

File No. 230713

Committee Item No. _____

Board Item No. 54

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: June 13, 2023

Cmte Board

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OTHER

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Prepared by: Lisa Lew

Date: June 9, 2023

Prepared by: _____

Date: _____

1 [Supporting California Assembly Bill No. 346 (Quirk-Silva): Income Tax Credits: Low-Income
2 Housing: California Debt Limit Allocation Committee Rulemaking]

3 **Resolution supporting the passage of California State Assembly Bill No. 346, authored**
4 **by Assemblymember Sharon Quirk-Silva, which would make various amendments to**
5 **the Low-Income Housing Tax Credits program and the California Debt Limit Allocation**
6 **Committee rulemaking.**

7
8 WHEREAS, In San Francisco and throughout California, affordable rental housing is
9 financed with Federal Low-Income Housing Tax Credits (LIHTC), which enables affordable
10 housing developers to raise financing through the distribution of tax benefits to investors; and

11 WHEREAS, Developers can sell those tax credits to private investors looking to reduce
12 their federal tax liability to generate additional capital, which can then be invested into
13 affordable housing projects; and

14 WHEREAS, Federal tax credits come in two forms, at 4% and at 9% tax credits, where
15 9% credits have a limited availability and are generally used for new construction and 4%
16 credits are used for rehabilitation or new construction; and

17 WHEREAS, The California Tax Credit Allocation Committee (TCAC) awards tax credits
18 to qualified developers; and

19 WHEREAS, The California Debt Limit Allocation Committee (CDLAC) administers and
20 awards allocation of the State's tax-exempt Private Activity Bonds ("PAB"), a critical vehicle to
21 finance the new construction or acquisition and rehabilitation of multifamily affordable housing;
22 and

23 WHEREAS, In 1987, the California State Legislature created a State LIHTC program to
24 increase the capacity of the federal tax credit program for projects that are already are
25 receiving 4% in federal tax credits; and

1 WHEREAS, In 2019, The California State Legislature signed into law a housing trailer
2 bill, Assembly Bill No. 101, which provided an additional \$500 million in enhanced LIHTCs to
3 encourage developers to seek out the 4% tax credits at a time when developers were not
4 utilizing them; and

5 WHEREAS, Since 2019, there has been a significant uptick in developers applying for
6 tax -exempt bonds, causing the available Private Activity Bonds to be over prescribed; and

7 WHEREAS, A 2022 Demand Survey found that the demand for Private Activity Bonds
8 was 3 times more than available volume cap, and as a result, no affordable housing projects
9 in San Francisco received these bond allocations; and

10 WHEREAS, When the 4% bond volume cap is met, developers are not able to access
11 the \$500 million made available in supplemental funding, Assembly Bill 346 would allow the
12 state to transfer the remaining \$500 million in enhanced LIHTC funds to projects receiving 9%
13 credits so that developers can still access this money; and

14 WHEREAS, Assembly Bill 346 would allow CDLAC to streamline the process to make
15 amendments to the regulatory process to better meets the needs of the projects applying for
16 LHITCs, by eliminating the requirement that any new regulation must go through the
17 Administrative Procedures Act (APA) process; and

18 WHEREAS, Increasing eligibility of the state's LIHTC funds would reduce overall
19 competition for Private Activity Bonds and increase the likelihood that San Francisco receives
20 affordable housing funding; and

21 WHEREAS, Ahead of CDLAC's April 27, 2022 meeting, the Mayor's Office of Housing
22 and Community Development (MOHCD) submitted a number of comments on proposed
23 regulations that threaten San Francisco's efforts to build and preserve affordable housing;
24 and
25

1 WHEREAS, As written in MOHCD's analysis at State Legislation Committee on
2 Thursday, May 18, 2023, there was \$260 million in CDLAC funds allocated six projects in San
3 Francisco in 2022, representing 575 units, and without this funding, these projects would not
4 have been feasible, and streamlining the application process and increasing the availability of
5 LIHTC would reduce the timelines for affordable housing projects to break ground; and

6 WHEREAS, In 2021, Supervisor Shaman Walton authored a resolution entitled "Urging
7 Tax-Exempt Bonds Regulation Changes" which is on file with Clerk of the Board of
8 Supervisors in File No. 210886, which is hereby declared to be a part of this Resolution as if
9 set forth fully herein; and

10 WHEREAS, This resolution urged State Treasurer Fiona Ma and the California Debt
11 Limit Allocation Committee to amend the adopted CDLAC regulation to address the regional
12 inequities of the allocation system resulting in no awards to San Francisco; and

13 WHEREAS, State Assemblymember Sharon Quirk-Silva introduced Assembly Bill No.
14 346 which would allow the CTCAC to reallocate some of the \$500 million in enhanced state
15 low-income housing tax credits made available from 4% federal credit projects to 9% federal
16 credit projects; and

17 WHEREAS, Expanding the eligible use of the States LIHTC that also receive federal
18 9% credits, there could be reduced competition for private-activity tax-exempt bonds, which
19 would bring more State funding for affordable housing projects in San Francisco; now,
20 therefore be it,

21 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
22 supports Assembly Bill No. 346 that would make various amendments to the low-income
23 housing tax credits program and the California Debt Limit Allocation Committee rulemaking;
24 and, be it
25

1 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
2 Francisco hereby directs the Clerk of the Board of Supervisors to transmit a copy of this
3 Resolution to State Senator Scott Wiener, State Assemblymember Matt Haney, State
4 Assemblymember Phil Ting, the California State Senate Housing Committee, Governor Gavin
5 Newsom, Treasurer Fiona Ma, the California Debt Limit Allocation Committee, the California
6 Tax Credit Committee and the bill's primary sponsor, State Assemblymember Sharon Quirk-
7 Silva.



AB-346 Income tax credits: low-income housing: California Debt Limit Allocation Committee rulemaking

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Date Published: 01/31/2023 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 346
Introduced by Assembly Member Quirk-Silva
January 31, 2023

An act to amend Section 8869.94 of the Government Code, and to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as introduced, Quirk-Silva. Income tax credits: low-income housing: California Debt Limit Allocation Committee rulemaking.

Existing federal law prescribes a volume ceiling on the aggregate amount of private activity bonds that may be issued in a state. Existing law creates the California Debt Limit Allocation Committee (CDLAC) for the purpose of administering the volume limit for the state on private activity bonds through an allocation system. Existing law authorizes CDLAC to adopt, amend, or repeal rules and regulations as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act.

This bill, instead, would authorize CDLAC to adopt, amend, or repeal rules and regulations without complying with the procedural requirements of the Administrative Procedures Act, except as specified. The bill would make rules and regulations adopted, amended, or repealed by CDLAC effective immediately upon adoption.

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee (CTCAC) provides procedures and requirements for the allocation, in modified conformity with federal law, of state insurance, personal income, and corporation tax credit amounts to qualified low-income housing projects that have been allocated, or qualify for, a federal low-income housing tax credit, and farmworker housing. Existing law limits the total annual amount of the state low-income housing credit for which a federal low-income housing credit is required to the sum of \$70,000,000, as increased by any percentage increase in the Consumer Price Index for the preceding calendar year, any unused credit for the preceding calendar years, and the amount of housing credit ceiling returned in the calendar year.

Existing law provides for an additional allocation of \$500,000,000 in low-income housing tax credits for the 2020 calendar year and up to \$500,000,000 for the 2021 calendar year and thereafter. Existing law provides that the additional amount for the 2021 calendar year and thereafter is available only if the Budget Act or related legislation specifies an amount available for allocation. Existing law authorizes CTCAC to allocate up to \$200,000,000 of this amount for housing financed by the California Housing Finance Agency (CalHFA) under its Mixed-Income Program. Existing law makes a housing sponsor receiving a nonfederally subsidized allocation ineligible for receipt of this increased housing credit allocation.

This bill would, for any calendar year in which CDLAC has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, authorize CTCAC to allocate some or all of the additional credit amount, other than credits allocated for housing financed by CalHFA under these provisions, to nonfederally subsidized buildings and require CTCAC to allocate the remainder for new buildings, as defined by specified federal law, that are federally subsidized and can begin

construction within a reasonable time as determined by the California Tax Credit Allocation Committee. For any calendar year in which CDLAC has not declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, the bill would require a project receiving an award of credits from the additional credit allocation to begin construction within a reasonable time as determined by the California Tax Credit Allocation Committee. The bill would, if there are credits still available after the final allocation round in a calendar year, allow the CTCAC to allocate some or all of the remaining credits for nonfederally subsidized buildings, as specified.

For purposes of determining the amount of low-income housing tax credit allocated under the above-described provisions, existing law defines various terms, including the term "applicable percentage." In the case of any qualified low-income building that receives an allocation of the \$70,000,000 credit amount available under existing law and meets specified additional criteria, existing law defines "applicable percentage" to mean 30% for each of the first 3 years and 5% for the 4th year.

This bill would revise the above-described definition of "applicable percentage" to delete the limitation that the qualified low-income building receive an allocation of the \$70,000,000 credit amount available under existing law, thereby applying this definition to any qualified low-income building that meets the above-described criteria.

Existing law authorizes a taxpayer to elect in its application to CTCAC to sell all or any portion of the low-income housing tax credit to one or more unrelated parties for each taxable year in which the credit is allowed, as specified.

This bill would make a taxpayer who has purchased a credit eligible to claim the credit commencing in the year the building is placed in service and the federal credit period commences notwithstanding that CTCAC has not certified the amount of the tax credit. The bill would prohibit the taxpayer from claiming an amount of credit that exceeds the lesser of 9% of the qualified basis of the building set forth in the preliminary reservation or the amount of credit for which the project is eligible as certified in the "taxpayer certification," which the bill would define for these purposes as the certification by the certified public accountant of the taxpayer who originally received the preliminary reservation of credits. The bill would authorize CTCAC to elect to rely upon the taxpayer certification for the purposes of making its required certification, and to review the taxpayer certification and other information provided by the taxpayer who originally received the preliminary reservation of credits, as specified. In the event CTCAC issues a certification that is inconsistent with the taxpayer certification, the bill would require the taxpayer to amend any previously filed tax returns as needed to reflect the credit amount certified by CTCAC.

This bill would make technical and conforming changes to the low-income housing tax credit program.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8869.94 of the Government Code is amended to read:

8869.94. (a) The committee may adopt, amend, or repeal rules and regulations pursuant to this chapter ~~as emergency regulations in accordance with the rulemaking provisions~~ *without complying with the procedural requirements* of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title ~~2~~ 2), *except as described in subdivision (b).*

(b) The committee shall provide a notice of proposed action as described in Section 11346.5. The notice of proposed action shall be provided to the public at least 21 days before the close of the public comment period, and the committee shall schedule at least one public hearing as described in Section 11346.8 before the close of the public comment period. The committee shall maintain a rulemaking file as described in Section 11347.3. The final version of the regulations shall be accompanied by a final statement of reasons as described in subdivision (a) of Section 11346.9.

(c) These rules and regulations shall be effective immediately upon adoption by the committee.

~~The~~

(d) The committee may also adopt, amend, or repeal emergency rules and regulations pursuant to this chapter. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1.

SEC. 2. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax," described by Section 12201, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) (i) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(ii) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (6) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that is a new building and is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) In the case of any qualified low-income building that ~~receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that~~ meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph ~~(3)~~ (2).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514 or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(5) For purposes of this section, the term "at risk of conversion," with respect to an existing ~~property~~ property, means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715I(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs under Sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (Public Law 81-171), as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit, this section, and Sections 17058 and 23610.5.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(viii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q), as amended.

(ix) Section 142(d) of the Internal Revenue Code or its predecessors.

(x) Section 147 of the Internal Revenue Code, as enacted by the Tax Reform Act of 1986 (Public Law 99-514), or as subsequently amended, including as amended by the Tax Cuts and Jobs Act of 2017 (Public Law 115-97) and all amendments enacted prior to the Tax Cuts and Jobs Act of 2017 (Public Law 115-97).

(xi) Title I of the Housing and Community Development Act of 1974, as amended.

(xii) Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.

(xiii) Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987, as amended, including the Department of Housing and Urban Development's Supportive Housing Program, Shelter Plus Care Program, and surplus federal property disposition program.

(xiv) The following assistance provided by counties and cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement with a county or city:

(I) Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(II) Local housing trust funds, as referred to in paragraph (3) of subdivision (a) of Section 50843 of the Health and Safety Code.

(III) The sale or lease of public property at or below market rates.

(IV) The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(B) As used in subparagraph (A), "government assistance" shall not include the use of tenant-based housing choice vouchers under subsection (o) of Section 1437f of Title 42 of the United States Code, excluding paragraph (13), relating to project-based assistance. Restrictions shall not include any rent control or rent stabilization ordinance imposed by a county or city.

(C) If the development is subject to restrictions on rent and income levels, 50 percent of the units are also restricted to initial occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(D) The restrictions on rent and income levels, excluding any restrictions recorded pursuant to paragraph (2) of subdivision (e) of Section 65863.11 or Section 65863.13 of the Government Code or in connection with interim or acquisition financing, will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(E) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of Section 42 of the Internal Revenue Code and any further requirements added by the California Tax Credit Allocation Committee to implement the low-income housing tax credit established by Section 42 of the Internal Revenue Code (26 U.S.C. Sec. 42), this section, and Sections 17058 and 23610.5 pursuant to Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code.

(F) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(6) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

- (i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.
- (ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

- (1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."
- (2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.
- (3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

- (1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

- (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

- (1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, after the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee have adopted regulations, rules, or guidelines to align the programs of both committees with the objective of increasing production and containing costs as described in clause (iii). The California Tax Credit Allocation Committee shall accept applications for the 2021 calendar year not sooner than 30 days after these regulations, rules, or guidelines have been adopted. The California Debt Limit Allocation Committee shall not accept applications for the 2021 calendar year for

bond allocations for an eligible project under this section prior to issuing, reviewing, and publishing a new tax-exempt private activity bond demand survey. ~~➤~~ *Except as provided in clause (vi), a* housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized. Eligible projects for allocations under this subparagraph also include any retrofitting and repurposing of existing nonresidential structures, including, but not limited to, hotels and motels, that were converted to residential use within the previous five years from the date of the application.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) (I) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee shall develop and prescribe regulations, rules, or guidelines necessary to implement a new allocation methodology that is aimed at increasing production and containing costs, which would include a scoring system that maximizes the efficient use of public subsidy and benefit created through the private activity bond and low-income housing tax credit programs. The factors for determining the efficient use of public subsidy and benefit shall include, but not be limited to, all of the following:

(ia) The number and size of units developed including local incentives provided to increase density.

(ib) The proximity to amenities, jobs, and public transportation.

(ic) The location of the development.

(id) The delivery of housing affordable to very low and extremely low income households by the development.

(II) The efficient use of public subsidy and benefit criteria specified in this clause shall take into account the total state subsidy provided and prioritize cost containment and increased unit production. These regulations, rules, or guidelines developed pursuant to this subparagraph shall also consider updated definitions for at-risk preservation and new construction.

(III) For bond allocations for the 2021 calendar year to projects eligible for an allocation under this subparagraph, the California Debt Limit Allocation Committee may adopt emergency regulations.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(v) (I) For the calendar years of 2024 to 2034, inclusive, of the amount available pursuant to this subparagraph, the lesser of 5 percent of that amount or twenty-five million dollars (\$25,000,000) per calendar year shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, and administered consistent with the credits available pursuant to paragraph (4).

(II) Any credits pursuant to this clause that remain unallocated following the conclusion of a funding round shall roll over to consecutive subsequent funding rounds in that calendar year with the exception that any credits that remain unallocated prior to the final funding round in that calendar year shall be added back to the aggregate amount of credits that may be allocated pursuant to this subparagraph.

