

AMENDED IN SENATE JULY 3, 2014  
AMENDED IN SENATE JUNE 18, 2014  
AMENDED IN SENATE JUNE 9, 2014  
AMENDED IN SENATE SEPTEMBER 6, 2013  
AMENDED IN SENATE AUGUST 22, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1399**

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**Introduced by Assembly Members Medina and V. Manuel Pérez**

March 11, 2013

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An act to add Section 26011.9 to the Public Resources Code, and to amend Section 18410.2 of, and to add and repeal Sections 12283, ~~17053.9~~ 17053.9, and 23622.9 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Medina. Income taxation: insurance taxation: credits: California New Markets Tax Credit.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law also creates the California Competes Tax Credit Committee, which has specified duties in regard to tax credits for economic development.

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

This bill would allow a credit under the Personal Income Tax Law and the Corporation Tax Law, and a credit against the tax imposed on

an insurer, in modified conformity with a federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2015, and before January 1, 2027, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to an amount equal to any portion not granted under a specified sales and use tax exclusion, not to exceed \$40,000,000 per calendar year, and would limit the allocation of the credit to a cumulative total of no more than \$200,000,000, as provided. This bill would impose specified duties on the California Competes Tax Credit Committee with regard to the application for, and allocation of, the credit. The bill would require the committee to establish and impose reasonable fees upon entities that apply for the allocation of the credit and use the revenue to defray the cost of administering the program, as specified, thereby making an appropriation.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) While many areas of California have recovered from the
- 3 economic and community development impacts of the 2006
- 4 Financial Crisis and the 2010 global recession, Californians in a
- 5 number of communities and neighborhoods are still experiencing
- 6 their lingering 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
- 17 Service. The NMTC Program allocates federal tax incentives to
- 18 community development entities (CDE), which they then use to
- 19 attract private investors who contribute funds that can be used to

1 finance and invest in businesses and develop real estate in  
2 low-income communities. Through May 2013, the CDFI Fund had  
3 awarded approximately \$36,500,000,000 in NMTC in 749 awards  
4 including \$3,000,000,000 in American Recovery and Investment  
5 Act of 2009 awards and \$1,000,000,000 of special allocation  
6 authority to be used for the recovery and redevelopment of the  
7 Gulf Opportunity Zone.

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

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

26 SEC. 2. Section 26011.9 is added to the Public Resources Code,  
27 to read:

28 26011.9. The authority shall make a determination of the  
29 amount of the one hundred million dollars (\$100,000,000) in  
30 exclusions not granted in the assigned calendar year pursuant to  
31 Section 26011.8. An amount equal to that amount shall be granted  
32 in the subsequent calendar year through the California New  
33 Markets Tax Credit Program pursuant to Sections 12283, 17053.9,  
34 and 23622.9 of the Revenue and Taxation Code. This section shall  
35 not prevent a taxpayer granted an exclusion pursuant to Section  
36 6010.8 of the Revenue and Taxation Code from applying for, and  
37 receiving a refund for, taxes paid under Part 1 (commencing with  
38 Section 6001) of Division 2 of the Revenue and Taxation Code.

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

1 12283. (a) There is hereby created the California New Markets  
2 Tax Credit Program as provided in this section, Section 17053.9,  
3 and Section 23622.9. The purpose of this program is to stimulate  
4 private sector investment in lower income communities by  
5 providing a tax incentive to qualified community and economic  
6 development entities that can be leveraged by the entity to attract  
7 private sector investment that in turn will be deployed by providing  
8 financing and technical assistance to ~~small and medium size~~ *small-*  
9 *and medium-size* businesses and the development of commercial,  
10 industrial, and community development projects, including, but  
11 not limited to, facilities for nonprofit service organizations, light  
12 manufacturing, and mixed-use and transit-oriented development.  
13 The California Competes Tax Credit Committee shall administer  
14 this program as provided in this section, Section 17053.9, and  
15 Section 23622.9.

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

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

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

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

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

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

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

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

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

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

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

19 ~~(4)~~

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

23 ~~(A)~~

24 (i) A subsidiary community development entity of any such  
25 qualified community development entity.

26 ~~(B)~~

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

1 organization is not subject to the requirement of subparagraph  
2 (B).

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

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

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

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

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

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

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

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

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

3 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,  
4 relating to qualified active low-income community ~~businesses~~  
5 ~~which limits the services of employees to substantially those~~  
6 ~~performed within the business, a substantial portion of the services~~  
7 ~~of which are performed in a low-income community, shall not~~  
8 ~~apply to a qualified community development entity that does not~~  
9 ~~hold a federal new markets tax credit is modified to allow the~~  
10 ~~services of employees of a service-based qualified business to be~~  
11 ~~performed outside the low-income community. A service-based~~  
12 ~~qualified business is a business that primarily earns revenue~~  
13 ~~through providing intangible products and services.~~

14 (D) An entity complies with Section 45D(d)(2)(A)(i) of the  
15 Internal Revenue Code, relating to qualified active low-income  
16 community business, if, as calculated in subparagraph (B), it uses  
17 50 percent of its tangible property, whether owned or leased, within  
18 any low-income community for any taxable year.

