

AMENDED IN ASSEMBLY APRIL 30, 2019

AMENDED IN ASSEMBLY APRIL 24, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1259**

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**Introduced by Assembly Members Luz Rivas, Cervantes, and  
Eduardo Garcia**

February 21, 2019

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1259, as amended, Luz Rivas. Personal income taxes: corporation taxes: credits: California New Markets Tax Credit.

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

This bill would allow a California New Markets Tax Credit under the Personal Income Tax Law and the Corporation Tax Law, in modified conformity with the federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to \$100,000,000 per calendar year. The bill would impose specified duties on the Governor's Office of Business and

Economic Development (GO-Biz) with regard to the application for, and allocation of, the credit. The bill would require GO-Biz to establish and impose reasonable fees upon entities that apply for the allocation of the credit, to be deposited in the California New Markets Tax Credit Account established by the bill within the California Economic Development Fund, and use the revenue, upon annual appropriation by the Legislature, to defray the cost of applying to and administering the credits, as specified. The bill would only authorize the allocation for these credits for those taxable years for which moneys are appropriated to GO-Biz to administer these credits for those taxable years.

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

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

The bill would provide that its provisions are severable.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) 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
- 7 and medium businesses in low-income areas lacking sufficient
- 8 access to capital and technical assistance. Given that the state has
- 9 many needs and limited resources, moneys from the private sector
- 10 are necessary to fill this capital and investment gap.
- 11 (b) Initially enacted in 2000, the federal government established
- 12 the New Markets Tax Credit (NMTC) Program, which uses a
- 13 market-based approach for expanding capital and technical
- 14 assistance to businesses in lower income communities. The federal
- 15 program is jointly administered by the Community Development
- 16 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
- 17 Service. The NMTC Program allocates federal tax incentives to

1 community development entities (CDEs) and community  
2 development financial institutions (CDFIs), which they then use  
3 to attract private investors who contribute funds that can be used  
4 to finance and invest in businesses and develop real estate in  
5 low-income communities.

6 (c) Through 14 application rounds (2003 to 2017, inclusive) of  
7 the NMTC Program, the CDFI Fund has made 1,105 awards,  
8 allocating a total of \$54 billion in tax credit authority to CDEs  
9 through a competitive application process, including \$3 billion in  
10 American Recovery and Reinvestment Act of 2009 awards and  
11 \$1 billion of special allocation authority to be used for the recovery  
12 and redevelopment of the Gulf Opportunity Zone. Since its  
13 inception, the CDFI Fund has allocated tax credit authority to 413  
14 CDEs headquartered in 45 states, the District of Columbia, Puerto  
15 Rico, and Guam. Of the qualified equity investments deployed,  
16 more than 75 percent were in severely distressed areas and 55  
17 percent with unemployment rates 150 percent above the statewide  
18 average.

19 (d) Based on program activities reported through Fiscal Year  
20 2016, CDEs and CDFIs disbursed a total of \$44,421,718,023 in  
21 qualified equity investment proceeds toward 5,333 projects. Since  
22 2003, the NMTC Program has created or retained an estimated  
23 197,585 jobs nationally. It has also supported the construction of  
24 32.4 million square feet of manufacturing space, 74.8 million  
25 square feet of office space, and 57.5 million square feet of retail  
26 space. The United States Department of the Treasury reports that  
27 a secondary benefit is that as these communities develop, they  
28 become more attractive to investors, catalyzing a ripple effect that  
29 spurs further investments and revitalization.

30 (e) For every \$1 invested by the federal government, the NMTC  
31 Program generates over \$8 of private investment. The NMTC  
32 Program catalyzes investment in the most economically challenged  
33 areas of the state. Over 75 percent of New Markets Tax Credit  
34 investments have been made in highly distressed areas, meaning  
35 the household income was less than 60 percent of statewide median  
36 income and the poverty rate was higher than 30 percent.

37 (f) The federal NMTC totals 39 percent of the original  
38 investment amount in the CDE and is claimed over a period of  
39 seven years (5 percent for each of the first three years and 6 percent  
40 for each of the remaining four years). Any investment by any

1 taxpayer in the CDE redeemed before the end of the seven-year  
2 period will be recaptured.