(III) For the 2035 calendar year, and every year thereafter, of the amount available pursuant to this subparagraph, a portion of the amount allocated shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code. The amount set aside shall be determined by the Legislature upon consideration of the comprehensive strategy, or most recent update thereof, provided by the Department of Housing and Community Development pursuant to subdivision (c) of Section 50408.5 of the Health and Safety Code.

(vi) (I) For any calendar year in which the California Debt Limit Allocation Committee has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, the California Tax Credit Allocation Committee may allocate some or all of the credits allocated under this subparagraph, except for any credits allocated for housing financed by the California Housing Finance Agency under its Mixed-Income Program, for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing

credit, and shall allocate the remainder of these credits for new buildings, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new buildings, that are federally subsidized and that can begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(II) For any calendar year in which the California Debt Limit Allocation Committee has not declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, projects receiving an award of credits pursuant to this subparagraph shall begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(III) Notwithstanding subclauses (I) and (II), if credits available under this subparagraph remain unallocated after the final California Debt Limit Allocation Committee round for qualified residential rental projects in a given calendar year, the California Tax Credit Allocation Committee may allocate some or all of the remaining credits for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, provided that the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (5) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(D) Subparagraphs (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) (1) (A) (i) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(ii) (I) A taxpayer who has purchased a credit pursuant to this subdivision shall be eligible to claim any such credit commencing in the taxable year the building is placed in service and the federal credit period commences, notwithstanding that the certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) has not been issued by the California Tax Credit Allocation Committee, provided that the taxpayer that originally received the credit has filed a taxpayer certification with the California Tax Credit Allocation Committee and delivered a copy to the purchasing taxpayer. The Franchise Tax Board may, but shall not be required to, require submission of the taxpayer certification concurrently with the submission of the purchasing taxpayer's tax return in the first year the purchasing taxpayer claims the credit. The amount of credit claimed by the taxpayer shall not exceed the lesser of either of the following:

(ia) The applicable percentages for each of the four credit years, as specified in subdivision (c), multiplied by the qualified basis of the building set forth in the preliminary reservation.

(ib) The amount of credit the project is eligible for as stated in the taxpayer certification.

(II) The California Tax Credit Allocation Committee may elect to rely upon the taxpayer certification for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(III) The California Tax Credit Allocation Committee may, but is not required to, review the Taxpayer Certification and other information provided by the taxpayer who originally received the preliminary reservation of credits to confirm both of the following:

(ia) The calculations set forth in the Taxpayer Certification.

(ib) The amount of credits allocated to the project is consistent with applicable California Tax Credit Allocation Committee rules and regulations for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(IV) If the California Tax Credit Allocation Committee issues a certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) that is inconsistent with the taxpayer certification upon which a credit has been claimed, the taxpayer shall amend any previously filed tax returns to reflect the credit amount certified by the California Tax Credit Allocation Committee pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(V) For purposes of this clause, "taxpayer certification" means a certified statement from the certified public accountant of the taxpayer that originally received the preliminary reservation of credits. The taxpayer certification shall contain the amount of the credit the project is eligible for, the taxable year the building is placed in service, and the taxable year in which the federal credit period for the building has commenced.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(p) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

SEC. 3. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the "net tax," defined in Section 17039, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (7) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that is a new building that is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(4) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(5) In the case of any qualified low-income building that ~~receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that~~ meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514 or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(6) For purposes of this section, the term "at risk of conversion," with respect to an existing ~~property~~ *property*, means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715I(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs under Sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (Public Law 81-171), as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit, this section, and Sections 12206 and 23610.5.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(viii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q), as amended.

(ix) Section 142(d) of the Internal Revenue Code or its predecessors.

(x) Section 147 of the Internal Revenue Code, as enacted by the Tax Reform Act of 1986 (Public Law 99-514), or as subsequently amended, including as amended by the Tax Cuts and Jobs Act of 2017 (Public Law 115-97) and all amendments enacted prior to the Tax Cuts and Jobs Act of 2017 (Public Law 115-97).

(xi) Title I of the Housing and Community Development Act of 1974, as amended.

(xii) Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.

(xiii) Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987, as amended, including the Department of Housing and Urban Development's Supportive Housing Program, Shelter Plus Care Program, and surplus federal property disposition program.

(xiv) The following assistance provided by counties and cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement with a county or city:

(I) Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(II) Local housing trust funds, as referred to in Section 50843 of the Health and Safety Code.

(III) The sale or lease of public property at or below market rates.

(IV) The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(B) As used in subparagraph (A), "government assistance" shall not include the use of tenant-based housing choice vouchers under subsection (o) of Section 1437f of Title 42 of the United States Code, excluding subparagraph (13) relating

to project-based assistance. Restrictions shall not include any rent control or rent stabilization ordinance imposed by a county or city.

(C) If the development is subject to restrictions on rent and income levels, 50 percent of the units are also restricted to initial occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(D) The restrictions on rent and income levels, excluding any restrictions recorded pursuant to paragraph (2) of subdivision (e) of Section 65863.11 or Section 65863.13 of the Government Code or in connection with interim or acquisition financing, will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(E) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of Section 42 of the Internal Revenue Code and any further requirements added by the California Tax Credit Allocation Committee to implement the low-income housing tax credit established by Section 42 of the Internal Revenue Code (26 U.S.C. Sec. 42), this section, and Sections 12206 and 23610.5 pursuant to Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code.

(F) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(7) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first 5 years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rules for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

- (1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

- (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

- (1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, and after the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee have adopted regulations, rules, or guidelines to align the programs of both committees with the objective of increasing production and containing costs as described in clause (iii). The California Tax Credit Allocation Committee shall accept applications for the 2021 calendar year not sooner than 30 days after these regulations, rules, or guidelines have been adopted. The California Debt Limit Allocation Committee shall not accept applications for the 2021 calendar year for bond allocations for an eligible project under this section prior to issuing, reviewing, and publishing a new tax-exempt private activity bond demand survey. ~~Except as provided in clause (vi), a~~ housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized. Eligible projects for allocations under this subparagraph also include any retrofitting and repurposing of existing nonresidential structures, including, but not limited to, hotels and motels, that were converted to residential use within the previous five years from the date of the application.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) (I) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee shall develop and prescribe regulations, rules, or guidelines necessary to implement a new allocation methodology that is aimed at increasing production and containing costs, which would include a scoring system that maximizes the efficient use of public subsidy and benefit created through the private activity bond and low-income housing tax credit programs. The factors for determining the efficient use of public subsidy and benefit shall include, but not be limited to, all of the following:

- (ia) The number and size of units developed including local incentives provided to increase density.
- (ib) The proximity to amenities, jobs, and public transportation.
- (ic) The location of the development.
- (id) The delivery of housing affordable to very low and extremely low income households by the development.

(II) The efficient use of public subsidy and benefit criteria specified in this clause shall take into account the total state subsidy provided and prioritize cost containment and increased unit production. These regulations, rules, or guidelines developed pursuant to this subparagraph shall also consider updated definitions for at-risk preservation and new construction.

(III) For bond allocations for the 2021 calendar year to projects eligible for an allocation under this subparagraph, the California Debt Limit Allocation Committee may adopt emergency regulations.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(v) (I) For the calendar years of 2024 to 2034, inclusive, of the amount available pursuant to this subparagraph, the lesser of 5 percent of that amount or twenty-five million dollars (\$25,000,000) per calendar year shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, and administered consistent with the credits available pursuant to paragraph (4).

(II) Any credits pursuant to this clause that remain unallocated following the conclusion of a funding round shall roll over to consecutive subsequent funding rounds in that calendar year with the exception that any credits that remain unallocated prior to the final funding round in that calendar year shall be added back to the aggregate amount of credits that may be allocated pursuant to this subparagraph.

(III) For the 2035 calendar year, and every year thereafter, of the amount available pursuant to this subparagraph, a portion of the amount allocated shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code. The amount set aside shall be determined by the Legislature upon consideration of the comprehensive strategy, or most recent update thereof, provided by the Department of Housing and Community Development pursuant to subdivision (c) of Section 50408.5 of the Health and Safety Code.

(vi) (I) For any calendar year in which the California Debt Limit Allocation Committee has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, the California Tax Credit Allocation Committee may allocate some or all of the credits allocated under this subparagraph, except for any credits allocated for housing financed by the California Housing Finance Agency under its Mixed-Income Program, for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing credit, and shall allocate the remainder of these credits for new buildings, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new buildings, that are federally subsidized and that can begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(II) For any calendar year in which the California Debt Limit Allocation Committee has not declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, projects receiving an award of credits pursuant to this subparagraph shall begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(III) Notwithstanding subclauses (I) and (II), if credits available under this subparagraph remain unallocated after the final California Debt Limit Allocation Committee round for qualified residential rental projects in a given calendar year, the California Tax Credit Allocation Committee may allocate some or all of the remaining credits for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of

any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

- (1) A term not less than the compliance period.
 - (2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.
 - (3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.
 - (4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.
 - (5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.
 - (6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.
 - (7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.
 - (8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.
- (j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.
- (2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.
- (3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:
- (A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:
- (i) The housing sponsor shall demonstrate that there is a need and demand for low-income housing in the community or region for which it is proposed.
 - (ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.
 - (iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.
 - (iv) The housing sponsor shall have and maintain control of the site for the project.
 - (v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.
 - (vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.
 - (vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required

equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

- (i) The project serves the lowest income tenants at rents affordable to those tenants.
- (ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

- (i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.
- (ii) Projects providing single-room occupancy units serving very low income tenants.
- (iii) Existing projects that are "at risk of conversion," as defined by paragraph (6) of subdivision (c).
- (iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.
- (v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(D) Subparagraphs (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

- (1) The project was not placed in service prior to 1990.
- (2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.
- (3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) (A) *(i)* For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(ii) (I) A taxpayer who has purchased a credit pursuant to this subdivision shall be eligible to claim any such credit commencing in the taxable year the building is placed in service and the federal credit period commences, notwithstanding that the certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) has not been issued by the California Tax Credit Allocation Committee, provided that the taxpayer that originally received the credit has filed a taxpayer certification with the California Tax Credit Allocation Committee and delivered a copy to the purchasing taxpayer. The Franchise Tax Board may, but shall not be required to, require submission of the taxpayer certification concurrently with the submission of the purchasing taxpayer's tax return in the first year the purchasing taxpayer claims the credit. The amount of credit claimed by the taxpayer shall not exceed the lesser of either of the following:

(ia) The applicable percentages for each of the four credit years, as specified in subdivision (c), multiplied by the qualified basis of the building set forth in the preliminary reservation.

(ib) The amount of credit the project is eligible for as stated in the taxpayer certification.

(II) The California Tax Credit Allocation Committee may elect to rely upon the taxpayer certification for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(III) The California Tax Credit Allocation Committee may, but is not required to, review the Taxpayer Certification and other information provided by the taxpayer who originally received the preliminary reservation of credits to confirm both of the following:

(ia) The calculations set forth in the Taxpayer Certification.

(ib) The amount of credits allocated to the project is consistent with applicable California Tax Credit Allocation Committee rules and regulations for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(IV) If the California Tax Credit Allocation Committee issues a certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) that is inconsistent with the taxpayer certification upon which a credit has been claimed, the taxpayer shall amend any previously filed tax returns to reflect the credit amount certified by the California Tax Credit Allocation Committee pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(V) For purposes of this clause, "taxpayer certification" means a certified statement from the certified public accountant of the taxpayer that originally received the preliminary reservation of credits. The taxpayer certification shall contain the amount of the credit the project is eligible for, the taxable year the building is placed in service, and the taxable year in which the federal credit period for the building has commenced.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(r) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(s) The amendments to this section made by Chapter 1222 of the Statutes of 1993 apply only to taxable years beginning on or after January 1, 1994.

(t) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect. Any unused credit may continue to be carried forward, as provided in subdivision (I), until the credit has been exhausted.

SEC. 4. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax," defined in Section 23036, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (7) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that is a new building and is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(4) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(5) In the case of any qualified low-income building that ~~receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that~~ meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514, or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(6) For purposes of this section, the term "at risk of conversion," with respect to an existing ~~property~~ *property*, means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States

Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs under Sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (Public Law 81-171), as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit, this section, and Sections 12206 and 17058.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(viii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q), as amended.

(ix) Section 142(d) of the Internal Revenue Code or its predecessors.

(x) Section 147 of the Internal Revenue Code, as enacted by the Tax Reform Act of 1986 (Public Law 99-514), or as subsequently amended, including as amended by the Tax Cuts and Jobs Act of 2017 (Public Law 115-97) and all amendments enacted prior to the Tax Cuts and Jobs Act of 2017 (Public Law 115-97).

(xi) Title I of the Housing and Community Development Act of 1974, as amended.

(xii) Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.

(xiii) Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987, as amended, including the Department of Housing and Urban Development's Supportive Housing Program, Shelter Plus Care Program, and surplus federal property disposition program.

(xiv) The following assistance provided by counties and cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement with a county or city:

(I) Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(II) Local housing trust funds, as referred to in Section 50843 of the Health and Safety Code.

(III) The sale or lease of public property at or below market rates.

(IV) The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(B) As used in subparagraph (A), "government assistance" shall not include the use of tenant-based housing choice vouchers under subsection (o) of Section 1437f of Title 42 of the United States Code, excluding subparagraph (13) relating to project-based assistance. Restrictions shall not include any rent control or rent stabilization ordinance imposed by a county or city.

(C) If the development is subject to restrictions on rent and income levels, 50 percent of the units are also restricted to initial occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(D) The restrictions on rent and income levels, excluding any restrictions recorded pursuant to paragraph (2) of subdivision (e) of Section 65863.11 or Section 65863.13 of the Government Code or in connection with interim or acquisition financing, will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(E) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of Section 42 of the Internal Revenue Code and any further requirements added by the California Tax Credit Allocation Committee to implement the low-income housing tax credit established by Section 42 of the Internal Revenue Code (26 U.S.C. Sec. 42), this section, and Sections 12206 and 17058 pursuant to Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code.

(F) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(7) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the

term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first 5 years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this

subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, and after the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee have adopted increasing production and containing regulations, rules, or guidelines to align the programs of both committees with the objective of increasing production and containing costs as described in clause (iii). The California Tax Credit Allocation Committee shall accept applications for the 2021 calendar year not sooner than 30 days after these regulations, rules, or guidelines have been adopted. The California Debt Limit Allocation Committee shall not accept applications for the 2021 calendar year for bond allocations for an eligible project under this section prior to issuing, reviewing, and publishing a new tax-exempt private activity bond demand survey. ~~Except as provided in clause (vi), a~~ housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42 (e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized. Eligible projects for allocations under this subparagraph also include any retrofitting and repurposing of existing nonresidential structures, including, but not limited to, hotels and motels, that were converted to residential use within the previous five years from the date of the application.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) (I) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee shall develop and prescribe regulations, rules, or guidelines, necessary to implement a new allocation methodology that is aimed at increasing production and containing costs, which would include a scoring system that maximizes the efficient use of public subsidy and benefit created through the private activity bond and low-income housing tax credit programs. The factors for determining the efficient use of public subsidy and benefit shall include, but not be limited to, all of the following:

(ia) The number and size of units developed including local incentives provided to increase density.

(ib) The proximity to amenities, jobs, and public transportation.

(ic) The location of the development.

(id) The delivery of housing affordable to very low and extremely low income households by the development.