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

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

33 (iii) *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 *non-metropolitan area, with a median family income that does not*  
37 *exceed 60 percent of median family income for the State of*  
38 *California, or census tracts, if located within a metropolitan area,*  
39 *with a median family income that does not exceed 60 percent of*  
40 *the greater of the California median family income or the*

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

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

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

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

36 (A) The committee shall recapture, from the entity that claimed  
37 the credit on a return, the tax credit allowed under this section if  
38 any of the following:

39 (i) Any amount of a federal tax credit available with respect to  
40 a qualified equity investment that is eligible for a credit under this



1 section is recaptured under Section 45D of the Internal Revenue  
2 Code. In such case the committee's recapture shall be proportionate  
3 to the federal recapture with respect to such qualified equity  
4 investment.

5 (ii) The qualified community development entity redeems or  
6 makes principal repayment with respect to a qualified equity  
7 investment prior to the seventh anniversary of the issuance of such  
8 qualified equity investment. In such case the committee's recapture  
9 shall be proportionate to the amount of the redemption or  
10 repayment with respect to such qualified equity investment.

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

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

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

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

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

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

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

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

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

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

1 paid by each entity reasonably corresponds with the value of the  
2 services provided to the entity.

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

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

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

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

15 (4) (A) The committee shall begin accepting applications on  
16 March 15, 2015, and shall award credits at least two times a year  
17 at dates set annually by the committee through 2019, to the extent  
18 that allocations are available pursuant to Section 26011.9 of the  
19 Public Resources Code. *To the extent reasonable and consistent*  
20 *in carrying out the purposes of this section, the committee shall*  
21 *consider how the timing of the state allocation rounds correspond*  
22 *with the allocation schedule of the federal New Markets Tax Credit*  
23 *Program.*

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

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

1 (5) (A) The committee shall award tax credits to ~~applicants~~  
 2 ~~with federal new markets tax credits~~ *qualified community*  
 3 *development entities described in subparagraph (B) of paragraph*  
 4 *(4) of subdivision (c)* in the order applications are received by the  
 5 committee. Applications received on the same day shall be deemed  
 6 to have been received simultaneously.

7 (i) In 2015, the committee shall only award tax credits to a  
 8 qualified community development ~~entity that also has federal new~~  
 9 ~~markets tax credits, that will be used for projects and activities in~~  
 10 ~~California~~ *entity, exclusive of an entity described in clause (ii) of*  
 11 *subparagraph (A) of paragraph (4) of subdivision (c)*. In the 2016  
 12 to 2019 award cycles, inclusive, at least 60 percent of the credit  
 13 allocation shall be awarded to a qualified community development  
 14 ~~entity with an allocation of federal new markets tax credits~~ *entity,*  
 15 *exclusive of an entity described in clause (ii) of subparagraph (A)*  
 16 *of paragraph (4) of subdivision (c)*. At the committee’s discretion,  
 17 a higher percentage of credits may be targeted to applicants ~~with~~  
 18 ~~federal new markets tax credits~~ *exclusive of an entity described in*  
 19 *clause (ii) of subparagraph (A) of paragraph (4) of subdivision*  
 20 *(c)*.

21 (ii) The committee shall award ~~credits up to 40 percent of the~~  
 22 ~~credit allocation in the 2016 to 2019, inclusive, award cycles,~~ to  
 23 a qualified community development ~~entity without federal new~~  
 24 ~~markets tax credits~~ *entity, as described in clause (ii) of*  
 25 *subparagraph (A) of paragraph (4) of subdivision (c) and*  
 26 *subparagraph (B) of paragraph (4) of subdivision (c)*, on a  
 27 competitive basis ~~with priority using blind scoring and a review~~  
 28 ~~committee that is comprised of at least a majority of community~~  
 29 ~~development finance practitioners. A member of the review~~  
 30 ~~committee shall not have a financial interest, which includes, but~~  
 31 ~~is not limited to, asking, consenting, or agreeing to receive any~~  
 32 ~~commission, emolument, gratuity, money, property, or thing of~~  
 33 ~~value for his or her own use, benefit, or personal advantage for~~  
 34 ~~procuring or endeavoring to procure for any person, partnership,~~  
 35 ~~joint venture, association, or corporation any tax credit or other~~  
 36 ~~assistance from any applicant. Priority shall given to rural, urban,~~  
 37 ~~and suburban~~ applications that can demonstrate that the credits  
 38 will allow the entity to undertake qualified low-income community  
 39 investments ~~in an a rural, suburban, or urban area that has been~~  
 40 ~~historically underserved, underserved or in newly established~~

1 ~~businesses, and real estate development~~ *businesses* that results in  
2 the greatest benefit to the largest number of lower income  
3 individuals.