3 (g) Twelve states in the United States have adopted state  
4 programs using the NMTC model including Alabama, Florida,  
5 Illinois, Nevada, and Oregon. While some of the programs  
6 substantially mirror the federal program, others vary in both the  
7 percentage of the credit and some of the policies that form the  
8 foundation of the credit. One of the reasons cited for establishing  
9 state-level programs is to make a state more attractive to CDEs,  
10 which results in increasing the amount of federal NMTCs being  
11 utilized in a state. Further, several studies, including a January 1,  
12 2011, case study by Pacific Community Ventures, showed that for  
13 every dollar of forgone tax revenue, the federal NMTC leverages  
14 twelve dollars (\$12) to fourteen dollars (\$14) of private investment.

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

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

30 (b) (1) For taxable years beginning on or after January 1, 2021,  
31 and before January 1, 2026, and subject to subdivision (k), there  
32 shall be allowed as a credit against the “net tax,” as defined in  
33 Section 17039, in an amount determined in accordance with Section  
34 45D of the Internal Revenue Code, relating to the new markets tax  
35 credit, as modified in this section.

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

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

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

6 (A) Six percent with respect to the first two credit allowance  
7 dates.

8 (B) Three percent with respect to the third credit allowance date.

9 (C) ~~Seven-Six~~ percent with respect to the remainder of the credit  
10 allowance dates.

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

14 (A) By substituting “any low-income community in California”  
15 for “any low-income community” every place it appears in Section  
16 45D of the Internal Revenue Code.

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

26 (C) (i) Subject to clause (ii), a qualified active low-income  
27 community business shall only include a business that, at the time  
28 the initial investment is made, has 250 or fewer employees and is  
29 located in one or more California low-income communities. The  
30 operating business shall meet all other conditions of a qualified  
31 active low-income community business, except as modified by  
32 this paragraph.

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

36 (D) A qualified active low-income community business shall  
37 only include a business located in census tracts with a poverty rate  
38 greater than 30 percent, or census tracts, if located within a  
39 nonmetropolitan area, with a median family income that does not  
40 exceed 60 percent of median family income for this state, or census

1 tracts, if located within a metropolitan area, with a median family  
 2 income that does not exceed 60 percent of the greater of the  
 3 California median family income or the metropolitan area median  
 4 family income, or census tracts with unemployment rates at least  
 5 1.5 times the national average.

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

10 (F) A qualified active low-income community business shall  
 11 not include any business that operates or derives revenues from  
 12 the operation of a sexually oriented business. A “sexually oriented  
 13 business” means a commercial enterprise that provides, or has  
 14 provided in the 24 months prior to the date of the submission of  
 15 an application described in subdivision (d) by the taxpayer, for an  
 16 audience of two or more individuals live nude entertainment or  
 17 live nude performances where the nudity is a function of everyday  
 18 business operations and where nudity is a planned and intentional  
 19 part of the entertainment or performance. “Nude” means clothed  
 20 in a manner that leaves uncovered or visible, through less than  
 21 fully opaque clothing, any portion of the genitals or, in the case  
 22 of a female, any portion of the breasts below the top of the areola  
 23 of the breasts.

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

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

29 (A) The following shall apply in lieu of the provisions of Section  
 30 45D(f)(1) of the Internal Revenue Code: Subject to paragraph (3)  
 31 of subdivision (d), the aggregate amount of qualified equity  
 32 investments that may be allocated in any calendar year for purposes  
 33 of this section and Section 23622.9 shall be one hundred million  
 34 dollars (\$100,000,000) per calendar year. The allocation of any  
 35 undesignated qualified equity investments shall be returned to  
 36 GO-Biz by March 1 of the year following allocation and the value  
 37 of the undesignated qualified equity investment shall be available  
 38 for allocation in the following calendar years in accordance with  
 39 the application process. Any qualified equity investment  
 40 attributable to recaptured credits shall be available to GO-Biz on

1 March 1 of the year following recapture and shall be available for  
2 allocation in the following calendar years in accordance with  
3 subparagraph (B) of paragraph (4). Reallocated qualified equity  
4 investments attributable to recapture credits shall not count against  
5 the annual or the cumulative limit.

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

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

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

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

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

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

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

26 (2) (A) GO-Biz shall establish and impose reasonable fees upon  
27 entities that apply for the allocation pursuant to this subdivision  
28 that in the aggregate defray the cost of reviewing applications for  
29 the program. GO-Biz may impose other reasonable fees upon  
30 entities that receive the allocation pursuant to this subdivision that  
31 in the aggregate defray the cost of administering the program.