(II) The efficient use of public subsidy and benefit criteria specified in this clause shall take into account the total state subsidy provided and prioritize cost containment and increased unit production. These regulations, rules, or guidelines developed pursuant to this subparagraph shall also consider updated definitions for at-risk preservation and new construction.

(III) For bond allocations for the 2021 calendar year to projects eligible for an allocation under this subparagraph, the California Debt Limit Allocation Committee may adopt emergency regulations.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(v) (I) For the calendar years of 2024 to 2034, inclusive, of the amount available pursuant to this subparagraph, the lesser of 5 percent of that amount or twenty-five million dollars (\$25,000,000) per calendar year shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, and administered consistent with the credits available pursuant to paragraph (4).

(II) Any credits pursuant to this clause that remain unallocated following the conclusion of a funding round shall roll over to consecutive subsequent funding rounds in that calendar year with the exception that any credits that remain unallocated prior to the final funding round in that calendar year shall be added back to the aggregate amount of credits that may be allocated pursuant to this subparagraph.

(III) For the 2035 calendar year, and every year thereafter, of the amount available pursuant to this subparagraph, a portion of the amount allocated shall be set aside for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code. The amount set aside shall be determined by the Legislature upon consideration of the comprehensive strategy, or most recent update thereof, provided by the

Department of Housing and Community Development pursuant to subdivision (c) of Section 50408.5 of the Health and Safety Code.

(vi) (I) For any calendar year in which the California Debt Limit Allocation Committee has declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, the California Tax Credit Allocation Committee may allocate some or all of the credits allocated under this subparagraph, except for any credits allocated for housing financed by the California Housing Finance Agency under its Mixed-Income Program, for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing credit, and shall allocate the remainder of these credits for new buildings, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to new buildings, that are federally subsidized and that can begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(II) For any calendar year in which the California Debt Limit Allocation Committee has not declared a competition for the award of tax-exempt bond authority for qualified residential rental projects, projects receiving an award of credits pursuant to this subparagraph shall begin construction within a reasonable time, as determined by the California Tax Credit Allocation Committee.

(III) Notwithstanding subclauses (I) and (II), if credits available under this subparagraph remain unallocated after the final California Debt Limit Allocation Committee round for qualified residential rental projects in a given calendar year, the California Tax Credit Allocation Committee may allocate some or all of the remaining credits for nonfederally subsidized buildings eligible for credits under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there

is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (6) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(D) Subparagraph (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) (1) (A) (i) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(ii) (I) A taxpayer who has purchased a credit pursuant to this subdivision shall be eligible to claim any such credit commencing in the taxable year the building is placed in service and the federal credit period commences, notwithstanding that the certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) has not been issued by the California Tax Credit Allocation Committee, provided that the taxpayer that originally received the credit has filed a taxpayer certification with the California Tax Credit Allocation Committee and delivered a copy to the purchasing taxpayer. The Franchise Tax Board may, but shall not be required to, require submission of the taxpayer certification concurrently with the submission of the purchasing taxpayer's tax return in the first year the purchasing taxpayer claims the credit. The amount of credit claimed by the taxpayer shall not exceed the lesser of either of the following:

(ia) The applicable percentages for each of the four credit years, as specified in subdivision (c), multiplied by the qualified basis of the building set forth in the preliminary reservation.

(ib) The amount of credit the project is eligible for as stated in the taxpayer certification.

(II) The California Tax Credit Allocation Committee may elect to rely upon the taxpayer certification for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(III) The California Tax Credit Allocation Committee may, but is not required to, review the Taxpayer Certification and other information provided by the taxpayer who originally received the preliminary reservation of credits to confirm both of the following:

(ia) The calculations set forth in the Taxpayer Certification.

(ib) The amount of credits allocated to the project is consistent with applicable California Tax Credit Allocation Committee rules and regulations for the purposes of making the certification required pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(IV) If the California Tax Credit Allocation Committee issues a certification pursuant to subparagraph (A) of paragraph (2) of subdivision (b) that is inconsistent with the taxpayer certification upon which a credit has been claimed, the taxpayer shall amend any previously filed tax returns to reflect the credit amount certified by the California Tax Credit Allocation Committee pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(V) For purposes of this clause, "taxpayer certification" means a certified statement from the certified public accountant of the taxpayer that originally received the preliminary reservation of credits. The taxpayer certification shall contain the amount of the credit the project is eligible for, the taxable year the building is placed in service, and the taxable year in which the federal credit period for the building has commenced.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(s) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(t) Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

(u) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

(v) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

From: [Gurewitz, Ben \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [ChanStaff \(BOS\)](#)
Subject: Re: Supervisor Chan Roll Call
Date: Tuesday, June 6, 2023 4:30:08 PM
Attachments: [image001.png](#)

Hi Lisa,

Confirming that organizations such as California State Associations of Counties and League of California Cities, have not taken a position on the bill.

Thanks,
Ben

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Tuesday, June 6, 2023 3:05 PM
To: Gurewitz, Ben (BOS) <Ben.Gurewitz@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: ChanStaff (BOS) <chanstaff@sfgov.org>
Subject: RE: Supervisor Chan Roll Call

Thank you for the legislation submission. Pursuant to [Board Rule 2.8.2](#), please provide the following to complete this submission:

- confirm that organizations such as the [California State Association of Counties](#) and [League of California Cities](#) have not taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.



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committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Gurewitz, Ben (BOS) <Ben.Gurewitz@sfgov.org>

Sent: Tuesday, June 6, 2023 2:50 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: ChanStaff (BOS) <chanstaff@sfgov.org>

Subject: Supervisor Chan Roll Call

Dear Clerks Office,

Attached, please find a resolution that Supervisor Chan is submitting for the adoption without committee reference agenda. Attached in this file is the resolution, Intro Form, AB 346 Bill Text, and AB 101We confirm that this item is routine and not contentious in nature, and of no special interest. Please let me know if you have any questions or need anything further.

Thank you,

Ben


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AB-101 Housing development and financing. (2019-2020)

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Date Published: 08/01/2019 09:00 PM

Assembly Bill No. 101

CHAPTER 159

An act to amend Sections 30035.7, 65400, 65585, and 65913.4 of, to add Sections 65589.9 and 65589.11 to, and to add and repeal Article 12 (commencing with Section 65660) of Chapter 3 of Division 1 of Title 7 of, the Government Code, to amend Sections 50199.8, 50517.5, 50517.6, 50517.7, 50650, 50650.3, 50650.4, 50843.5, and 53545.13 of, to add Chapter 6 (commencing with Section 50216) to Part 1 of Division 31 of, to add Chapter 3.1 (commencing with Section 50515) to Part 2 of Division 31 of, and to add and Part 12.5 (commencing with Section 53559) to Division 31 of, the Health and Safety Code, to add Sections 75218.1 and 75244 to the Public Resources Code, to amend Sections 12206, 17058, 17561, 23610.5, and 24692 of the Revenue and Taxation Code, and to amend Section 8256 of the Welfare and Institutions Code, relating to housing, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 31, 2019. Filed with Secretary of State July 31, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 101, Committee on Budget. Housing development and financing.

(1) Existing law establishes the Community-Based Transitional Housing Program, administered by the Department of Finance (DOF), for the purpose of providing grants to cities, counties, and cities and counties to increase the supply of transitional housing available to persons previously incarcerated for felony and misdemeanor convictions and funded with moneys appropriated for that purpose in the annual Budget Act or other measure. Existing law requires DOF's Office of State Audits and Evaluations to conduct a review of the program, commencing July 1, 2018, to determine its effectiveness in providing services to offenders released from state prison or county jail, and authorizes DOF to use up to \$500,000 of the amount appropriated in any budget act or other measure for the program for this review, as specified. Existing law requires DOF to provide a copy of the audit to the Joint Legislative Budget Committee no later than May 1, 2019.

This bill would instead require the Office of State Audits and Evaluations to conduct an audit of the program, as specified, and would remove the requirement that the Office of State Audits and Evaluations commence the audit on July 1, 2018. The bill would extend the date by which DOF is required to provide a copy of the audit to the Joint Legislative Budget Committee to no later than May 1, 2020.

(2) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the Department of Housing and Community Development (HCD) to determine whether the housing element is in substantial compliance with specified provisions of that law. That law also requires HCD to notify a city, county, or city and

county, and authorizes HCD to notify the office of the Attorney General, that the city, county, or city and county is in violation of state law if the local government has taken action in violation of specified provisions of law.

This bill, in any action or special proceeding brought in connection with a violation of state law identified as described above, would require the Attorney General to request that the court issue an order or judgment directing a violating jurisdiction to bring its housing element into substantial compliance with those specified provisions and would require the court to retain jurisdiction to ensure that its order or judgment is carried out. The bill would require a court to conduct a status conference if a jurisdiction has not complied with the order or judgment within a specified time period. The bill, following the status conference and upon a determination that the jurisdiction failed to comply with the order or judgment, would require the court to, among other things, impose fines, as specified. The bill would require these fines to be deposited in the Building Homes and Jobs Trust Fund, which is partially continuously appropriated. By depositing money into a partially continuously appropriated fund, this bill would make an appropriation. If the jurisdiction has not complied with the order or judgment within specified time periods after the imposition of fines, the bill would require the court to conduct additional status conferences and multiply the amount of the fine and order the appointment of an agent of the court to bring the jurisdiction's housing element into substantial compliance, as provided. The bill, commencing July 1, 2019, would require HCD, prior to bringing any suit for a violation by a jurisdiction of a specified provision of law, to offer the jurisdiction the opportunity for 2 meetings in person or via telephone to discuss the violation and to provide the jurisdiction written findings regarding the violation, as specified.

This bill, for award cycles commenced after July 1, 2021, would require that jurisdictions, defined as a city, county, or city and county in existing law, that have adopted housing elements determined by HCD to be in substantial compliance with specified provisions of the Planning and Zoning Law, as described above, and that have been designated by HCD as prohousing, as specified, be awarded additional points in the scoring of program applications for housing and infrastructure programs pursuant to guidelines adopted by HCD, as provided.

This bill would require DOF to maintain a list of programs for which a jurisdiction is ineligible if it fails to adopt a housing element that is found to be in substantial compliance with specified provisions of the Planning and Zoning Law. The bill would also require HCD to post on its internet website a list of jurisdictions that have failed to adopt a housing element that has been found by HCD to be in substantial compliance with specified provisions of the Planning and Zoning Law. The bill would require HCD to provide that list to the Office of Planning and Research and any other applicable agency or department, as specified. If a jurisdiction is included on that list, the bill would require HCD to offer the jurisdiction the opportunity for 2 meetings in person or via telephone to discuss the jurisdiction's failure to adopt a housing element that is found to be in substantial compliance with specified provisions of the Planning and Zoning Law and to provide the jurisdiction written findings regarding that failure.

The bill would include findings that changes proposed by these provisions address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) The Planning and Zoning Law requires that supportive housing be a use by right, as defined, in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets specified requirements. The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill would require that a Low Barrier Navigation Center development be a use by right, as defined, in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if it meets specified requirements. The bill would define "Low Barrier Navigation Center" as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. The bill would define the term "use by right" in this context to mean that the local government's review of the Low Barrier Navigation Center development may not impose certain requirements, such as a conditional use permit or other discretionary review or approval. The bill would provide that CEQA does not apply to an action taken by a public agency to lease, convey, or encumber land owned by a public entity or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial assistance to, or otherwise approve, a Low Barrier Navigation Center constructed or allowed by this bill. In addition, the bill, by authorizing

Low Barrier Navigation Center developments to be a use by right under certain circumstances, would expand the exemption for the ministerial approval of projects under CEQA.

The bill would prescribe requirements for notifying a developer that its application for a Low Barrier Navigation Center development is complete and for the local jurisdiction to complete its review of the application. The bill would declare that Low Barrier Navigation Center developments are essential tools for alleviating the homelessness crisis in this state and are a matter of statewide concern and thus applicable to charter cities.

The bill would repeal these provisions as of January 1, 2027.

By increasing the duties of local planning officials, this bill would impose a state-mandated local program.

(4) The Planning and Zoning Law, until January 1, 2026, authorizes a development proponent to submit an application for a housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards. Existing law provides, among other objective planning standards, that at least $\frac{2}{3}$ of the square footage of the development be designated for residential use.

Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city or county with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the jurisdiction for housing, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements.

This bill would require that the calculation to determine whether $\frac{2}{3}$ of the square footage of the development is designated for residential use include additional density, floor area, and units, and any other concession, incentive, or waiver, granted pursuant to the Density Bonus Law.

Existing law prohibits a development subject to the streamlined, ministerial approval process from being located on a hazardous waste site, as defined, unless the Department of Toxic Substances Control has cleared the site for residential use.

This bill would instead prohibit a development subject to the streamlined, ministerial approval process from being located on a hazardous waste site, as defined, unless the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substances Control has cleared the site for residential use.

(5) Existing law establishes the California Tax Credit Allocation Committee (CTCAC) within state government, which is composed of the Governor, the Controller, and the Treasurer.

This bill would revise the composition of CTCAC to include the Director of Housing and Community Development and the Executive Director of the California Housing Finance Agency.

(6) Existing law establishes various programs, including, among others, the Emergency Housing and Assistance Program, to provide assistance to homeless persons. Existing law sets forth the general responsibilities and roles of the Business, Consumer Services, and Housing Agency, HCD, and the California Housing Finance Agency (CalHFA) in carrying out state housing policies and programs.

This bill would establish the Homeless Housing, Assistance, and Prevention Program administered by the Business, Consumer Services, and Housing Agency for the purpose of providing jurisdictions, as defined, with one-time grant funds to support regional coordination and expand or develop local capacity to address homelessness challenges, as specified. Upon appropriation, the bill would require the agency to distribute \$650,000,000 among cities, counties, and continuums of care, as provided. The bill, no later than February 15, 2020, would require an applicant to submit to the agency its program allocation application. The bill would require the agency to review each plan and make an allocation determination no later than April 1, 2020. The bill would require a recipient of program funds to submit annual progress reports to the agency and a final report, no later than January 1, 2026, regarding the expenditure of funds under the program.

(7) The Planning and Zoning Law requires HCD, in consultation with each council of governments, to determine the existing and projected need for housing in each region and further requires the appropriate council of governments, or HCD for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county, as provided.

This bill would establish the Local Government Planning Support Grants Program administered by HCD for the purpose of providing regions and jurisdictions with one-time funding. The bill, upon appropriation, would require HCD to allocate \$250,000,000 to councils of governments and jurisdictions, as those terms are defined, as well as certain other regional entities to be used for technical assistance, the preparation and adoption of planning documents, and process improvements to accelerate housing production and to facilitate compliance with the 6th cycle of the regional housing need assessment, as provided. The bill would specify eligible uses of these funds. The bill would require these entities to apply for an allocation of funds within specified time periods. The bill would also require these entities to either submit an annual report to HCD, and make that report publicly available on its internet website, containing specified information regarding the uses of funds allocated under the program or, if the recipient is a city or county, include that information in a specified annual report required under existing law.

This bill, by December 31, 2022, would also require HCD, in collaboration with the Office of Planning and Research and after engaging in stakeholder participation, to develop a recommended improved regional housing need allocation process and methodology that promotes and streamlines housing development and substantially addresses California's housing shortage, as provided. The bill would require HCD to submit a report on its findings and recommendations to the Legislature upon completion.