4 (B) ~~In~~ For applications described in clause (i) of subparagraph  
5 (A), in the event tax credit requests exceed the *applicable annual*  
6 allocation limitation of *up to* forty million dollars (\$40,000,000)  
7 in paragraph (8) of subdivision (c), the committee shall certify,  
8 consistent with remaining qualified equity investment capacity,  
9 qualified equity investments of applicants in proportionate  
10 percentages based upon the ratio of the amount of qualified equity  
11 investments requested in such applications to the total amount of  
12 qualified equity investments requested in all such applications  
13 received on the same day.

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

18 (D) An approved applicant may transfer all or a portion of its  
19 certified qualified equity investment authority to its controlling  
20 entity or any subsidiary qualified community development entity  
21 of the controlling entity, provided that the applicant and the  
22 transferee notify the committee of such transfer and include the  
23 information required in the application with respect to such  
24 transferee with such notice.

25 (E) Within 60 calendar days of the committee sending notice  
26 of certification, the qualified community development entity or  
27 any transferee, under subparagraph (D), shall issue the qualified  
28 ~~equity investment, investment and~~ receive cash in the amount of  
29 the certified amount, and, if applicable, ~~designate the required~~  
30 ~~amount of qualified equity investment authority as federal qualified~~  
31 ~~equity investments amount.~~ The qualified community development  
32 entity or transferee, under subparagraph (D), must provide the  
33 committee with evidence of the receipt of the cash investment ~~and~~  
34 ~~designation of the qualified equity investment as a federal qualified~~  
35 ~~equity investment~~ within 65 days of the applicant receiving notice  
36 of certification. If the qualified community development entity or  
37 any transferee, under subparagraph (D), does not receive the cash  
38 ~~investment, investment~~ and issue the qualified equity investment  
39 ~~and, if applicable, designate the required amount of qualified equity~~  
40 ~~investment authority as federal qualified equity investments~~ within

1 60 calendar days of the committee sending the certification notice,  
2 the certification shall lapse and the entity may not issue the  
3 qualified equity investment without reapplying to the committee  
4 for certification. ~~Only applicants that state in their applications~~  
5 ~~that the entity has been awarded a federal new markets tax credit~~  
6 ~~shall be required to show evidence, as determined by the~~  
7 ~~committee, that the qualified equity investment authority qualifies~~  
8 ~~as a federal qualified equity investment.~~ Lapsed certifications  
9 revert back to the committee and shall be reissued in the following  
10 order:

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

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

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

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

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

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

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

37 (B) Thereafter, the qualified community development entity  
38 shall submit an annual report to the committee within 60 days of  
39 the beginning of the calendar year during the seven years following  
40 submittal of the report, pursuant to subparagraph (A). No annual

1 report shall be due prior to the first anniversary of the initial credit  
2 allowance date. The report shall include, but is not limited to, the  
3 following:

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

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

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

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

13 (v) ~~Number of real estate projects and type of community~~  
14 ~~development facilities that resulted~~ *owner-occupied real estate*  
15 *projects described in subparagraph (E) of paragraph (6) of*  
16 *subdivision (c).*

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

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

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

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

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

38 (h) This section shall remain in effect only until December 1,  
39 2028, 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 qualified community and economic  
8 development entities that can be leveraged by the entity to attract  
9 private sector investment that in turn will be deployed by providing  
10 financing and technical assistance to ~~small and medium-size~~ *small-*  
11 *and medium-size* businesses and the development of commercial,  
12 ~~industrial~~ *industrial*, and community development projects,  
13 including, but not limited to, facilities for nonprofit service  
14 organizations, light manufacturing, and mixed-use and  
15 transit-oriented development. The California Competes Tax Credit  
16 Committee shall administer this program as provided in this  
17 section, Section 12283, and Section 23622.9.

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

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

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

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

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



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

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

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

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

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

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

19 ~~(4)~~

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

23 ~~(A)~~

24 (i) A subsidiary community development entity of any such  
25 qualified community development entity.

26 ~~(B)~~

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

1 organization is not subject to the requirement of subparagraph  
2 (B).