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

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

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

39 (B) Sets minimum organizational capacity standards that  
40 applicants are required to meet in order to receive an allocation of

1 authority to designate qualified equity investments, including, but  
2 not limited to, its business strategy, targeted community outcomes,  
3 capitalization strategy, and management capacity.

4 (C) Considers the qualified community development entity's  
5 prior qualified low-income community investments under Section  
6 45D of the Internal Revenue Code and other similar programs, as  
7 determined by GO-Biz.

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

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

11 (ii) Applications that support neighborhood revitalization  
12 strategies driven by local grassroots stakeholders.

13 (4) Subject to subdivision (k), GO-Biz shall begin accepting  
14 applications on or before January 15, 2021, and shall award  
15 authority to designate qualified equity investments annually  
16 through 2025.

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

21 (6) A member of the review committee, established to review  
22 applications pursuant to this section, shall not have a financial  
23 interest, which includes, but is not limited to, asking, consenting,  
24 or agreeing to receive any commission, emolument, gratuity,  
25 money, property, or thing of value for their own use, benefit, or  
26 personal advantage for procuring or endeavoring to procure for  
27 any person, partnership, joint venture, association, or corporation  
28 any qualified equity investment or other assistance from any  
29 applicant.

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

39 (f) Within 200 calendar days of GO-Biz sending notice of  
40 certification, the qualified community development entity or any



1 transferee, under subdivision (e), shall issue the qualified equity  
2 investment and receive cash in the amount of the certified amount.  
3 The qualified community development entity or transferee, under  
4 subdivision (e), shall provide GO-Biz with evidence of the receipt  
5 of the cash investment within 205 calendar days of the applicant  
6 receiving notice of certification. If the qualified community  
7 development entity or any transferee, under subdivision (e), does  
8 not receive the cash investment and issue the qualified equity  
9 investment within 200 calendar days of GO-Biz sending the  
10 certification notice, the certification shall lapse and the entity may  
11 not issue the qualified equity investment without reapplying to  
12 GO-Biz for certification. Lapsed certifications revert back to  
13 GO-Biz and shall be reissued in accordance with the application  
14 process.

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

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

25 (2) The qualified community development entity shall submit  
26 an annual report to GO-Biz during the seven years following  
27 submittal of the report, pursuant to paragraph (1). No annual report  
28 shall be due prior to the first anniversary of the initial credit  
29 allowance date. The report shall include, but is not limited to, the  
30 following:

31 (A) The social, environmental, and economic impact the credit  
32 had on the low-income community during the report period and  
33 cumulatively.

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

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

- 1 (D) The number of operating businesses assisted as a result of
- 2 qualified low-income community investments, by industry and
- 3 number of employees.
- 4 (E) Number of owner-occupied real estate projects.
- 5 (F) Location of each qualified low-income community business
- 6 assisted by a qualified low-income community investment.
- 7 (G) Documentation that demonstrates the investment of the
- 8 funds being deployed within the reporting period in qualified
- 9 low-income community investments in qualified low-income
- 10 community businesses located in California.
- 11 (H) Any other information requested by GO-Biz.
- 12 (i) (1) In the case where the credit allowed by this section
- 13 exceeds the “net tax,” the excess may be carried over to reduce
- 14 the “net tax” in the following year, and the six succeeding years
- 15 if necessary, until the credit is exhausted.
- 16 (2) A taxpayer allowed a credit under this section for a qualified
- 17 equity investment shall not be eligible for any other credit under
- 18 this part with respect to that investment.
- 19 (3) The credit allowed under this section may be in addition to
- 20 any credit allowed under Section 45D of the Internal Revenue
- 21 Code.
- 22 (j) GO-Biz shall annually report on its internet website the
- 23 information provided by low-income community development
- 24 entities and on the geographic distribution of the qualified active
- 25 low-income community businesses assisted.
- 26 (k) (1) The credit authorized by this section shall only be
- 27 allocated by GO-Biz for those taxable years for which moneys are
- 28 appropriated to GO-Biz to administer the California New Markets
- 29 Tax Credit pursuant to 18410.3 for that taxable year. The
- 30 appropriation shall specifically identify the California New Markets
- 31 Tax Credit.
- 32 (2) For those taxable years for which those moneys are
- 33 appropriated pursuant to paragraph (1), GO-Biz shall post notice
- 34 of the appropriation on the homepage of its internet website and
- 35 send notice of such appropriation to the Secretary of State and the
- 36 Legislative Counsel.
- 37 (l) The Franchise Tax Board shall prescribe any rules or
- 38 regulations that may be necessary or appropriate to implement the
- 39 program authorized by this section and Section 23622.9. The
- 40 Franchise Tax Board shall have access to any documentation held

1 by GO-Biz relative to the application and reporting of the qualified  
2 community development entity.