(8) Existing law requires HCD to establish and administer the Joe Serna, Jr. Farmworker Housing Grant Program, under which, subject to the availability of funds in the Joe Serna, Jr. Farmworker Housing Grant Fund, a continuously appropriated fund, grants or loans, or both, are made available for the construction or rehabilitation of housing for agricultural employees, as defined, and their families or for the acquisition of manufactured housing to remedy the impacts of the displacement of farmworker families. Existing law requires grants and loans made pursuant to this program to be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions, except as specified. Existing law authorizes HCD to set aside up to 4% of funds available in the Joe Serna, Jr. Farmworker Housing Grant Fund on July 1 of each fiscal year for the purposes of curing or averting a default on the terms of any loan or other obligation by a recipient of financial assistance under the program or to repair or maintain any dwelling unit assisted under the program, under specified conditions.

This bill would require HCD to require, for multifamily housing loans made pursuant to the program, annual loan payments in the minimum amount necessary to cover the costs of project monitoring, as specified. The bill would remove the matching funds requirement. The bill would decrease the amount in the Joe Serna, Jr. Farmworker Housing Grant Fund that HCD is authorized to set aside to 1.5% of funds available.

(9) Existing law establishes the CalHome Program, administered by HCD, to enable low- and very low income households to become or remain homeowners. Existing law requires HCD, under the program, to use appropriated funds to provide grant or loan funds to local public agencies or nonprofit corporations for specified purposes relating to the promotion of home ownership. Existing law requires local public agencies or nonprofit corporations to meet certain eligibility requirements, including underwriting requirements. Existing laws authorizes HCD to permit an applicant to apply its own underwriting guidelines, if HCD approves those guidelines, as well as any alterations to those guidelines. Existing law, the Veterans and Affordable Housing Bond Act of 2018, deposits \$300,000,000 to the Self-Help Housing Fund, a continuously appropriated fund, for purposes of the CalHome Program, as specified.

This bill would authorize HCD to make grants to local agencies or nonprofit associations for the construction, repair, reconstruction, or rehabilitation of accessory dwelling units and junior accessory dwelling units. The bill would also authorize HCD to use appropriated funds to make grants to local agencies or nonprofit corporations to assist households that meet certain income requirements and are victims of a disaster, provided that the disaster was proclaimed by the Governor, as specified, received a special appropriation of federal emergency supplemental assistance, or declared by the President. The bill would authorize HCD to adopt guidelines to this effect. The bill would also require HCD to approve any alterations of underwriting guidelines by applicants with respect to how the applicants will ensure participation by low-income households in making loans in response to a disaster.

By expanding the uses of a continuously appropriated fund, this bill would make an appropriation.

(10) Existing law establishes the Local Housing Trust Fund Matching Grant Program for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing. Under the grant program, HCD is authorized to make matching grants available, through the issuance of a Notice of Funding Availability (NOFA), to cities, counties, cities and counties, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds.

This bill would authorize HCD to make matching grants available under the program, as described above, to Native American tribes. The bill would authorize HCD to adopt guidelines to implement the program. The bill would also authorize HCD to make grants to trust funds for the construction, repair, reconstruction, or rehabilitation of accessory dwelling units and junior accessory dwelling units.

Under existing law, the minimum allocation to a program applicant is \$1,000,000 for existing housing trust funds, or \$500,000 for newly established housing trust funds. The maximum allocation for any applicant is \$2,000,000, unless the applicant has previously received a grant through the program, in which case the maximum allocation is \$1,000,000. Under existing law, all funds provided under the grant program are to be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing. Existing law requires that HCD receive adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds before considering an application for an existing housing trust.

This bill would authorize HCD to increase the minimum allocation above \$500,000 to an applicant that is a newly established trust and increase the minimum allocation to all other trusts above \$1,000,000. The bill would provide that the matching fund requirement does not apply to specified funds allocated under the Building Homes and Jobs Act that are used to capitalize a regional housing trust fund. In the case of an application for an existing housing trust, the bill would also authorize the applicant to provide evidence of a legally binding commitment to deposit matching funds.

Existing law requires HCD to set aside funding for new trusts, as defined in the NOFA issued for the program. Existing law also requires that funds be used for the predevelopment costs, acquisition, construction, or rehabilitation of specified types of housing, including emergency shelters, safe havens, and transitional housing, as defined by specified law.

This bill would instead require that HCD set aside funding for new trusts, as defined in the guidelines that are authorized by this bill to be adopted to implement the program. The bill would also instead require that funds be used for the predevelopment costs, acquisition, construction, or rehabilitation of emergency shelters, transitional housing, and permanent supportive housing, as defined in those guidelines.

Existing law requires that no more than 5% of the funds appropriated to HCD for purposes of the program be used for HCD's administrative costs.

This bill would authorize HCD to allow grantees under the program to use up to 5% of the grant award for administrative costs.

Existing law requires that a housing trust fund encumber funds provided under the program no later than 36 months after receipt, but provides for a 12-month extension in certain circumstances. Existing law requires that any funds not encumbered within this period revert to HCD for use in the program or its successor.

This bill would extend the period in which funds are required to be encumbered from 36 months to 60 months.

This bill would make various technical and conforming changes to the program.

Existing law establishes the Housing Rehabilitation Loan Fund, which is continuously appropriated to HCD for specified purposes relating to housing programs.

By expanding the uses for moneys in the Housing Rehabilitation Loan Fund, a continuously-appropriated fund, the bill would make an appropriation.

(11) The Planning and Zoning Law requires that the housing element of a city's or county's general plan, as described above, include, among other things, an assessment of housing needs and an inventory of land suitable for residential development. Existing law sets forth various classifications and definitions for purposes of determining a city's or county's inventory.

Existing law establishes the Infill Incentive Grant Program of 2007, administered by HCD, a competitive grant program to facilitate the development of qualifying infill residential projects.

This bill would establish the Infill Infrastructure Grant Program of 2019, which would require HCD, upon appropriation of funds by the Legislature, to establish and administer a grant program to allocate those funds to capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or qualifying infill area, as those terms are defined, pursuant to specified requirements.

The bill, upon appropriation by the Legislature, would authorize HCD to expend \$500,000,000 for the program, as specified.

(12) Existing law establishes a low-income housing tax credit program pursuant to which CTCAC provides procedures and requirements for the allocation, in modified conformity with federal law, of state insurance, personal income, and corporation tax credit amounts to qualified low-income housing projects that have been allocated, or qualify for, a federal low-income housing tax credit, and farmworker housing. Existing law limits the total annual amount of the state low-income housing credit for which a federal low-income housing credit is required to the sum of \$70,000,000, as increased by any percentage increase in the Consumer Price Index for the preceding calendar year, any unused credit for the preceding calendar years, and the amount of housing credit ceiling returned in the calendar year. For purposes of determining the credit amount, existing law defines the term "applicable percentage" depending on, among other things, whether the qualified low-income building is a new building that is not federally subsidized, a new building that is federally subsidized, or is an existing building that is "at risk of conversion."

This bill would also, under the law governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning in 2020, provide for an additional \$500,000,000 that may be allocated to specified low-income housing projects and would, for calendar years beginning in 2021, provide that this amount is only available for allocation pursuant to an authorization in the annual Budget Act or related legislation, and specified regulatory action by CTCAC. The bill, under those laws, would modify the definition of "applicable percentage" relating to qualified low-income buildings to depend on whether the building is a new building that is federally subsidized that receives an allocation from the additional \$500,000,000 or whether the building is, among other things, at least 15 years old, may serve households of very low income or extremely low income, and will complete substantial rehabilitation, as specified.

Existing law, beginning on or after January 1, 2009, and before January 1, 2020, requires, in the case of a project that receives a preliminary reservation of a state low-income housing tax credit, that the credit be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, as provided. Existing law, beginning on or after January 1, 2016, and before January 1, 2020, authorizes a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties for each taxable year in which the credit is allowed, as described.

This bill would delete the January 1, 2020, date with respect to both of these provisions, thereby requiring the allocation of credits among partners in accordance with the partnership agreement and authorizing the sale of a credit, as described above, indefinitely.

With respect to the sale of a low-income housing tax credit under these provisions, existing law authorizes the taxpayer to elect to sell all or a portion of the credit in its application to CTCAC. Existing law generally requires that this election be irrevocable, but allows the taxpayer, with the approval of the executive director of CTCAC, to rescind the election to sell if the consideration falls below 80% of the amount of the credit. Existing law also requires that an unrelated party that purchases any or all of a credit under these provisions be a taxpayer that is allowed a credit for the taxable year of the purchase, or was allowed a credit for a prior taxable year, and a state or federal low-income housing tax credit and, except as provided, prohibits the unrelated party from reselling the credit to another taxpayer or other party.

This bill would instead authorize a taxpayer to make a one-time revocation of the election to sell all or any portion of a low-income housing tax credit at any time before CTCAC allocates a final credit amount for a project, at which point the election would become irrevocable. The bill would specifically prohibit a taxpayer from electing to sell all or any portion of a low-income housing tax credit if the taxpayer did not make that election in its application submitted to CTCAC. The bill would also delete the requirement that the unrelated party be a taxpayer that is allowed, or have previously been allowed, a state or federal low-income housing tax credit and the prohibition on the resale of a credit by the unrelated party.

(13) The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal law, generally disallow passive activity loss and passive activity credits for any taxable year in computing taxable income, but, in the case of a natural person, allow an offset in the case of the low-income housing tax credit of up to \$75,000 for any taxable year for all rental real estate activities in which the individual actively participated in the taxable year, as provided.

This bill, for each taxable year beginning on or after January 1, 2020, would provide that the dollar limitation for the offset for rental real estate activities does not apply to the low-income housing tax credit program.

(14) Existing law requires, by July 1, 2019, agencies and departments administering state programs in existence prior to July 1, 2017, to collaborate with the Homeless Coordinating and Financing Council to revise or adopt guidelines and regulations that incorporate the core components of Housing First, an evidence-based model that uses housing as a tool, rather than a reward, for recovery.

This bill would delay the duty of an agency or department that administers programs that fund recovery housing, as defined, to incorporate the core components of Housing First to July 1, 2020. The bill would additionally require an agency or department that administers programs that fund recovery housing to consult with the Homeless Coordinating and Financing Council, the Business, Consumer Services, and Housing Agency, and stakeholders between July 1, 2019, and July 1, 2020, to identify ways to improve the provision of housing to individuals who receive housing assistance from the agency or department and report to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget by March 1, 2020, as specified.

(15) Existing law establishes the Self-Help Housing Fund and continuously appropriates moneys for specified purposes related to the California Self-Help Housing Program. Existing law also establishes CalHFA within HCD with the primary purpose of meeting the housing needs of persons and families of low or moderate income. Existing law authorizes CalHFA to make, or undertake commitments to make, loans to finance the acquisition, construction, rehabilitation, refinancing, or development of housing intended to benefit, among others, persons identified as having special needs relating to intellectual and developmental disabilities.

This bill would continuously appropriate, without regard to fiscal years, the sum of \$500,000,000 to HCD and require that these moneys be deposited in the Self-Help Housing Fund based on a specified schedule. Notwithstanding specified law, the bill would require HCD to transfer these moneys to CalHFA to be used to finance low and moderate income housing, as provided.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(17) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) The gap between available and needed housing is increasing the cost of living in our state and negatively impacting middle class Californians.

(b) Addressing the housing cost crisis will require action by the state, local governments, and the private sector to increase housing production and preserve available affordable housing.

(c) The 2019–20 Budget Act provides approximately \$8 billion in funding to address California’s housing and homelessness crisis.

(d) A key element of increasing housing production is to ensure that local governments are implementing state law, particularly their planning and zoning obligations. To that end, this act establishes incentives, due process requirements, and penalties. Specifically, this act expands judicial remedies that may be imposed by the court when a city, county, or a city and county is found to be out of substantial compliance with housing element law, is provided by the act more than one year to come into substantial compliance, and continues not following the law.

(e) The additional judicial remedies in this act are intended to be used only as a last resort where a jurisdiction has continued to not fulfill its responsibilities under housing element law and disregards the direction of the court.

SEC. 2. Section 30035.7 of the Government Code is amended to read:

30035.7. (a) Of the amount appropriated in the annual Budget Act or other measure for the program, the department’s Office of State Audits and Evaluations may use up to five hundred thousand dollars (\$500,000) to conduct an audit of the program to determine its effectiveness in providing services to ex-offenders.

(b) The department's Office of State Audits and Evaluations shall conduct an audit of the program. The department shall provide a copy of the audit to the Joint Legislative Budget Committee no later than May 1, 2020. The copy of the audit shall be submitted in compliance with Section 9795.

(c) Cities, counties, cities and counties, and facility operators that receive program funds shall agree, as a condition of receiving program funds, to cooperate fully with the audit conducted pursuant to this section by the department's Office of State Audits and Evaluations.

SEC. 3. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier that must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 4. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the Office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5 of the Government Code).

(2) Section 65863 of the Government Code.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(4) Section 65008 of the Government Code.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision shall not apply to any suits brought for a violation or violations of paragraphs (1), (3), and (4) of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to subdivision (j), the Attorney General shall request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out, and once a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after twelve months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in

full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraph (1) and paragraph (2) are insufficient to bring the jurisdiction into compliance with the order or judgement, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may be appointed with all the powers necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision shall not limit a court's discretion to apply any and all remedies in an action or special proceeding filed by a party other than the state for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) The Office of the Attorney General may seek all remedies available under law including those set forth in this section.

SEC. 5. Section 65589.9 is added to the Government Code, to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

- (1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.
 - (2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.
 - (3) The Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.
 - (4) Additional bonus points may be awarded to other state programs when already allowable under state law.
- (c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.
- (d) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.
- (e) On or before January 1, 2021, and annually thereafter, the Department of Finance shall publish on its internet website the list of programs included under subdivision (b).
- (f) For purposes of this section, the following definitions shall apply:
- (1) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.
 - (2) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:
 - (A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.
 - (B) Reduced parking requirements for sites that are zoned for residential development.
 - (C) Adoption of zoning allowing for use by right for residential and mixed-use development.
 - (D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.
 - (E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.
 - (F) Reduction of permit processing time.
 - (G) Creation of objective development standards.
 - (H) Reduction of development impact fees.
 - (I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

SEC. 6. Section 65589.11 is added to the Government Code, to read:

65589.11. (a) The department shall post on its internet website each month a list of jurisdictions that have failed to adopt a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. The department shall, on an annual basis, by July 1, or upon request, provide the most recent version of the list to the Office of Planning and Research and any other applicable agency or department.

(b) If a jurisdiction is included on this list described in subdivision (a), the department shall notify the jurisdiction of its inclusion upon the first occurrence of this inclusion. A copy of all notifications sent to a jurisdiction shall also be submitted to the legislative body of the jurisdiction.

(c) If a jurisdiction is included on the list described in subdivision (a), the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the jurisdiction's failure to adopt a housing element that is found to be in substantial compliance with the requirements of this article pursuant to

Section 65585, and shall provide the jurisdiction written findings regarding that failure. Meetings previously offered pursuant to subdivision (k) of Section 65585 shall satisfy the requirements of this subdivision.

(d) Within 30 days of a jurisdiction both appearing on the list published pursuant to subdivision (a), and also having adopted a housing element pursuant to paragraph (2) of subdivision (f) of Section 65585, a jurisdiction may request, in writing, that the department review de novo the jurisdiction's last housing element adopted pursuant to paragraph (2) of subdivision (f) of Section 65585. Within 30 days of receipt of the request, the department shall issue written findings as to whether the housing element has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. If the department's written findings state that the jurisdiction's housing element is not in substantial compliance with the requirements of this article pursuant to Section 65585, then the city, county, or city and county may, within 30 days of receiving those written findings, bring an action to superior court pursuant to Section 1094.5 of the Civil Code of Procedure to challenge the department's determination. Any action pursuant to this subdivision shall not impact the allocation of funds for any programs identified in subdivision (e).