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

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

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

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

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

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

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

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

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

3 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,  
4 relating to qualified active low-income community businesses which  
5 ~~limits the services of employees to substantially those performed~~  
6 ~~within the business, a substantial portion of the services of which~~  
7 ~~are performed in a low-income community, shall not apply to a~~  
8 ~~qualified community development entity that does not hold a~~  
9 ~~federal new markets tax credit is modified to allow the services of~~  
10 ~~employees of a service-based qualified business to be performed~~  
11 ~~outside the low-income community. A service-based qualified~~  
12 ~~business is a business that primarily earns revenue through~~  
13 ~~providing intangible products and services.~~

14 (D) An entity complies with Section 45D(d)(2)(A)(i) of the  
15 Internal Revenue Code, relating to qualified active low-income  
16 community business, if, as calculated in subparagraph (B), it uses  
17 50 percent of its tangible property, whether owned or leased, within  
18 any low-income community for any taxable year.

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

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

33 (iii) *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 *non-metropolitan area, with a median family income that does not*  
37 *exceed 60 percent of median family income for the State of*  
38 *California, or census tracts, if located within a metropolitan area,*  
39 *with a median family income that does not exceed 60 percent of*  
40 *the greater of the California median family income or the*

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

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

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

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

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

1 (i) The committee shall recapture, from the entity that claimed  
2 the credit on a return, the tax credit allowed under this section if  
3 any of the following:

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

10 (II) The qualified community development entity redeems or  
11 makes principal repayment with respect to a qualified equity  
12 investment prior to the seventh anniversary of the issuance of such  
13 qualified equity investment. In such case the committee's recapture  
14 shall be proportionate to the amount of the redemption or  
15 repayment with respect to such qualified equity investment.

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

1 the qualified low-income community investment shall be  
2 considered held by the qualified community development entity  
3 through the seventh anniversary of the qualified equity investment's  
4 issuance.

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

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

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

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

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

21 ~~(11) Section 45D(h) of the Internal Revenue Code, relating to~~  
22 ~~basis, shall not apply.~~

23 ~~(12)~~

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

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

39 (2) The committee shall establish and impose reasonable fees  
40 upon entities that apply for the allocation pursuant to this

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

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

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

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

17 ~~(C) Provides for the annual return of unused credits by March~~  
18 ~~1 of the year following the year the credits are awarded so that~~  
19 ~~they may be reallocated to other community development entities.~~

20 (4) (A) The committee shall begin accepting applications on  
21 March 15, 2015, and shall award credits at least two times a year  
22 at dates set annually by the committee through 2019, to the extent  
23 that allocations are available pursuant to Section 26011.9 of the  
24 Public Resources Code. *To the extent reasonable and consistent*  
25 *in carrying out the purposes of this section, the committee shall*  
26 *consider how the timing of the state allocation rounds correspond*  
27 *with the allocation schedule of the federal New Markets Tax Credit*  
28 *Program.*

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

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

6 (5) (A) The committee shall award tax credits to ~~applicants~~  
7 ~~with federal new markets tax credits~~ *qualified community*  
8 *development entities described in subparagraph (B) of paragraph*  
9 *(4) 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 (i) In 2015, the committee shall only award tax credits to a  
13 qualified community development entity ~~that also has federal new~~  
14 ~~markets tax credits, that will be used for projects and activities in~~  
15 ~~California~~ *entity, exclusive of an entity described in clause (ii) of*  
16 *subparagraph (A) of paragraph (4) of subdivision (c)*. In the 2016  
17 to 2019 award cycles, inclusive, at least 60 percent of the credit  
18 allocation shall be awarded to a qualified community development  
19 ~~entity with an allocation of federal new markets tax credits~~ *entity,*  
20 *exclusive of an entity described in clause (ii) of subparagraph (A)*  
21 *of paragraph (4) of subdivision (c)*. At the committee's discretion,  
22 a higher percentage of credits may be targeted to applicants ~~with~~  
23 ~~federal new markets tax credits~~ *exclusive of an entity described in*  
24 *clause (ii) of subparagraph (A) of paragraph (4) of subdivision*  
25 *(c)*.

26 (ii) The committee shall award ~~credits up to 40 percent of the~~  
27 ~~credit allocation in the 2016 to 2019, inclusive, award cycles,~~ to  
28 a qualified community development entity ~~without federal new~~  
29 ~~markets tax credits~~ *entity, as described in clause (ii) of*  
30 *subparagraph (A) of paragraph (4) of subdivision (c) and*  
31 *subparagraph (B) of paragraph (4) of subdivision (c)*, on a  
32 competitive basis ~~with priority~~ *using blind scoring and a review*  
33 *committee that is comprised of at least a majority of community*  
34 *development finance practitioners. A member of the review*  
35 *committee shall not have a financial interest, which includes, but*  
36 *is not limited to, asking, consenting, or agreeing to receive any*  
37 *commission, emolument, gratuity, money, property, or thing of*  
38 *value for his or her own use, benefit, or personal advantage for*  
39 *procuring or endeavoring to procure for any person, partnership,*  
40 *joint venture, association, or corporation any tax credit or other*