3 (m) This section shall be repealed on December 1, 2026.

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

6 18410.3. (a) The California New Markets Tax Credit Account  
7 is hereby established in the California Economic Development  
8 Fund created pursuant to Section 13997.6 of the Government Code.

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

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

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

27 (b) (1) For taxable years beginning on or after January 1, 2021,  
28 and before January 1, 2026, and subject to subdivision (k), there  
29 shall be allowed as a credit against the “tax,” as defined in Section  
30 23036, in an amount determined in accordance with Section 45D  
31 of the Internal Revenue Code, relating to the new markets tax  
32 credit, as modified in this section.

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

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

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

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

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

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

6 (C) ~~Seven-Six~~ Six percent with respect to the remainder of the credit  
7 allowance dates.

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

11 (A) By substituting “any low-income community in California”  
12 for “any low-income community” every place it appears in Section  
13 45D of the Internal Revenue Code.

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

23 (C) (i) Subject to clause (ii), a qualified active low-income  
24 community business shall only include a business that, at the time  
25 the initial investment is made, has 250 or fewer employees and is  
26 located in one or more California low-income communities. The  
27 operating business shall meet all other conditions of a qualified  
28 active low-income community business, except as modified by  
29 this paragraph.

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

33 (D) A qualified active low-income community business shall  
34 only include a business located in census tracts with a poverty rate  
35 greater than 30 percent, or census tracts, if located within a  
36 nonmetropolitan area, with a median family income that does not  
37 exceed 60 percent of median family income for this state, or census  
38 tracts, if located within a metropolitan area, with a median family  
39 income that does not exceed 60 percent of the greater of the  
40 California median family income or the metropolitan area median

1 family income, or census tracts with unemployment rates at least  
2 1.5 times the national average.

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

7 (F) A qualified active low-income community business shall  
8 not include any business that operates or derives revenues from  
9 the operation of a sexually oriented business. A “sexually oriented  
10 business” means a commercial enterprise that provides, or has  
11 provided in the 24 months prior to the date of the submission of  
12 an application described in subdivision (d) by the taxpayer, for an  
13 audience of two or more individuals live nude entertainment or  
14 live nude performances where the nudity is a function of everyday  
15 business operations and where nudity is a planned and intentional  
16 part of the entertainment or performance. “Nude” means clothed  
17 in a manner that leaves uncovered or visible, through less than  
18 fully opaque clothing, any portion of the genitals or, in the case  
19 of a female, any portion of the breasts below the top of the areola  
20 of the breasts.

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

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

26 (A) The following shall apply in lieu of the provisions of Section  
27 45D(f)(1) of the Internal Revenue Code: Subject to paragraph (3)  
28 of subdivision (d), the aggregate amount of qualified equity  
29 investments that may be allocated in any calendar year for purposes  
30 of this section and Section 17053.9 shall be one hundred million  
31 dollars (\$100,000,000) per calendar year. The allocation of any  
32 undesignated qualified equity investments shall be returned to  
33 GO-Biz by March 1 of the year following allocation and the value  
34 of the undesignated qualified equity investment shall be available  
35 for allocation in the following calendar years in accordance with  
36 the application process. Any qualified equity investment  
37 attributable to recaptured credits shall be available to GO-Biz on  
38 March 1 of the year following recapture and shall be available for  
39 allocation in the following calendar years in accordance with  
40 subparagraph (B) of paragraph (4). Reallocated qualified equity

1 investments attributable to recapture credits shall not count against  
2 the annual or the cumulative limit.

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

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

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

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

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

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

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

23 (2) (A) GO-Biz shall establish and impose reasonable fees upon  
24 entities that apply for the allocation pursuant to this subdivision  
25 that in the aggregate defray the cost of reviewing applications for  
26 the program. GO-Biz may impose other reasonable fees upon  
27 entities that receive the allocation pursuant to this subdivision that  
28 in the aggregate defray the cost of administering the program.

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

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

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

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

1 (C) Considers the qualified community development entity's  
2 prior qualified low-income community investments under Section  
3 45D of the Internal Revenue Code and other similar programs, as  
4 determined by GO-Biz.