(e) On or before January 1, 2023, and annually thereafter, the Department of Finance shall publish on its internet website a list of programs, if any, where eligibility for funding is contingent upon a jurisdiction having adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. The list shall not include any program where eligibility for funding is contingent upon a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585 on or before the effective date of this section.

(f) Subdivisions (c) and (d) of this section shall become operative upon the inclusion of at least one program on the list published pursuant to subdivision (e).

(g) This section shall not affect any action filed on or before the effective date of this section.

SEC. 7. Article 12 (commencing with Section 65660) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 12. Low Barrier Navigation Centers

65660. For purposes of this article:

(a) "Low Barrier Navigation Center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. "Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- (2) Pets.
- (3) The storage of possessions.
- (4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

(b) "Use by right" has the meaning defined in subdivision (i) of Section 65583.2. Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to actions taken by a public agency to lease, convey, or encumber land owned by a public agency, or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial assistance to, or otherwise approve, a Low Barrier Navigation Center constructed or allowed by this section.

65662. A Low Barrier Navigation Center development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses, if it meets the requirements of this article. A local jurisdiction shall permit a Low Barrier Navigation Center development provided that it meets the following requirements:

- (a) It offers services to connect people to permanent housing through a services plan that identifies services staffing.
- (b) It is linked to a coordinated entry system, so that staff in the interim facility or staff who colocate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated

entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

(c) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.

(d) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

65664. Within 30 days of receipt of an application for a Low Barrier Navigation Center development, the local jurisdiction shall notify a developer whether the developer’s application is complete pursuant to Section 65943. Within 60 days of receipt of a completed application for a Low Barrier Navigation Center development, the local jurisdiction shall act upon its review of the application.

65666. The Legislature finds and declares that Low Barrier Navigation Center developments are essential tools for alleviating the homelessness crisis in this state and are a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this article shall apply to all cities, including charter cities.

65668. This article shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 8. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower income for no less than the following periods of time:

(i) Fifty-five years for units that are rented.

(ii) Forty-five years for units that are owned.

(B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies both of the following:

(A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits is less than the locality’s share of the

regional housing needs, by income category, for that reporting period. A locality shall remain eligible under this subparagraph until the department's determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income. If the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(ii) The locality's latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the following:

(A) A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

(B) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

(C) The amendments to this subdivision made by the act adding this subparagraph do not constitute a change in, but are declaratory of, existing law.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of

Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the following apply:

(A) The development would require the demolition of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past 10 years.

(B) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under this section.

(C) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register.

(D) The property contains housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

(8) The development proponent has done both of the following, as applicable:

(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project

labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, “skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures

in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) (1) Any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the development is consistent with the requirements of subparagraph (A) or (B) of paragraph (9) of subdivision (a) and is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(e) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and process set forth in this section.

(f) A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(g) This section shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(h) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency or local government to lease, convey, or encumber land owned by the local government or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(i) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing cost" has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) "Affordable rent" has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(3) "Department" means the Department of Housing and Community Development.

(4) "Development proponent" means the developer who submits an application for streamlined approval pursuant to this section.

(5) "Completed entitlements" means a housing development which has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) "Production report" means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(8) "State agency" includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(9) "Subsidized" means units that are price or rent restricted such that the units are permanently affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(10) "Reporting period" means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(11) "Urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(j) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (b) is not a "project" as defined in Section 21065 of the Public Resources Code.

(l) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.

(m) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 9. Section 50199.8 of the Health and Safety Code is amended to read:

50199.8. The committee is composed of the Governor, or in the Governor's absence, the Director of Finance, the Controller, the Treasurer, the Director of Housing and Community Development, and the Executive Director of the California Housing Finance Agency. Two representatives of local government, one representative of the counties appointed by the Senate Rules Committee, and one representative of the cities appointed by the Speaker of the Assembly shall serve as ex officio, nonvoting members. The Treasurer shall be the chairperson of the committee. The members of the committee shall serve without compensation. A majority of voting members shall be empowered to act for the committee. The committee may employ an executive director to carry out its duties under this chapter. The committee may, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the committee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the committee.

SEC. 10. Chapter 6 (commencing with Section 50216) is added to Part 1 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6. Homeless Housing, Assistance, and Prevention Program

50216. For purposes of this chapter:

- (a) "Agency" means the Business, Consumer Services, and Housing Agency.
- (b) "Applicant" means a continuum of care, city, or county.
- (c) "City" means a city or city and county that is legally incorporated to provide local government services to its population. A city can be organized either under the general laws of this state or under a charter adopted by the local voters.
- (d) "Continuum of care" means the same as defined by the United States Department of Housing and Urban Development at Section 578.3 of Title 24 of the Code of Federal Regulations.
- (e) "Coordinated Entry System" means a centralized or coordinated process developed pursuant to Section 578.7 of Title 24 of the Code of Federal Regulations, as that section read on January 10, 2019, designed to coordinate homelessness program participant intake, assessment, and provision of referrals. In order to satisfy this subdivision, a centralized or coordinated assessment system shall cover the geographic area, be easily accessed by individuals and families seeking housing or services, be well advertised, and include a comprehensive and standardized assessment tool.
- (f) "Council" means the Homeless Coordinating and Financing Council created pursuant to Section 8257 of the Welfare and Institutions Code.
- (g) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801.
- (h) "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 10, 2019.
- (i) "Homeless Management Information System" means the information system designated by a continuum of care to comply with federal reporting requirements as defined in Section 578.3 of Title 24 of the Code of Federal Regulations. The term "Homeless Management Information System" also includes the use of a comparable database by a victim services provider or legal services provider that is permitted by the federal government under Part 576 of Title 24 of the Code of Federal Regulations.
- (j) "Homeless point-in-time count" means the 2019 homeless point-in-time count pursuant to Section 578.3 of Title 24 of the Code of Federal Regulations. A jurisdiction may elect to instead use their 2017 point-in-time count if they can demonstrate that a significant methodology change occurred between the 2017 and 2019 point-in-time counts that was based on an attempt to more closely align the count with HUD best practices and undertaken in consultation with HUD representatives. A jurisdiction shall submit documentation of this to the agency by the date by which HUD's certification of the 2019 homeless point-in-time count is finalized. The agency shall review and approve or deny a request described in the previous sentence along with a jurisdiction's application for homeless funding.
- (k) "Homeless youth" means an unaccompanied youth between 12 and 24 years of age, inclusive, who is experiencing homelessness, as defined in subsection (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)). "Homeless youth" includes unaccompanied youth who are pregnant or parenting.
- (l) "Housing First" has the same meaning as in Section 8255 of the Welfare and Institutions Code, including all of the core components listed therein.
- (m) "Jurisdiction" means a city, city that is also a county, county, or continuum of care, as defined in this section.
- (n) "Navigation center" means a Housing First, low-barrier, service-enriched shelter focused on moving homeless individuals and families into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.
- (o) "Program" means the Homeless Housing, Assistance, and Prevention program established pursuant to this chapter.
- (p) "Program allocation" means the portion of program funds available to expand or develop local capacity to address immediate homelessness challenges, in the amount of six hundred fifty million dollars (\$650,000,000).
- (q) "Recipient" means a jurisdiction that receives funds from the agency for the purposes of the program.

50217. (a) The Homeless Housing, Assistance, and Prevention program is hereby established for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local

capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing.

(b) Upon appropriation by the Legislature, the agency shall distribute six hundred fifty million dollars (\$650,000,000) in accordance with this chapter.

(c) The agency shall administer the program. The program shall provide grant funds to cities, counties, and continuums of care. No more than 5 percent of the funds available pursuant to this chapter shall be expended on state operations.

(d) The agency's decision to approve or deny an application and the determination of the amount of funding to be provided shall be final.

(e) The agency shall maintain and make available to the public on its internet website records of the following:

- (1) The number of applications for program funding received by the agency.
- (2) The number of applications for program funding denied by the agency.
- (3) The name of each recipient of program funds.
- (4) Each applicant receiving funds pursuant to this chapter shall provide a list of all awards to subrecipients.
- (5) Annual reports filed by recipients pursuant to Section 50221.

(f) In administering this chapter, the agency shall not be subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

50218. (a) Upon appropriation by the Legislature, six hundred fifty million dollars (\$650,000,000) of the funds administered pursuant to this chapter shall be available for implementing the program, as follows:

(1) One hundred ninety million dollars (\$190,000,000) of the funding available pursuant to this section shall be available for continuums of care. The agency shall calculate these allocations to a continuum of care based on each continuum of care's proportionate share of the state's total homeless population, based on the homeless point-in-time count. The agency shall award no more than 40 percent of the allocation made pursuant to this section and no less than five hundred thousand (\$500,000) to an applicant that is a continuum of care.

(2) Two hundred seventy-five million dollars (\$275,000,000) of the funding available pursuant to this section shall be available to each city, or city that is also a county, that has a population of 300,000 or more, as of January 1, 2019, according to data published on the Department of Finance's internet website. The agency shall calculate the allocation to a city based on the city's proportionate share of the total homeless population of the region served by the continuum of care within which the city is located, based on the homeless point-in-time count. The agency shall not award more than 45 percent of the program allocation to a city. If more than one recipient within the continuum of care meets the requirements of this paragraph, the proportionate share of funds shall be equally allocated to those jurisdictions.

(3) One hundred seventy-five million dollars (\$175,000,000) of the funding available pursuant to this section shall be available to each county. The agency shall calculate the allocation to county based on the county's proportionate share of the total homeless population of region served by the continuum of care within which the county is located, based on the homeless point-in-time count. The agency shall not award more than 40 percent of the allocation made pursuant to this section to a county.

(4) Once the 2019 point-in-time count numbers have been finalized and posted by the United States Department of Housing and Urban Development, and any determinations described in subdivision (j) of Section 50216 have been announced, the agency shall calculate each jurisdiction's final program allocation award amount and submit that information to the council. The council shall post this information to its internet website.

(5) A program recipient shall not use funding from the program to supplant existing local funds for homeless housing, assistance, or prevention.

(b) A program recipient shall use at least 8 percent, of the funds for services for homeless youth populations.

50219. (a) In order to apply for a program allocation, an applicant shall submit an application pursuant to the timeline specified in Section 50220 and provide the following, in the form and manner prescribed by the agency:

(1) A demonstration of how the jurisdiction has coordinated with other jurisdictions to identify their share of the regional need to address homelessness, and how the requested funds will help meet the jurisdiction's share of that need.

(2) Identification of all funds currently being used by the applicant to provide housing and homeless services for the homeless populations in the jurisdiction, including all federal, state, and local funds, and information on programs supported by the identified funds.

(3) An assessment of existing programs to address homelessness and an identification of gaps in housing and homeless services for the homeless populations in the jurisdiction, as identified by the continuum of care pursuant to paragraph (7), including those provided by entities other than the applicant.

(4) Identification of how funds requested in the application will complement the funds described in paragraph (2), close the gaps identified pursuant to paragraph (3), and serve the homeless populations identified pursuant to paragraph (7).

(5) An outline of proposed uses of funds and explanation of how proposed use of funds meets each of the requirements described in paragraph (4).

(6) A list of measurable goals including but not limited to the number of individuals served and percentage of individuals successfully placed in permanent housing.

(7) If an applicant is a continuum of care, data on the demographics and characteristics of the homeless populations in the jurisdiction and on current programs providing housing and homeless services in the jurisdiction, as reported to the federal government through Homeless Management Information Systems and point-in-time counts.

(8) For a city applying for funds available pursuant to paragraph (2) of subdivision (a) of Section 50218 or a county applying for funds available pursuant to paragraph (3) of subdivision (a) of Section 50218, a plan demonstrating how these funds will complement the regional needs described in the continuum of care's plan for a coordinated housing and service system that meets the needs of individuals, unaccompanied youth, and families experiencing homelessness, as defined in Section 578.7(c) of Title 24 of the Code of Federal Regulations.

(9) Evidence of connection with the continuum of care's coordinated entry system.

(10) An agreement to participate in a statewide Homeless Management Information System, when available.

(b) The agency may request additional documentation and information from the applicant consistent with the requirements of subdivision (a).

(c) Except as provided in subdivisions (d) and (e) a recipient shall expend funds on evidence-based solutions that address and prevent homelessness among eligible populations including any of the following:

(1) Rental assistance and rapid rehousing.

(2) Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves.

(3) Incentives to landlords, including, but not limited to, security deposits and holding fees.

(4) Outreach and coordination, which may include access to job programs, to assist vulnerable populations in accessing permanent housing and to promote housing stability in supportive housing.

(5) Systems support for activities necessary to create regional partnerships and maintain a homeless services and housing delivery system, particularly for vulnerable populations including families and homeless youth.

(6) Delivery of permanent housing and innovative housing solutions such as hotel and motel conversions.

(7) Prevention and shelter diversion to permanent housing.

(8) New navigation centers and emergency shelters based on demonstrated need. Demonstrated need for purposes of this paragraph shall be based on the following:

- (i) The number of available shelter beds in the city, county, or region served by a continuum of care.
 - (ii) Shelter vacancy rate in the summer and winter months.
 - (iii) Percentage of exits from emergency shelters to permanent housing solutions.
 - (iv) A plan to connect residents to permanent housing.
- (d) Up to 5 percent of an applicant's program allocation may be expended for the following uses that are intended to meet federal requirements for housing funding:
- (1) Strategic homelessness plan, as defined in section 578.7(c) of Title 24 of the Code of Federal Regulations.
 - (2) Infrastructure development to support coordinated entry systems and Homeless Management Information Systems.
- (e) The applicant shall not use more than 7 percent of a program allocation for administrative costs incurred by the city, county, or continuum of care to administer its program allocation. For purposes of this subdivision, "administrative costs" does not include staff or other costs directly related to implementing activities funded by the program allocation.
- (f) Pursuant to existing law, a recipient shall comply with Section 8255 of the Welfare and Institutions Code.
- (g) Notwithstanding Section 27011 of the Government Code, or any other statute governing the deposit of funds in the county treasury, a county may accept or deposit into the county treasury, funds from any source for the purpose of administering a project, proposal, or program under this chapter.
- (h) For purposes of Section 1090 of the Government Code, a representative of a county serving on a board, committee, or body with the primary purpose of administering funds or making funding recommendations for applications pursuant to this chapter shall have no financial interest in any contract, program, or project voted on by the board, committee, or body on the basis of the receipt of compensation for holding public office or public employment as a representative of the county.
- (i) The council shall post submitted final applications to its internet website.

50220. (a) (1) No later than February 15, 2020, each applicant shall submit to the agency its program allocation application.

(2) No later than April 1, 2020, the agency shall make award determinations for the program allocations based on the point-in-time count numbers.

(3) If, after the first round of awards pursuant to this section, not all funds have been awarded by the agency, the agency shall set aside any remaining funds for a second round of awards.

(4) (A) (i) On or before May 31, 2023, a recipient shall contractually obligate not less than 50 percent of program allocations.

(ii) Recipients that are counties shall contractually obligate the full allocation awarded to them by the agency at this time. Any funds that are not contractually obligated by this date shall be reverted to the continuum of care that serves the county.

(B) If less than 50 percent is obligated after May 31, 2023, recipients that are continuums of care and cities shall not expend any remaining portion of the 50 percent of program allocations required to have been obligated pursuant to subparagraph (A) unless and until both of the following occur:

(i) On or before June 30, 2023, the recipient submits an alternative disbursement plan that includes an explanation for the delay.

(ii) The agency approves the alternative disbursement plan.