1 *assistance from any applicant. Priority shall given to rural, urban,*  
2 *and suburban applications that can demonstrate that the credits*  
3 *will allow the entity to undertake qualified low-income community*  
4 *investments in an a rural, suburban, or urban area that has been*  
5 *historically underserved, underserved or in newly established*  
6 *businesses, and real estate development businesses that results in*  
7 *the greatest benefit to the largest number of lower income*  
8 *individuals.*

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

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

23 (D) *An approved applicant may transfer all or a portion of its*  
24 *certified qualified equity investment authority to its controlling*  
25 *entity or any subsidiary qualified community development entity*  
26 *of the controlling entity, provided that the applicant and the*  
27 *transferee notify the committee of such transfer and include the*  
28 *information required in the application with respect to such*  
29 *transferee with such notice.*

30 (E) *Within 60 calendar days of the committee sending notice*  
31 *of certification, the qualified community development entity or*  
32 *any transferee, under subparagraph (D), shall issue the qualified*  
33 *equity investment, investment and receive cash in the amount of*  
34 *the certified amount, and, if applicable, designate the required*  
35 *amount of qualified equity investment authority as federal qualified*  
36 *equity investments amount. The qualified community development*  
37 *entity or transferee, under subparagraph (D), must provide the*  
38 *committee with evidence of the receipt of the cash investment and*  
39 *designation of the qualified equity investment as a federal qualified*  
40 *equity investment within 65 days of the applicant receiving notice*

1 of certification. If the qualified community development entity or  
2 any transferee, under subparagraph (D), does not receive the cash  
3 ~~investment, investment~~ and issue the qualified equity investment  
4 and, if applicable, designate the required amount of qualified equity  
5 investment authority as federal qualified equity investments within  
6 60 calendar days of the committee sending the certification notice,  
7 the certification shall lapse and the entity may not issue the  
8 qualified equity investment without reapplying to the committee  
9 for certification. ~~Only applicants that state in their applications~~  
10 ~~that the entity has been awarded a federal new markets tax credit~~  
11 ~~shall be required to show evidence, as determined by the~~  
12 ~~committee, that the qualified equity investment authority qualifies~~  
13 ~~as a federal qualified equity investment.~~ Lapsed certifications  
14 revert back to the committee and shall be reissued in the following  
15 order:

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

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

21 (F) A qualified community development entity that issues  
22 qualified equity investments must notify the committee of the  
23 names of the entities that are eligible to utilize tax credits under  
24 paragraph (3) of subdivision (b) pursuant to an allocation of tax  
25 credits or change in allocation of tax credits or due to a transfer of  
26 a qualified equity investment.

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

35 (i) A bank statement of such qualified community development  
36 entity evidencing each qualified low-income community  
37 investment.

38 (ii) Evidence that such business was a qualified active  
39 low-income community business at the time of such qualified  
40 low-income community investment.

- 1 (iii) Any other information required by the committee.  
2 (B) Thereafter, the qualified community development entity  
3 shall submit an annual report to the committee within 60 days of  
4 the beginning of the calendar year during the seven years following  
5 submittal of the report, pursuant to subparagraph (A). No annual  
6 report shall be due prior to the first anniversary of the initial credit  
7 allowance date. The report shall include, but is not limited to, the  
8 following:
- 9 (i) The impact the credit had on the low-income community.
  - 10 (ii) The amount of moneys used for qualified low-income  
11 investments in qualified low-income community businesses.
  - 12 (iii) The number of employment positions created and retained  
13 as a result of qualified low-income community investments and  
14 the average annual salary of such positions.
  - 15 (iv) The number of operating businesses assisted as a result of  
16 qualified low-income community investments, by industry and  
17 number of employees.
  - 18 (v) ~~Number of real estate projects and type of community~~  
19 ~~development facilities that resulted~~ *owner-occupied real estate*  
20 *projects described in subparagraph (E) of paragraph (6) of*  
21 *subdivision (c).*
  - 22 (vi) *Location of the qualified low-income community businesses.*
- 23 (e) In the case where the credit allowed by this section exceeds  
24 the “net tax,” the excess may be carried over to reduce the “net  
25 tax” in the following year, and the six succeeding years if  
26 necessary, until the credit is exhausted.
- 27 (f) The committee shall annually report on its Internet Web site  
28 the information provided by low-income community development  
29 entities and on the geographic distribution of the credits.
- 30 (g) (1) The Franchise Tax Board may prescribe any rules or  
31 regulations that may be necessary or appropriate to implement this  
32 section. The Franchise Tax Board shall have access to any  
33 documentation held by the committee relative to the application  
34 and reporting of a qualified community development entity.
- 35 (2) A qualifying community development entity shall provide  
36 the committee with the name, address, and tax identification  
37 number of each investor and entity for which a credit was allocated  
38 by the qualifying community development entity, pursuant to  
39 paragraph (3) of subdivision (b). The committee shall provide this

1 information to the Franchise Tax Board in a manner determined  
2 by the Franchise Tax Board.