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

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

8 (ii) Applications that support neighborhood revitalization  
9 strategies driven by local grassroots stakeholders.

10 (4) Subject to subdivision (k), GO-Biz shall begin accepting  
11 applications on or before January 15, 2021, and shall award  
12 authority to designate qualified equity investments annually  
13 through 2025.

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

18 (6) A member of the review committee, established to review  
19 applications pursuant to this section, shall not have a financial  
20 interest, which includes, but is not limited to, asking, consenting,  
21 or agreeing to receive any commission, emolument, gratuity,  
22 money, property, or thing of value for their own use, benefit, or  
23 personal advantage for procuring or endeavoring to procure for  
24 any person, partnership, joint venture, association, or corporation  
25 any qualified equity investment or other assistance from any  
26 applicant.

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

36 (f) Within 200 calendar days of GO-Biz sending notice of  
37 certification, the qualified community development entity or any  
38 transferee, under subdivision (e), shall issue the qualified equity  
39 investment and receive cash in the amount of the certified amount.  
40 The qualified community development entity or transferee, under

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

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

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

22 (2) The qualified community development entity shall submit  
23 an annual report to GO-Biz during the seven years following  
24 submittal of the report, pursuant to paragraph (1). No annual report  
25 shall be due prior to the first anniversary of the initial credit  
26 allowance date. The report shall include, but is not limited to, the  
27 following:

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

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

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

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

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



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

3 (G) Documentation that demonstrates the investment of the  
4 funds being deployed within the reporting period in qualified  
5 low-income community investments in qualified low-income  
6 community businesses located in California.

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

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

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

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

18 (j) GO-Biz shall annually report on its internet website the  
19 information provided by low-income community development  
20 entities and on the geographic distribution of the qualified active  
21 low-income community businesses assisted.

22 (k) (1) The credit authorized by this section shall only be  
23 allocated by GO-Biz for those taxable years for which moneys are  
24 appropriated to GO-Biz to administer the California New Markets  
25 Tax Credit pursuant to 18410.3 for that taxable year. The  
26 appropriation shall specifically identify the California New Markets  
27 Tax Credit.

28 (2) For those taxable years for which those moneys are  
29 appropriated pursuant to paragraph (1), GO-Biz shall post notice  
30 of the appropriation on the homepage of its internet website and  
31 send notice of such appropriation to the Secretary of State and the  
32 Legislative Counsel.

33 (l) The Franchise Tax Board shall prescribe any rules or  
34 regulations that may be necessary or appropriate to implement the  
35 program authorized by this section and Section 17053.9. The  
36 Franchise Tax Board shall have access to any documentation held  
37 by GO-Biz relative to the application and reporting of the qualified  
38 community development entity.

39 (m) This section shall be repealed on December 1, 2026.

1 SEC. 5. For the purposes of complying with Section 41 of the  
2 Revenue and Taxation Code, with respect to Sections 17053.9 and  
3 23622.9 of the Revenue and Taxation Code, as proposed to be  
4 added by Sections 2 and 4 of this act, the Legislature finds and  
5 declares as follows:

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

8 (b) Performance indicators:

9 (1) Amount of qualified low-income community investments  
10 issued.

11 (2) Amount of dollars deployed in qualified low-income  
12 community investments.

13 (3) Number of operating businesses assisted as a result of  
14 qualified low-income community investments. This data shall be  
15 compared to business development, including startups, tax  
16 revenues, and new investments within the most immediate  
17 geographic area for which data is reasonably available for the 12  
18 and 24 months prior to the date on which any tax credits are  
19 allowed by Section 17053.9 or 23622.9 of the Revenue and  
20 Taxation Code.

21 (4) Number of employment positions created and retained as a  
22 result of qualified low-income community investments and the  
23 average annual salary of those positions. These numbers shall be  
24 compared to the area median income and unemployment and  
25 poverty rates for the most immediate geographic areas for which  
26 data is reasonably available for the 12 and 24 months prior to the  
27 date on which any tax credits are allowed by Section 17053.9 or  
28 23622.9 of the Revenue and Taxation Code.

29 (c) Data collection requirements and baseline measurements:

30 (1) The baseline measurements include:

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

32 (B) The unemployment rate of the area.

33 (C) The poverty rate of the area.

34 (2) Data to collect includes:

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

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

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

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

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

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