(C) On or before December 31, 2023, recipients that are continuums of care and cities shall return to the agency any funds that have not been expended pursuant to an alternative disbursement plan approved pursuant to subparagraph (B) for a subsequent round of awards by the agency.

(b) The agency may request additional information, as needed, to meet other applicable reporting or audit requirements.

(c) In addition to requirements in Section 50221, the agency may monitor the expenditures and activities of an applicant, as the agency deems necessary, to ensure compliance with program requirements.

(d) The agency may, as it deems appropriate or necessary, request the repayment of funds from an applicant, or pursue any other remedies available to it by law for failure to comply with program requirements.

(e) Any remaining amounts of program allocation funds not expended by June 30, 2025, shall revert to, and be paid and deposited in, the General Fund.

50221. (a) After receiving program funds, a recipient, by January 1 of the year following receipt of the funds and annually on that date thereafter until all funds have been expended, shall submit a report to the agency on a form and method provided by the agency, that includes all of the following, as well as any additional information the agency deems appropriate or necessary:

(1) An ongoing tracking of the specific uses and expenditures of any program funds broken out by eligible uses listed, including the current status of those funds.

(2) The number of homeless individuals served by the program funds in that year, and a total number served in all years of the program, as well the homeless population served.

(3) The types of housing assistance provided, broken out by the number of individuals.

(4) Outcome data for an individual served through program funds, including the type of housing that an individual exited to, the percent of successful housing exits, and exit types for unsuccessful housing exits.

(b) No later than January 1, 2026, each applicant that receives a program allocation shall submit to the agency a final report in a format provided by the agency, as well as detailed uses of all program funds.

(c) The agency shall post this information to its internet website within 30 days of receipt and provide notice to the Senate Housing Committee, Assembly Housing and Community Development Committee, and the appropriate Fiscal Committees.

SEC. 11. Chapter 3.1 (commencing with Section 50515) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.1. Local Government Planning Support Grants Program

50515. For purposes of this chapter:

(a) "Annual progress report" means the annual report required to be submitted to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(b) "Completed entitlement" means a housing development project that has received all the required land use approvals or entitlements necessary for the issuance of a building permit and for which no additional action, including environmental review or appeals, is required to be eligible to apply for and obtain a building permit.

(c) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code that is responsible for allocating regional housing need pursuant to Sections 65584, 65584.04, and 65584.05 of the Government Code.

(d) "Housing element" or "element" means the housing element of a community's general plan, as required pursuant to subdivision (c) of Section 65302 of the Government Code and prepared in accordance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(e) "Jurisdiction" means a city, county, or city and county.

(f) "Program" means the Local Government Planning Support Grants Program established pursuant to this chapter.

(g) "Regional housing need assessment" means the existing and projected need for housing for each region, as determined by the department pursuant to Section 65584.01 of the Government Code.

50515.01. (a) (1) The Local Government Planning Support Grants Program is hereby established for the purpose of providing regions and jurisdictions with one-time funding, including grants for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing need assessment.

(2) Upon appropriation by the Legislature, two hundred fifty million dollars (\$250,000,000) shall be distributed under the program in accordance with this chapter, as provided in Sections 50515.02 and 50515.03.

(b) The department shall administer the program and, consistent with the requirements of this chapter, provide grants to regions and jurisdictions for technical assistance, preparation and adoption of planning documents, and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment.

(c) Of the total amount of any moneys appropriated for purposes of this chapter, the department shall set aside up to 5 percent for program administration, including state operations expenditures and technical assistance, as well as expenditures by recipients of funding pursuant to Sections 50515.02 and 50515.03.

50515.02. Of the amount described in paragraph (2) of subdivision (a) of Section 50515.01, one hundred twenty-five million dollars (\$125,000,000) shall be available to councils of governments and other regional entities, as follows:

(a) The moneys allocated pursuant to this subdivision shall be available to the following entities:

(1) The Association of Bay Area Governments, representing the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(2) The Sacramento Area Council of Governments, representing the Counties of El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba.

(3) The San Diego Association of Governments, representing the County of San Diego.

(4) The Southern California Association of Governments, representing the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura.

(5) A central coast multiagency working group, formed in accordance with subdivision (c), consisting of the Association of Monterey Bay Area Governments, the San Luis Obispo Council of Governments, and the Santa Barbara County Association of Governments, representing the Counties of Monterey, San Benito, San Luis Obispo, Santa Barbara, and Santa Cruz.

(6) A San Joaquin Valley multiagency working group, formed in accordance with subdivision (c), consisting of the Fresno Council of Governments, the Kern Council of Governments, the Kings County Association of Governments, the Madera County Transportation Commission, the Merced County Association of Governments, the San Joaquin Council of Governments, the Stanislaus Council of Governments, and the Tulare County Association of Governments, representing the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

(7) Councils of governments from the Counties of Butte, Humboldt, Lake, and Mendocino. Notwithstanding any other provision of this chapter, the councils of governments described in this paragraph may apply directly to the department for funds pursuant to the program.

(8) The Counties of Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Inyo, Lassen, Mariposa, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Tuolumne, and Trinity. Notwithstanding any other provision of this chapter, the counties described in this paragraph may apply directly to the department for funds pursuant to the program. The department may approve a fiscal agent to receive funds from the amount identified in this section on behalf of a county or consortium of counties listed in this paragraph.

(b) (1) Except as otherwise provided in paragraphs (7) and (8) of subdivision (a), the department shall make the allocations required by this subdivision to each regional entity on behalf all of the jurisdictions represented by that entity. The department shall calculate the amount of each allocation in accordance with the population estimates consistent with the methodology described in subdivision (a) of Section 50515.03.

(2) Each council of governments or other regional entity may, in consultation with the department and consistent with the requirements of this chapter, determine the appropriate use of funds or suballocations within its boundaries to appropriately address its unique housing and planning priorities.

(c) The following shall apply with respect to any allocation made pursuant to this subdivision to a multiagency working group, as described in paragraphs (5) and (6) of subdivision (a):

(1) Before November 30, 2019, the multiagency working groups described in paragraphs (5) and (6) of subdivision (a) shall be formed as follows:

(A) Each working group shall consist of the following members:

- (i) One representative from each county described in paragraph (5) or (6), as applicable, of subdivision (a).
- (ii) Two city representatives from each county described in paragraph (5) or (6), as applicable, of subdivision (a) appointed by the city selection committee for that county. In appointing city representatives, the city selection committee shall appoint one representative of a larger city within the county and one representative of a smaller city within the county.
- (iii) Of the three representatives from each county serving on the multiagency working group pursuant to clauses (i) and (ii), at least one of the representatives shall also be a member of the governing body of the applicable council of governments representing the county.

(B) The multiagency working group shall select a council of governments to serve as the fiscal agent of the multiagency working group and identify staff to assist the work of the group. If the multiagency working group fails to agree to the selection of a council of governments to serve as fiscal agent pursuant to this clause within a reasonable time period, the department shall select a fiscal agent based on factors such as capacity and experience in administering grant programs.

(C) Upon its formation, the multiagency working group shall notify each city and county that is a member of a council of governments described in paragraph (5) or (6), as applicable, of subdivision (a) of its purpose pursuant to this section.

(2) In recognition of the unique challenges in developing a process through a multiagency working group, the department shall allocate eight million dollars (\$8,000,000) of the amount available pursuant to this subdivision to the multiagency working groups described in paragraphs (5) and (6) of subdivision (a), as follows:

(A) Twenty-five percent of the amount subject to this subparagraph shall be allocated to the central coast multiagency working group described in paragraph (5) of subdivision (a).

(B) Seventy-five percent of the amount subject to this subparagraph shall be allocated to the San Joaquin Valley multiagency working group described in paragraph (6) of subdivision (a).

(d) (1) Until January 31, 2021, a council of governments or other regional entity described in subdivision (a), or a county described in paragraph (8) of subdivision (a), may request an allocation of funds pursuant to this section by submitting an application, in the form and manner prescribed by the department, that includes the following information:

(A) An allocation budget for the funds provided pursuant to this section.

(B) The amounts retained by the council of governments, regional entity, or county, and any suballocations to jurisdictions.

(C) An explanation of how proposed uses will increase housing planning and facilitate local housing production.

(D) Identification of current best practices at the regional and statewide level that promote sufficient supply of housing affordable to all income levels, and a strategy for increasing adoption of these practices at the regional level, where viable.

(E) An education and outreach strategy to inform local agencies of the need and benefits of taking early action related to the sixth cycle regional needs allocation.

(2) The department shall review an application submitted pursuant to this subdivision within 30 days. Upon approval of an application for funds pursuant to this subdivision, the department shall award the moneys for which the council of governments, other regional entity, or county, as applicable, qualifies.

(e) A council of governments, other regional entity, or county that receives an allocation of funds pursuant to this section shall establish priorities and use those moneys to increase housing planning and accelerate housing production, as follows:

(1) Developing an improved methodology for the distribution of the sixth cycle regional housing need assessment to further the objectives described in subdivision (d) of Section 65584 of the Government Code.

(2) Suballocating moneys directly and equitably to jurisdictions or other subregional entities in the form of grants, to be used in accordance with subdivision (f), for planning that will accommodate the development of housing and infrastructure that will accelerate housing production in a way that aligns with state planning priorities, housing, transportation, equity, and climate goals.

(3) Providing jurisdictions and other local agencies with technical assistance, planning, temporary staffing or consultant needs associated with updating local planning and zoning documents, expediting application processing, and other actions to accelerate additional housing production.

(4) Covering the costs of administering any programs described in this subdivision.

(f) An entity that receives a suballocation of funds pursuant to paragraph (2) of subdivision (e) shall only use that suballocation for housing-related planning activities, including, but not limited to, the following:

(1) Technical assistance in improving housing permitting processes, tracking systems, and planning tools.

(2) Establishing regional or countywide housing trust funds for affordable housing.

(3) Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.

(4) Performing feasibility studies to determine the most efficient locations to site housing consistent with Sections 65041.1 and 65080 of the Government Code.

(5) Covering the costs of temporary staffing or consultant needs associated with the activities described in paragraphs (1) to (4), inclusive.

50515.03. Of the amount described in paragraph (2) of subdivision (a) of Section 50515.01, one hundred twenty-five million dollars (\$125,000,000) shall be available to jurisdictions to assist in planning for other activities related to meeting the sixth cycle regional housing need assessment, as follows:

(a) (1) The maximum amount that a jurisdiction may receive pursuant to this subdivision shall be as follows:

(A) If the jurisdiction has a population of 750,000 or greater, one million five hundred thousand dollars (\$1,500,000).

(B) If the jurisdiction has a population of 300,000 or greater, but equal to or less than 749,999, seven hundred fifty thousand dollars (\$750,000).

(C) If the jurisdiction has a population of 100,000 or greater, but equal to or less than 299,999, five hundred thousand dollars (\$500,000).

(D) If the jurisdiction has a population of 60,000 or greater, but equal to or less than 99,999, three hundred thousand dollars (\$300,000).

(E) If the jurisdiction has a population of 20,000 or greater, but equal to or less than 59,999, one hundred fifty thousand dollars (\$150,000).

(F) If the jurisdiction has a population equal to or less than 19,999, sixty-five thousand dollars (\$65,000).

(2) For purposes of this subdivision, the population of a jurisdiction shall be based on the population estimates posted on the Department of Finance's internet website as of January 1, 2019.

(b) (1) Until July 1, 2020, a jurisdiction may request an allocation of funds pursuant to this section by submitting an application to the department, in the form and manner prescribed by the department, that contains the following information:

(A) An allocation budget for the funds provided pursuant to this section.

(B) An explanation of how proposed uses will increase housing planning and facilitate local housing production.

(2) The department shall review an application submitted pursuant to this subdivision within 30 days. Upon approval of an application for funds pursuant to this subdivision, the department shall award the moneys for which the jurisdiction qualifies.

(c) A jurisdiction that receives an allocation pursuant to this section shall only use that allocation for housing-related planning activities, including, but not limited to, the following:

(1) Rezoning and encouraging development by updating planning documents and zoning ordinances, such as general plans, community plans, specific plans, sustainable communities' strategies, and local coastal programs.

(2) Completing environmental clearance to eliminate the need for project-specific review.

(3) Establishing a workforce housing opportunity zone pursuant to Article 10.10 (commencing with Section 65620) of Chapter 3 of Division 1 of Title 7 of the Government Code or a housing sustainability district pursuant to Chapter 11 (commencing with Section 66200) of Division 1 of Title 7 of the Government Code.

(4) Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.

(5) Partnering with other local entities to identify and prepare excess property for residential development.

(6) Revamping local planning processes to speed up housing production.

(7) Developing or improving an accessory dwelling unit ordinance in compliance with Section 65852.2 of the Government Code.

(8) Covering the costs of temporary staffing or consultant needs associated with the activities described in paragraphs (1) to (7), inclusive.

50515.04. (a) (1) Subject to paragraph (2), a council of governments, other regional entity, or jurisdiction, as applicable, that receives an allocation of program funds pursuant to Section 50515.02 or 50515.03 shall submit a report, in the form and manner prescribed by the department, to be made publicly available on its internet website, by April 1 of the year following the receipt of those funds, and annually thereafter until those funds are expended, that contains the following information:

(A) The status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.

(B) A summary of building permits, certificates of occupancy, or other completed entitlements issued by entities within the region or by the jurisdiction, as applicable.

(2) A city or county that receives program funds shall, in lieu of providing a separate annual report pursuant to this subdivision, provide the information required by paragraph (1) as part of its annual progress report.

(b) (1) The department shall maintain records of the following and provide that information publicly on its internet website:

(A) The name of each applicant for program funds and the status of that entity's application.

(B) The number of applications for program funding received by the department.

(C) The information described in subdivision (a) for each recipient of program funds.

(2) The department may request additional information, as needed, to meet other applicable reporting or audit requirements.

(c) (1) Each recipient of funds under the program shall expend those funds no later than December 31, 2023.

(2) No later than December 31, 2024, each council of governments, other regional entity, or county that receives an allocation of funds pursuant to Section 50515.02 shall submit a final report on the use of those funds to the department. The report required by this paragraph shall include an evaluation of jurisdiction actions taken in support of the entity's proposed uses of those funds, as specified in the entity's application, including which actions had greatest impact on housing production.

(d) The department may monitor expenditures and activities of an applicant, as the department deems necessary, to ensure compliance with program requirements.

(e) The department may, as it deems appropriate or necessary, request the repayment of funds from an applicant, or pursue any other remedies available to it by law for failure to comply with program requirements.

(f) The department may implement the program through the issuance of forms, guidelines, and one or more notices of funding availability, as the department deems necessary, to exercise the powers and perform the duties conferred on it by this chapter. Any forms, guidelines, and notices of funding availability adopted pursuant to this section are hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) The department's decision to approve or deny an application or request for funding pursuant to the program, and its determination of the amount of funding to be provided, shall be final.

50515.05. (a) It is the intent of the Legislature to revamp the existing regional housing need allocation process described in Sections 65584 to 65584.2, inclusive, of the Government Code in order to accomplish the following objectives:

- (1) Create a fair, transparent, and objective process for identifying housing needs across the state.
- (2) Strategically plan for housing growth according to statewide priorities, consistent with Section 65041.1 of the Government Code, and expected future need for housing at all income levels.
- (3) Encourage increased development to address the state's housing affordability issues.
- (4) Improve compliance and outcomes through incentives and enforcement.

(b) (1) By December 31, 2022, the department, in collaboration with the Office of Planning and Research and after engaging in stakeholder participation, shall develop a recommended improved regional housing need allocation process and methodology that promotes and streamlines housing development and substantially addresses California's housing shortage.