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

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

7 18410.2. (a) The California Competes Tax Credit Committee  
8 is hereby established. The committee shall consist of the Treasurer,  
9 the Director of Finance, and the Director of the Governor’s Office  
10 of Business and Economic Development, who shall serve as chair  
11 of the committee, or their designated representatives, and one  
12 appointee each by the Speaker of the Assembly and the Senate  
13 Committee on Rules. A Member of the Legislature shall not be  
14 appointed.

15 (b) For purposes of Sections 12283, 17053.9, 17059.2, 23622.9,  
16 and 23689 the California Competes Tax Credit Committee shall  
17 do all of the following:

18 (1) Approve or reject any written agreement for a tax credit  
19 allocation by resolution at a duly noticed public meeting held in  
20 accordance with the Bagley-Keene Open Meeting Act (Article 9  
21 (commencing with Section 11120) of Chapter 1 of Part 1 of  
22 Division 3 of Title 2 of the Government Code), but only after  
23 receipt of the fully executed written agreement between the  
24 taxpayer and the Governor’s Office of Business and Economic  
25 Development.

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

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

36 23622.9. (a) There is hereby created the California New  
37 Markets Tax Credit Program as provided in this section, Section  
38 12283, and Section 17053.9. The purpose of this program is to  
39 stimulate private sector investment in lower income communities  
40 by providing a tax incentive to qualified community and economic

1 development entities that can be leveraged by the entity to attract  
2 private sector investment that in turn will be deployed by providing  
3 financing and technical assistance to small- and medium-size  
4 businesses and the development of commercial, ~~industrial~~  
5 *industrial*, and community development projects, including, but  
6 not limited to, facilities for nonprofit service organizations, light  
7 manufacturing, and mixed-use and transit-oriented development.  
8 The California Competes Tax Credit Committee shall administer  
9 this program as provided in this section, Section 12283, and Section  
10 17053.9.

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

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

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

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

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

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

36 (2) 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 (3) Section 45D(b)(3) of the Internal Revenue Code, relating  
 8 to safe harbor for determining use of cash, is modified by  
 9 substituting “qualified low-income community investments in  
 10 California” for “qualified low-income community investments.”

11 ~~(4)~~

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

15 ~~(A)~~

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

18 ~~(B)~~

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

34 (B) *Section 45D(c)(1) of the Internal Revenue Code, relating*  
 35 *to a qualified community development entity, is modified to only*  
 36 *include a qualified community development entity that has entered*  
 37 *into an allocation agreement with the Community Development*  
 38 *Financial Institutions Fund of the United States Treasury*  
 39 *Department, with respect to credits authorized by Section 45D of*

1 *the Internal Revenue Code, that includes California within the*  
2 *service area and is dated on or after January 1, 2012.*

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

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

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

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

17 (i) Substituting “any low-income community in California” for  
18 “any low-income community.”

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

29 (iii) Adding the provision that if the business meets the  
30 requirements of a qualified low-income community business at  
31 the time the investment is made, the business shall continue to  
32 satisfy the requirements of Section 45D(d)(2)(A)(ii) for the duration  
33 of the investment.

34 (C) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code,  
35 relating to qualified active low-income community ~~businesses~~  
36 ~~which limits the services of employees to substantially those~~  
37 ~~performed within the business, a substantial portion of the services~~  
38 ~~of which are performed in a low-income community, shall not~~  
39 ~~apply to a qualified community development entity that does not~~  
40 ~~hold a federal new markets tax credit is modified to allow the~~

1 *services of employees of a service-based qualified business to be*  
2 *performed outside the low-income community. A service-based*  
3 *qualified business is a business that primarily earns revenue*  
4 *through providing intangible products and services.*

5 (D) An entity complies with Section 45D(d)(2)(A)(i) of the  
6 Internal Revenue Code, relating to qualified active low-income  
7 community business, if, as calculated in subparagraph (B), it uses  
8 50 percent of its tangible property, whether owned or leased, within  
9 any low-income community for any taxable year.

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

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

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

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



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

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

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

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

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

1 (II) The qualified community development entity redeems or  
2 makes principal repayment with respect to a qualified equity  
3 investment prior to the seventh anniversary of the issuance of such  
4 qualified equity investment. In such case the committee’s recapture  
5 shall be proportionate to the amount of the redemption or  
6 repayment with respect to such qualified equity investment.

