shall certify, consistent with remaining qualified equity
19 investment capacity, qualified equity investments of applicants in
20 proportionate percentages based upon the ratio of the amount of
21 qualified equity investments requested in such applications to the
22 total amount of qualified equity investments requested in all such
23 applications received on the same day.

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

28 (G) 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. The transferee
35 shall be subject to the same rules, requirements, and limitations
36 applicable to the transferor.

37 (H) Within ~~60~~ 200 calendar days of GO-Biz sending notice of
38 certification, the qualified community development entity or any
39 transferee, under subparagraph (G), shall issue the qualified equity
40 investment and receive cash in the amount of the certified amount.

1 The qualified community development entity or transferee, under
2 subparagraph (G), ~~must~~ shall provide GO-Biz with evidence of
3 the receipt of the cash investment within ~~65~~ 205 calendar days of
4 the applicant receiving notice of certification. If the qualified
5 community development entity or any transferee, under
6 subparagraph (G), does not receive the cash investment and issue
7 the qualified equity investment within ~~60~~ 200 calendar days of
8 GO-Biz sending the certification notice, the certification shall lapse
9 and the entity may not issue the qualified equity investment without
10 reapplying to GO-Biz for certification. Lapsed certifications revert
11 back to GO-Biz and shall be reissued in the following order:

12 (i) First, pro rata to applicants whose qualified equity investment
13 allocations were reduced pursuant to subparagraph (F) under the
14 annual allocation limitation of forty million dollars (\$40,000,000)
15 in paragraph (4) of subdivision (c).

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

17 (I) A qualified community development entity that issues
18 qualified equity investments ~~must~~ shall notify GO-Biz of the names
19 of taxpayers that are eligible to utilize tax credits pursuant to this
20 section and any transfer of a qualified equity investment.

21 (J) (i) A qualified community development entity shall only
22 make a qualified low-income community investment that
23 demonstrates a positive revenue impact on the state over a 10-year
24 period against the aggregate tax credit utilization over the same
25 10-year period. GO-Biz shall approve one or more nationally
26 recognized revenue impact assessment models that shall be used
27 by the qualified community development entity to demonstrate
28 positive revenue impact. If it is demonstrated that the qualified
29 low-income community investment has a positive revenue impact
30 on the state at the time the investment is made, it shall be treated
31 as if the investment continues to meet the requirement of this
32 subparagraph for the duration of the seven-year program period.

33 (ii) Upon application and approval by GO-Biz, the requirement
34 of this subparagraph may be waived.

35 (6) (A) A qualified community development entity that issues
36 qualified equity investments shall submit a report to GO-Biz within
37 the first five business days after the first anniversary of the initial
38 credit allowance date that provides documentation as to the
39 investment of at least 85 percent of the purchase price in qualified
40 low-income community investments in qualified active low-income

1 community businesses located in California. Such report shall
2 include all of the following:

3 (i) A bank statement of such qualified community development
4 entity evidencing each qualified low-income community
5 investment.

6 (ii) Evidence that such business was a qualified active
7 low-income community business at the time of such qualified
8 low-income community investment.

9 (iii) Evidence that the community development entity complied
10 with subparagraph (D) of paragraph (5).

11 (iv) Evidence that each qualified low-income community
12 investment was determined to have a positive revenue impact on
13 the state. This requirement does not apply for any qualified
14 low-income community investment for which GO-Biz approved
15 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph
16 (5) or to reinvestments of redeemed qualified low-income
17 investments.

18 (v) Any other information required by GO-Biz as being
19 necessary to meet the requirements of this section.

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

27 (i) The social, environmental, and economic impact the credit
28 had on the low-income community during the report period and
29 cumulatively.

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

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

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

38 (v) Number of owner-occupied real estate projects.

39 (vi) Location of each qualified low-income community business
40 assisted by a qualified low-income community investment.

1 (vii) Summary of the outcomes of each of the revenue impact
2 assessments undertaken by the qualified community development
3 entity during the year.

4 (viii) Any other information requested by GO-Biz.

5 (e) (1) In the case where the credit allowed by this section
6 exceeds the “tax,” the excess may be carried over to reduce the
7 “tax” in the following year, and the six succeeding years if
8 necessary, until the credit is exhausted.

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

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

15 (f) GO-Biz shall annually report on its Internet Web site the
16 information provided by low-income community development
17 entities and on the geographic distribution of the qualified active
18 low-income community businesses assisted.

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

24 (2) A qualifying community development entity shall provide
25 GO-Biz with the name, address, and tax identification number of
26 each investor and entity for which a qualified equity investment
27 was designated by the qualifying community development entity,
28 pursuant to this section. GO-Biz shall provide this information to
29 the Franchise Tax Board in a manner determined by the Franchise
30 Tax Board.

31 (h) GO-Biz and the committee shall only make awards pursuant
32 to paragraph (4) of subdivision (d) in a calendar year in which the
33 Legislature appropriates funds in the California New Markets Tax
34 Credit Fund pursuant to subdivision (b) of Section 18410.3.

35 (i) This section shall remain in effect only until December 1,
36 ~~2028~~, 2029, and as of that date is repealed.

37 SEC. 7. The provisions of this act are severable. If any
38 provision of this act or its application is held invalid, that invalidity
39 shall not affect other provisions or applications that can be given
40 effect without the invalid provision or application.

1 SEC. 8. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

O