(2) In developing the recommendations required by this subdivision, the department may appoint a third-party consultant to facilitate a comprehensive review of the current regional housing need allocation process and methodology.

(c) Upon completion of the process described in subdivision (b), the department shall submit a report of its findings and recommendations to the Legislature. The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 12. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants or loans, or both, shall be made to local public entities, nonprofit corporations, limited liability companies, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing. Under this program, grants or loans, or both, may also be made for the cost of acquiring the land and any building thereon in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grants or loans, or both, to the local public entities, nonprofit corporations, limited liability companies, or limited partnerships or may, at the request of the local public entity, nonprofit corporation, limited liability company, or limited partnership that sponsors and supervises the rehabilitation or construction program, disburse grant funds to agricultural employees who are participants in a rehabilitation or construction program sponsored and supervised by the local public entity, nonprofit corporation, limited liability company, or limited partnership. No part of a grant or loan made pursuant to this section may be used for project organization or planning.

(2) Notwithstanding any other provision of this chapter, upon the request of a grantee the program also may loan funds to a grantee at no more than 3 percent simple interest. Principal and accumulated interest is due and payable upon completion of the term of the loan. For multifamily housing loans made pursuant to this subdivision, the department shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 30 years of the loan term, the amount of the required loan

payments shall not exceed 0.42 percent per annum. For any loan made pursuant to this subdivision, the performance requirements of the lien shall remain in effect for a period of no less than the original term of the loan.

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as they may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or loans, or both, pursuant to this section and Section 50517.10, for purposes of Chapter 8.5 (commencing with Section 50710), and for costs incurred by the department in administering these programs.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants or loans from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(D) All moneys appropriated to the department for the purposes of Chapter 8.5 (commencing with Section 50710) and any moneys received by the department from the occupants of housing or shelter provided pursuant to Chapter 8.5 (commencing with Section 50710). These moneys shall be separately accounted for from the other moneys deposited in the fund.

(c) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents that may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds provided pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds provided pursuant to this section.

(4) (A) Require as a condition precedent to a grant or loan, or both, of funds that the applicant have site control that is satisfactory to the department; that the grantee be record owner in fee of the assisted real property or provide other security including a lien on the manufactured home that is satisfactory to the department to ensure compliance with the construction, financial, and program obligations; and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property or manufactured home in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

(B) If funds granted or loaned pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a project that is less than the percentage of total development costs that funds granted or loaned pursuant to this section represent.

(C) Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal

description of the assisted real property that is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. For manufactured housing, the liens shall be recorded by the department in the same manner as other manufactured housing liens are recorded. The department shall adopt by regulation criteria for the determination of the lien period. This regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction. The lien period for manufactured housing liens for manufactured homes shall not exceed 10 years.

(D) Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, or the department, as appropriate, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(E) Prior to funds granted pursuant to this section being used to finance the acquisition of a manufactured home, the grantee shall ensure that the home either is already installed in a location where it will be occupied by the eligible household or that a location has been leased or otherwise made available for the manufactured home to be occupied by the eligible household.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide linguistically appropriate services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that both of the following occur:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant and loan funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(d) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(e) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an

identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(f) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Grantee" means the local public entity, nonprofit corporation, limited liability company, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, limited liability company, or limited partnership.

(3) "Housing" may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.

(4) "Limited liability company" means a limited liability company where all the members are nonprofit public benefit corporations.

(5) "Limited partnership" means a limited partnership where all of the general partners are either nonprofit public benefit corporations, limited liability companies, or a combination of nonprofit public benefit corporations and limited liability companies.

(g) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 13. Section 50517.6 of the Health and Safety Code is amended to read:

50517.6. (a) The department may set aside the amount of funds authorized by subdivision (d) for the purposes of curing or averting a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the dwelling unit assisted pursuant to this chapter.

(b) The department may use the set-aside funds made available pursuant to this chapter to repair or maintain any dwelling unit assisted pursuant to this chapter that was acquired to protect the department's security interest in the dwelling unit.

(c) The payment or advance of funds by the department pursuant to this section shall be exclusively within the department's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds. The amount of any funds expended by the department for the purposes of curing or averting a default shall be added to any grant amount secured by the lien and shall be payable to the department upon demand.

(d) On the effective date of the act that adds this section, the department may set aside up to two hundred thousand dollars (\$200,000) from the Joe Serna, Jr. Farmworker Housing Grant Fund for the purposes authorized by this section. On July 1 of each subsequent fiscal year, the department may set aside, for the purposes of this section, up to 1.5 percent of the funds available in the Joe Serna, Jr. Farmworker Housing Grant Fund on that date.

SEC. 14. Section 50517.7 of the Health and Safety Code is amended to read:

50517.7. In counties in which a disaster has been declared by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code and for a period of 12 months after the declaration, the department may provide grants from the fund established by subdivision (b) of Section 50517.5, subject to the following terms and conditions, which are applicable only to this section:

(a) Grants may be made to local public entities, nonprofit corporations, and housing owners comprised of either homeowners who are agricultural employees or owners of rental property used primarily by agricultural households.

(b) The department may enter into master agreements with nonprofit corporations or local public entities or it may enter into contracts directly with housing owners to carry out the activities authorized by this section.

(c) The department may make grants directly to housing owners or through master agreements for the cost of preparation of applications for funds, and supervision of expenditures from the fund, including, but not limited to estimates, work writeups, bidding supervision, and inspections. Funds granted pursuant to this subdivision shall not be secured by, and subject to, the liens required by Section 50517.5.

(d) The department, either directly or through master agreements, may provide grants to housing owners which shall be used for housing rehabilitation or acquisition and rehabilitation, and related costs, other than those costs accruing pursuant to subdivision (c). Only those funds from the fund which are actually utilized pursuant to this subdivision shall be secured by, and subject to, the liens required by Section 50517.5.

SEC. 15. Section 50650 of the Health and Safety Code is amended to read:

50650. The Legislature finds and declares as follows:

(a) An adequate supply of safe and affordable housing is the foundation for strong and sustainable communities. Owner occupied housing is a key housing resource, contributing to neighborhood stability as well as economic vitality.

(b) In California, homeownership is beyond the reach of a large segment of the population. There are also many homeowners who lack the resources to make necessary repairs to their homes, or who would welcome the opportunity to share them with suitable tenants.

(c) Reflecting California's diversity, there is a variety of proven approaches to the promotion of homeownership within the state. The purpose of the CalHome Program established by this chapter is to support existing homeownership programs aimed at lower and very low income households, and in the case of a disaster, as defined in Section 8680.3 of the Government Code, households at or below moderate income, and operated by private nonprofit and local government agencies, and thereby to increase homeownership, encourage neighborhood revitalization and sustainable development, and maximize use of existing homes.

(d) The CalHome Program is intended to take the place of the Senior Citizens' Shared Housing Program established by Chapter 3.6 (commencing with Section 50533), which is repealed by the act enacting this chapter.

SEC. 16. Section 50650.3 of the Health and Safety Code is amended to read:

50650.3. (a) Funds appropriated for purposes of this chapter shall be used to enable low- and very low income households to become or remain homeowners as provided in paragraphs (1) and (2), and to provide disaster relief assistance to households at or below 120 percent of area median income as provided in paragraph (3). Funds shall be provided by the department to local public agencies or nonprofit corporations as any of the following:

(1) Grants for programs that assist individual households.

(2) Loans that assist development projects involving multiple home ownership units, including single-family subdivisions.

(3) Grants for programs that assist individual households as provided in subdivision (g).

(b) (1) Grant funds may be used for first-time homebuyer downpayment assistance, home rehabilitation, including the installation or retrofit of ignition resistant exterior components on existing manufactured homes, mobilehomes, and accessory structures required pursuant to Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations, homebuyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance programs, or for technical assistance for self-help and shared housing home ownership.

(2) Home rehabilitation funding for the purpose of installing ignition resistant components on manufactured homes, mobilehomes, or accessory structures pursuant to this subdivision shall not be conditioned upon the rehabilitation of additional or unrelated home components unless that rehabilitation is required pursuant to

Article 2.3 (commencing with Section 4200) of Subchapter 2 of Chapter 3 of Division 1 of Title 25 of the California Code of Regulations. In administering funding for this purpose, local public agencies and nonprofit corporations may consider the condition and age of the manufactured home or mobilehome, including whether the home was constructed on or after June 15, 1976, in accordance with federal standards and whether the available funds could be more effectively used to replace the manufactured home or mobilehome.

(c) (1) Except as provided in subdivision (e), loan funds may be used for purchase of real property, site development, predevelopment, and construction period expenses incurred on home ownership development projects, and permanent financing for mutual housing or cooperative developments. Upon completion of construction, the department may convert project loans into grants for programs of assistance to individual homeowners. Except as provided in paragraph (2), financial assistance provided to individual households shall be in the form of deferred payment loans, repayable upon sale or transfer of the homes, when they cease to be owner-occupied, or upon the loan maturity date. Financial assistance may be provided in the form of a secured forgivable loan to an individual household to rehabilitate, repair, or replace manufactured housing located in a mobilehome park and not permanently affixed to a foundation. The loan shall be due and payable in 20 years, with 10 percent of the original principal to be forgiven annually for each additional year beyond the 10th year that the home is owned and continuously occupied by the borrower. Not more than 10 percent of the funds available for the purposes of this chapter in a fiscal year shall be used for financial assistance in the form of secured forgivable loans.

(2) Notwithstanding any other law, the department may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the department's underwriting requirements. The department may permit subordination on those terms and conditions as it determines are reasonable, however subordination shall not be permitted if the borrower has sufficient equity to repay the loan.

(d) All loan repayments shall be used for activities allowed under this section, and shall be governed by a reuse plan approved by the department. Those reuse plans may provide for loan servicing by the grant recipient or a third-party local government agency or nonprofit corporation.

(e) Notwithstanding subdivision (c), loans provided pursuant to the CalHome Program Disaster Assistance for Imperial County that have been made for the purpose of rehabilitation, reconstruction, or replacement of lower income owner-occupied manufactured homes shall be due and payable in 10 years, with 20 percent of the original principal to be forgiven annually for each additional year beyond the fifth year that the manufactured home is owned and continuously occupied by the borrower.

(f) The department may use funds appropriated pursuant to this chapter to make grants to local agencies or nonprofit corporations to construct accessory dwelling units as defined in Section 65852.2 of the Government Code or junior accessory dwelling units as defined in Section 65852.22 of the Government Code, and to repair, reconstruct, or rehabilitate, in whole or in part, accessory dwelling units and junior accessory dwelling units.

(g) Notwithstanding any other provision of this chapter, the department may use funds appropriated pursuant to this chapter to make grants to local agencies or nonprofit corporations to assist households at or below 120 percent of area median income that are victims of a disaster, if one of the following occurs with respect to the county in which the household's residence is located:

(1) The Governor has proclaimed a state of emergency, pursuant to Section 8625 of the Government Code, resulting from a disaster, as defined in Section 8680.3 of the Government Code.

(2) A special appropriation of federal emergency supplemental assistance or a presidential declaration of disaster has occurred.

(h) The department shall review, adopt, amend, and repeal guidelines to implement the making of grants pursuant to subdivisions (f) and (g). Any guidelines adopted to implement subdivisions (f) and (g) shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. In the event of inconsistency regarding the requirements of qualified applicants and eligibility of accessory dwelling units and junior accessory dwelling units, and rents associated with them between those guidelines and any regulations otherwise enacted pursuant to this chapter, those guidelines shall prevail.

SEC. 17. Section 50650.4 of the Health and Safety Code is amended to read:

50650.4. (a) To be eligible to receive a grant or loan, local public agencies or nonprofit corporations shall demonstrate sufficient organizational stability and capacity to carry out the activity for which they are requesting funds, including, where applicable, the capacity to manage a portfolio of individual loans over an extended time period. Capacity may be demonstrated by substantial successful experience performing similar activities, or through other means acceptable to the department. In administering the CalHome program, the department may permit local agencies and nonprofit corporations to apply their own underwriting guidelines when evaluating CalHome rehabilitation loan applications, following prior review and approval of those guidelines by the department. The local agency or nonprofit corporation shall not subsequently alter its underwriting guidelines with respect to the use of CalHome funds without review and approval by the department, including how the local agencies and nonprofit corporations will ensure participation by low-income households if making loans in response to a disaster as described in paragraph (1) of subdivision (g) of Section 50650.3. In allocating funds, the department shall utilize a competitive application process, using weighted evaluation criteria, including, but not limited to, the extent that the program or project utilizes volunteer or self-help labor, trains youth and young adults in construction skills, creates balanced communities, involves community participation, or whether the program or project contributes toward community revitalization. To the extent feasible, the application process shall ensure a reasonable geographic distribution of funds.

(b) In administering department funds received pursuant to subdivision (a), local public agencies and nonprofit corporations shall not deny the funding application of, or apply different underwriting guidelines to, a housing program or project solely on the basis of either of the following:

(1) The home is a manufactured home or mobilehome, as defined in Sections 18007 and 18008.

(2) The home is located in a mobilehome park or in a manufactured housing community, as defined in Sections 18210.7 and 18214.

SEC. 18. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, cities and counties, tribes, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA). The department may adopt guidelines to administer this chapter. Any guidelines employed by the department in implementing this chapter shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Notwithstanding anything to the contrary in this chapter, the terms of this section, and the guidelines authorized above, shall control in the event of any other statutory conflict.

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the guidelines adopted pursuant to this section.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or public or private contributions.

(c) The minimum allocation to an applicant that is a newly established trust shall be five hundred thousand dollars (\$500,000), or a higher amount as established by the department. The minimum allocation for all other trusts shall be one million dollars (\$1,000,000), or a higher amount as established by the department. All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing, except as authorized by Chapter 2.5 (commencing with Section 50470), if those funds are used to capitalize a regional housing trust fund. An application for an existing housing trust shall not be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match, or evidence of a legally binding commitment to deposit matching funds, and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department has received adequate documentation, as determined by the department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the

applicant has received a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the department to any trust until all matching funds are on deposit and then funds may be disbursed only in amounts necessary to fund projects identified to receive a loan from the trust within a reasonable period of time, as determined by the department. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(d) (1) Funds shall be used for the predevelopment costs, acquisition, construction, or rehabilitation of the following types of housing or projects:

(A) Rental housing projects or units within rental housing projects. The affordability of all assisted units shall be restricted for not less than 55 years.

(B) Emergency shelters, transitional housing, and permanent supportive housing, as these terms are defined in the guidelines adopted pursuant to this section.

(C) For-sale housing projects or units within for-sale housing projects.

(D) Notwithstanding any other provision of this chapter, the department may use funds appropriated pursuant to this chapter to make grants to trust funds for the construction of accessory dwelling units as defined in Section 65852.2 of the Government Code, or junior accessory dwelling units as defined in Section 65852.22 of the Government Code, and to repair, reconstruct, or rehabilitate, in whole or in part, accessory dwelling units and junior accessory dwelling units.

(2) At least 30 percent of the total amount of the grant and the match shall be expended on projects, units, or shelters that are affordable to, and restricted for, extremely low income households, as defined in Section 50106. No more than 20 percent of the total amount of the grant and the match shall be expended on projects or units affordable to, and restricted for, moderate-income persons and families whose income does not exceed 120 percent of the area median income. The remaining funds shall be used for projects, units, or shelters that are affordable to, and restricted for, lower income households, as defined in Section 50079.5.