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

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

39 (I) First, pro rata to applicants whose qualified equity investment  
40 allocations were reduced pursuant to subparagraph (B) of paragraph

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

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

4 (iii) Enforcement of each of the recapture provisions shall be  
5 subject to a six month cure period. No recapture shall occur until  
6 the qualified community development entity shall have been given  
7 notice of noncompliance and afforded six months from the date  
8 of such notice to cure the noncompliance.

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

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

13 ~~(12)~~

14 (11) If a qualified community development entity makes a  
15 capital or equity investment or a loan with respect to a qualified  
16 low-income building under the state Low-Income Tax Credit  
17 Program, the investment or loan is not a qualified low-income  
18 community investment under this section.

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

29 (2) The committee shall establish and impose reasonable fees  
30 upon entities that apply for the allocation pursuant to this  
31 subdivision and use the revenue to defray the cost of administering  
32 the program. The committee shall establish the fees in a manner  
33 that ensures that (A) the total amount collected equals the amount  
34 reasonably necessary to defray the committee's costs in performing  
35 its administrative duties under this section, and (B) the amount  
36 paid by each entity reasonably corresponds with the value of the  
37 services provided to the entity.

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

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

4 (B) Sets minimum organizational capacity standards that  
5 applicants must meet in order to receive an allocation of credits  
6 including, but not limited to, its business strategy, community  
7 outcomes, capitalization strategy, and management capacity.

8 ~~(C) Provides for the annual return of unused credits by March~~  
9 ~~1 of the year following the year the credits are awarded so that~~  
10 ~~they may be reallocated to other community development entities.~~

11 (4) (A) The committee shall begin accepting applications on  
12 March 15, 2015, and shall award credits at least two times a year  
13 at dates set annually by the committee through 2019, to the extent  
14 that allocations are available pursuant to Section 26011.9 of the  
15 Public Resources Code. *To the extent reasonable and consistent*  
16 *in carrying out the purposes of this section, the committee shall*  
17 *consider how the timing of the state allocation rounds correspond*  
18 *with the allocation schedule of the federal New Markets Tax Credit*  
19 *Program.*

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

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

36 (5) (A) The committee shall award tax credits to ~~applicants~~  
37 ~~with federal new markets tax credits~~ *qualified community*  
38 *development entities described in subparagraph (B) of paragraph*  
39 *(4) of subdivision (c)* in the order applications are received by the

1 committee. Applications received on the same day shall be deemed  
2 to have been received simultaneously.

3 (i) In 2015, the committee shall only award tax credits to a  
4 qualified community development entity ~~that also has federal new~~  
5 ~~markets tax credits, that will be used for projects and activities in~~  
6 ~~California~~ entity, *exclusive of an entity described in clause (ii) of*  
7 *subparagraph (A) of paragraph (4) of subdivision (c).* In the 2016  
8 to 2019 award cycles, inclusive, at least 60 percent of the credit  
9 allocation shall be awarded to a qualified community development  
10 entity ~~with an allocation of federal new markets tax credits~~ entity,  
11 *exclusive of an entity described in clause (ii) of subparagraph (A)*  
12 *of paragraph (4) of subdivision (c).* At the committee's discretion,  
13 a higher percentage of credits may be targeted to applicants ~~with~~  
14 ~~federal new markets tax credits~~ *exclusive of an entity described in*  
15 *clause (ii) of subparagraph (A) of paragraph (4) of subdivision*  
16 *(c).*

17 (ii) The committee shall ~~award credits to up to 40 percent of~~  
18 ~~the credit allocation in the 2016 to 2019 award cycles, inclusive,~~  
19 ~~to a qualified community development entity without federal new~~  
20 ~~markets tax credits~~ entity, *as described in clause (ii) of*  
21 *subparagraph (A) of paragraph (4) of subdivision (c) and*  
22 *subparagraph (B) of paragraph (4) of subdivision (c), on a*  
23 *competitive basis with priority using blind scoring and a review*  
24 *committee that is comprised of at least a majority of community*  
25 *development finance practitioners. A member of the review*  
26 *committee shall not have a financial interest, which includes, but*  
27 *is not limited to, asking, consenting, or agreeing to receive any*  
28 *commission, emolument, gratuity, money, property, or thing of*  
29 *value for his or her own use, benefit, or personal advantage for*  
30 *procuring or endeavoring to procure for any person, partnership,*  
31 *joint venture, association, or corporation any tax credit or other*  
32 *assistance from any applicant. Priority shall given to rural, urban,*  
33 ~~and suburban~~ applications that can demonstrate that the credits  
34 will allow the entity to undertake qualified low-income community  
35 investments ~~in an a rural, suburban, or urban area that has been~~  
36 ~~historically underserved, underserved or in newly established~~  
37 ~~businesses, and real estate development businesses~~ that results in  
38 the greatest benefit to the largest number of lower income  
39 individuals.

1 (B) ~~In~~ For applications described in clause (i) of subparagraph  
 2 (A), in the event tax credit requests exceed the applicable annual  
 3 allocation limitation of up to forty million dollars (\$40,000,000)  
 4 in paragraph (8) of subdivision (c), the committee shall certify,  
 5 consistent with remaining qualified equity investment capacity,  
 6 qualified equity investments of applicants in proportionate  
 7 percentages based upon the ratio of the amount of qualified equity  
 8 investments requested in such applications to the total amount of  
 9 qualified equity investments requested in all such applications  
 10 received on the same day.

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

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

22 (E) Within 60 calendar days of the committee sending notice  
 23 of certification, the qualified community development entity or  
 24 any transferee, under subparagraph (D), shall issue the qualified  
 25 equity investment, investment and receive cash in the amount of  
 26 the certified amount, and, if applicable, designate the required  
 27 amount of qualified equity investment authority as federal qualified  
 28 equity investments amount. The qualified community development  
 29 entity or transferee, under subparagraph (D), must provide the  
 30 committee with evidence of the receipt of the cash investment and  
 31 designation of the qualified equity investment as a federal qualified  
 32 equity investment within 65 days of the applicant receiving notice  
 33 of certification. If the qualified community development entity or  
 34 any transferee, under subparagraph (D), does not receive the cash  
 35 investment, investment and issue the qualified equity investment  
 36 and, if applicable, designate the required amount of qualified equity  
 37 investment authority as federal qualified equity investments within  
 38 60 calendar days of the committee sending the certification notice,  
 39 the certification shall lapse and the entity may not issue the  
 40 qualified equity investment without reapplying to the committee

1 for certification. ~~Only applicants that state in their applications~~  
2 ~~that the entity has been awarded a federal new markets tax credit~~  
3 ~~shall be required to show evidence, as determined by the~~  
4 ~~committee, that the qualified equity investment authority qualifies~~  
5 ~~as a federal qualified equity investment.~~ Lapsed certifications  
6 revert back to the committee and shall be reissued in the following  
7 order:

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

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

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

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

27 (i) A bank statement of such qualified community development  
28 entity evidencing each qualified low-income community  
29 investment.

30 (ii) Evidence that such business was a qualified active  
31 low-income community business at the time of such qualified  
32 low-income community investment.

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

34 (B) Thereafter, the qualified community development entity  
35 shall submit an annual report to the committee within 60 days of  
36 the beginning of the calendar year during the seven years following  
37 submittal of the report, pursuant to subparagraph (A). No annual  
38 report shall be due prior to the first anniversary of the initial credit  
39 allowance date. The report shall include, but is not limited to, the  
40 following:

- 1 (i) The impact the credit had on the low-income community.
- 2 (ii) The amount of moneys used for qualified low-income
- 3 investments in qualified low-income community businesses.
- 4 (iii) The number of employment positions created and retained
- 5 as a result of qualified low-income community investments and
- 6 the average annual salary of such positions.
- 7 (iv) The number of operating businesses assisted as a result of
- 8 qualified low-income community investments, by industry and
- 9 number of employees.
- 10 (v) ~~Number of real estate projects and type of community~~
- 11 ~~development facilities that resulted~~ *owner-occupied real estate*
- 12 *projects described in subparagraph (E) of paragraph (6) of*
- 13 *subdivision (c).*
- 14 (vi) *Location of the qualified low-income community businesses.*
- 15 (e) In the case where the credit allowed by this section exceeds
- 16 the “tax,” the excess may be carried over to reduce the “tax” in
- 17 the following year, and the six succeeding years if necessary, until
- 18 the credit is exhausted.
- 19 (f) The committee shall annually report on its Internet Web site
- 20 the information provided by low-income community development
- 21 entities and on the geographic distribution of the credits.
- 22 (g) (1) The Franchise Tax Board may prescribe any rules or
- 23 regulations that may be necessary or appropriate to implement this
- 24 section. The Franchise Tax Board shall have access to any
- 25 documentation held by the committee relative to the application
- 26 and reporting of a qualified community development entity.
- 27 (2) A qualifying community development entity shall provide
- 28 the committee with the name, address, and tax identification
- 29 number of each investor and entity for which a credit was allocated
- 30 by the qualifying community development entity, pursuant to
- 31 paragraph (3) of subdivision (b). The committee shall provide this
- 32 information to the Franchise Tax Board in a manner determined
- 33 by the Franchise Tax Board.
- 34 (h) This section shall remain in effect only until December 1,
- 35 2028, and as of that date is repealed.
- 36 SEC. 7. This act provides for a tax levy within the meaning of
- 37 Article IV of the Constitution and shall go into immediate effect.

O