(3) If funds are used for the acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for-sale housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50052.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity-sharing agreement. The grantee shall reuse the proceeds of the equity-sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and their proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(4) Notwithstanding subparagraph (A) of paragraph (1) or paragraph (3), a local housing trust fund shall not be required to record a separate deed restriction or equity agreement for any project or home that it finances, if a restriction or agreement that meets the requirements of subparagraph (A) of paragraph (1) or paragraph (3), as applicable, has been, or will be, recorded against the property by another public agency.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan repayments shall accrue to the department for use in the program or its successor.

(f) (1) In order for a city, county, or city and county to be eligible for funding, the applicant shall, at the time of application, meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(2) In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(3) A city, county, or city and county that has received an award pursuant to this section shall not encumber any program funds unless it has an adopted housing element the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(g) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(h) No more than 5 percent of the funds appropriated to the department for the purposes of this program shall be used to pay the department's costs of administration of this section. Notwithstanding any other law, the department may also allow a grantee to use up to 5 percent of the grant award for administrative costs.

(i) A local housing trust fund shall encumber funds provided pursuant to this section no later than 60 months after receipt. In addition, any award to a local housing trust that was under contract on January 1, 2013, shall be extended by 12 months, subject to progress benchmarks to be established by the department. Any funds not encumbered within that period shall revert to the department for use in the program or its successor.

(j) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31 of each year in which funds are awarded by the program, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds received.

SEC. 19. Section 53545.13 of the Health and Safety Code is amended to read:

53545.13. (a) The Infill Incentive Grant Program of 2007 is hereby established to be administered by the department.

(b) Upon appropriation of funds by the Legislature for the purpose of implementing paragraph (1) of subdivision (b) of Section 53545, the department shall establish and administer a competitive grant program to allocate those funds to selected capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or a qualifying infill area.

(c) A qualifying infill project or qualifying infill area for which a capital improvement project grant may be awarded shall meet all of the following conditions:

(1) Be located in a city, county, or city and county, in which the general plan of the city, county, or city and county, has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) Include not less than 15 percent of affordable units, as follows:

(A) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.

(B) (i) To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

(ii) Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low- and moderate-income housing market. Residential units to be replaced may not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

(C) For the purposes of this subdivision, "affordable unit" means a unit that is made available at an affordable rent, as defined in Section 50053, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, as defined in Section 50052.5, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(D) A qualifying infill project or qualifying infill area for which a disposition and development agreement or other project- or area-specific agreement between the developer and the local agency having jurisdiction over the project has been executed on or before the effective date of the act adding this section, shall be deemed to meet the affordability requirement of this paragraph (2) if the agreement includes affordability covenants that subject the project or area to the production of affordable units for very low, low-, or moderate-income households.

(3) Include average residential densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, except that a project located in a rural area as defined in Section 50199.21 shall include average residential densities on the parcels to be developed of at least 10 units per acre.

(4) Be located in an area designated for mixed-use or residential development pursuant to one of the following adopted plans:

(A) A general plan adopted pursuant to Section 65300 of the Government Code.

(B) A project area redevelopment plan approved pursuant to Section 33330.

(C) A regional blueprint plan as defined in the California Regional Blueprint Planning Program administered by the Business, Transportation and Housing Agency, or a regional plan as defined in Section 65060.7 of the Government Code.

(5) For qualifying infill projects or qualifying infill areas located in a redevelopment project area, meet the requirements contained in subdivision (a) of Section 33413.

(d) In its review and ranking of applications for the award of capital improvement project grants, the department shall rank the affected qualifying infill projects and qualifying infill areas based on the following priorities:

(1) Project readiness, which shall include all of the following:

(A) A demonstration that the project or area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submittal of a grant application.

(B) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill project or development of a qualifying infill area.

(C) A demonstration that the project or area development has sufficient local support to achieve the proposed improvement.

(2) The depth and duration of the affordability of the housing proposed for a qualifying infill project or qualifying infill area.

(3) The extent to which the average residential densities on the parcels to be developed exceed the density standards contained in paragraph (3) of subdivision (c).

(4) The qualifying infill project's or qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.

(5) The proximity of housing to parks, employment or retail centers, schools, or social services.

(6) The qualifying infill project or qualifying infill area location's consistency with an adopted regional blueprint plan or other adopted regional growth plan intended to foster efficient land use.

(e) In allocating funds pursuant to this section, the department, to the maximum extent feasible, shall ensure a reasonable geographic distribution of funds.

(f) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.

(g) (1) The department shall adopt guidelines for the operation of the grant program, including guidelines to ensure the tax-exempt status of the bonds issued pursuant to this part, and may administer the program under those guidelines.

(2) The guidelines shall include provisions for the reversion of grant awards that are not encumbered within four years of the fiscal year in which an award was made, and for the recapture of grants awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department.

(3) The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(h) For each fiscal year within the duration of the grant program, the department shall include within the report to the Legislature, required by Section 50408, information on its activities relating to the grant program. The report shall include, but is not limited to, the following information:

(1) A summary of the projects that received grants under the program for each fiscal year that grants were awarded.

(2) The description, location, and estimated date of completion for each project that received a grant award under the program.

(3) An update on the status of each project that received a grant award under the program, and the number of housing units created or facilitated by the program.

(i) Notwithstanding paragraph (3) of subdivision (c), a city of greater than 100,000 in population in a standard metropolitan statistical area of less than 2,000,000 in population may petition the department for, and the department may grant, an exception to the jurisdiction's classification pursuant to subdivisions (d) to (f), inclusive, of Section 65583.2 of the Government Code, if the city believes it is unable to meet the density requirements specified in paragraph (3) of subdivision (c). The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may encounter in meeting the density requirements specified in paragraph (3) of subdivision (c). Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2015.

(j) For notices of funding availability released after July 1, 2021, in awarding funds under the program, the department shall provide additional points or preference to projects located in jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to Section 65585 of the Government Code and that are designated prohousing pursuant to subdivision (c) of Section 65589.9 of the Government Code, in the manner determined by the department pursuant to subdivision (d) of Section 65589.9 of the Government Code.

SEC. 20. Part 12.5 (commencing with Section 53559) is added to Division 31 of the Health and Safety Code, to read:

PART 12.5. Infill Infrastructure Grant Program of 2019

53559. (a) The Infill Infrastructure Grant Program of 2019 is hereby established to be administered by the department.

(b) Upon appropriation by the Legislature of funds specified in Section 53559.2, the department shall establish and administer a grant program to allocate those funds to capital improvement projects that are an integral part of, or necessary to facilitate the development of, a qualifying infill project or qualifying infill area, pursuant to the requirements of this section.

(c) (1) The department shall administer a competitive application process for grants funded by the allocation specified in paragraph (1) of subdivision (a) of Section 53559.2 for selected capital improvement projects for large jurisdictions pursuant to this subdivision. The department shall release a notice of funding availability no later than November 30, 2019.

(2) In its review and ranking of applications for the award of capital improvement project grants, the department shall rank the affected qualifying infill projects and qualifying infill areas based on the following priorities:

(A) Project readiness, which shall include all of the following:

(i) A demonstration that the project or area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.

(ii) A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill project or development of a qualifying infill area.

(iii) A demonstration that the project or area development has sufficient local support to achieve the proposed improvement.

(B) The depth and duration of the affordability of the housing proposed for a qualifying infill project or qualifying infill area.

(C) The extent to which the average residential densities on the parcels to be developed exceed the density standards contained in paragraph (4) of subdivision (e).

(D) The qualifying infill project's or qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.

(E) The proximity of housing to parks, employment or retail centers, schools, or social services.

(F) The qualifying infill project or qualifying infill area location's consistency with an adopted sustainable communities strategy pursuant to Section 65080 of the Government Code, alternative planning strategy pursuant to Section 65450 of the Government Code, or other adopted regional growth plan intended to foster efficient land use.

(3) In allocating funds pursuant to this subdivision, the department, to the maximum extent feasible, shall ensure a reasonable geographic distribution of funds.

(4) For purposes of awarding grants pursuant to the competitive application process required by this subdivision:

(A) "Qualifying infill area" means a contiguous area located within an urbanized area (i) that has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with urban uses, and (ii) in which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this section for a qualifying infill project.

(B) (i) "Qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(ii) A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.

(d) (1) The department shall administer an over-the-counter application process for grants funded by the allocation specified in paragraph (2) of subdivision (a) of Section 53559.2 for capital improvement projects for small jurisdictions, pursuant to this subdivision. A notice of funding availability shall be released no later than November 30, 2019.

(2) Eligible applicants shall submit the following information in the application request for funding:

(A) A complete description of the qualifying infill project or qualifying infill area and documentation of how the infill project or infill area meets the requirements of this section.

(B) A complete description of the capital improvement project and requested grant funding for the project, how the project is necessary to support the development of housing, and how it meets the criteria of this section.

(C) Documentation that specifies how the application meets all of the requirements of subdivision (e).

(D) (i) Except as provided in clause (ii), a financial document that shows the gap financing needed for the project.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow an applicant to meet the requirement described in clause (i) by submitting copies of an application or applications for other sources of state or federal funding for a qualifying infill project.

(E) (i) Except as provided by clause (ii), documentation of all necessary entitlement and permits, and a certification from the applicant that the project is shovel-ready.

(ii) For a qualifying infill project located in the unincorporated area of the county, the department shall allow the applicant to meet the requirement described in clause (i) by submitting a letter of intent from a willing affordable housing developer that has previously completed at least one comparable housing project, certifying that the developer is willing to submit an application to the county for approval by the county of a qualifying infill project within the area in the event that the funding requested pursuant to this subdivision is awarded.

(3) The department may establish a per-unit formula to determine the amount of funds awarded pursuant to this subdivision.

(4) For purposes of awarding grants pursuant to the over-the-counter application process required by this subdivision:

(A) "Qualifying infill area" means a contiguous area located within an urbanized area that meets either of the following criteria:

(i) The area contains sites included on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code, and at least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(ii) The capital improvement project for which funding is requested is necessary, as documented by an environmental review or some other adopted planning document, to make the area suitable and available for residential development, or to allow the area to accommodate housing for additional income levels, and the area otherwise meets the requirements for inclusion on the inventory of land suitable and available for residential development in the housing element of the applicable city or county general plan

pursuant to paragraph (3) of subdivision (a) of Section 65583 of the Government Code. At least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.

(B) "Qualifying infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 50 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(e) A qualifying infill project or qualifying infill area for which a capital improvement project grant may be awarded pursuant to either subdivision (c) or (d) shall meet all of the following conditions:

(1) Be located in a city, county, or city and county in which the general plan of the city, county, or city and county has an adopted housing element that has been found by the department, pursuant to Section 65585 of the Government Code, to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) Be located in a city, county, or city and county that, at the time of application, has submitted its annual progress reports for 2017 through the most recently required annual progress reports.

(3) Include not less than 15 percent of affordable units, as follows:

(A) For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.

(B) (i) To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

(ii) Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low- and moderate-income housing market. Residential units to be replaced shall not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

(C) For the purposes of this subdivision, "affordable unit" means a unit that is made available at an affordable rent, as defined in Section 50053, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, as defined in Section 50052.5, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.

(D) A qualifying infill project or qualifying infill area for which a disposition and development agreement or other project- or area-specific agreement between the developer and the local agency having jurisdiction over the project has been executed on or before the effective date of the act adding this section, shall be deemed to meet the affordability requirements of this paragraph if the agreement includes affordability covenants that subject the project or area to the production of affordable units for very low, low-, or moderate-income households.

(4) Include average residential densities on the parcels to be developed that are equal to or greater than the densities described in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code, except that a project located in a rural area as defined in Section 50199.21 shall include average residential densities on the parcels to be developed of at least 10 units per acre.

(5) Be located in an area designated for mixed-use or residential development pursuant to one of the following:

(A) A general plan adopted pursuant to Section 65300 of the Government Code.

(B) A sustainable communities strategy adopted pursuant to Section 65080 of the Government Code.

(C) A specific plan adopted pursuant to Section 65450 of the Government Code.

(D) A Workforce Housing Opportunity Zone established pursuant to Section 65620 of the Government Code.

(E) A Housing Sustainability District established pursuant to Section 66201 of the Government Code.

(f) Funds awarded pursuant to this section shall supplement, not supplant, other available funding.

(g) The department shall adopt guidelines for the operation of the grant program. The guidelines shall include provisions for the reversion of grant awards that are not encumbered within two years of the date an award was made, and for the recapture of grants awarded, but for which development of the related housing units has not progressed in a reasonable period of time from the date of the grant award, as determined by the department. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) For each fiscal year within the duration of the grant program, the department shall include within the report to the Governor and the Legislature, required by Section 50408, information on its activities relating to the grant program. The report shall include, but is not limited to, the following information:

(1) A summary of the projects that received grants under the program for each fiscal year that grants were awarded.

(2) The description, location, and estimated date of completion for each project that received a grant award under the program.

(3) An update on the status of each project that received a grant award under the program, and the number of housing units created or facilitated by the program.

(i) Notwithstanding paragraph (4) of subdivision (e), a city with a population greater than 100,000 in a standard metropolitan statistical area or a population of less than 2,000,000 may petition the department for, and the department may grant, an exception to the jurisdiction's classification pursuant to subdivisions (d) to (f), inclusive, of Section 65583.2 of the Government Code, if the city believes it is unable to meet the density requirements specified in paragraph (4) of subdivision (e). The city shall submit the petition with its application and shall include the reasons why the city believes the exception is warranted. The city shall provide information supporting the need for the exception, including, but not limited to, any limitations that the city may encounter in meeting the density requirements specified in paragraph (4) of subdivision (e). Any exception shall be for the purposes of this section only. This subdivision shall become inoperative on January 1, 2023.

53559.1. For the purposes of this part, the following definitions apply:

(a) "Capital improvement project" means the construction, rehabilitation, demolition, relocation, preservation, acquisition, or other physical improvement of a capital asset, as defined in subdivision (a) of Section 16727 of the Government Code, that is an integral part of, or necessary to facilitate the development of, a qualifying infill project or qualifying infill area. Capital improvement projects that may be funded under the grant program established by this part include, but are not limited to, those related to the following:

(1) Water, sewer, or other utility service improvements.

(2) Streets, roads, or transit linkages or facilities, including, but not limited to, related access plazas or pathways, bus or transit shelters, or facilities that support pedestrian or bicycle transit.

(3) Qualifying infill project or qualifying infill area site preparation or demolition.

(4) Sidewalk or streetscape improvements, including, but not limited, the reconstruction or resurfacing of sidewalks and streets or the installation of lighting, signage, or other related amenities.

(b) "Eligible applicant" means either of the following:

(1) A city, county, city and county, or public housing authority that has jurisdiction over a qualifying infill area.

(2) A nonprofit or for-profit developer of a qualifying infill project applying jointly with a city, county, city and county, or public housing authority that has jurisdiction over a qualifying infill area.

(c) "Small jurisdiction" means a county with a population of less than 250,000 as of January 1, 2019, or any city within that county.

(d) "Large jurisdiction" means a county that is not a small jurisdiction, or any city within that county.

(e) "Urbanized area" means an incorporated city or an urbanized area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an urban area or urban cluster, the area must be

within a designated urban service area that is designated in the local general plan for urban development and is served by the public sewer and water.

(f) "Urban uses" means any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

53599.2. (a) Upon appropriation by the Legislature, the department may expend the sum of five hundred million dollars (\$500,000,000) for the Infill Infrastructure Grant Program of 2019, as follows:

(1) Four hundred ten million dollars (\$410,000,000) shall be allocated to fund grants pursuant to subdivision (c) of Section 53599.

(2) Ninety million dollars (\$90,000,000) shall be allocated to fund grants pursuant subdivision (d) of Section 53599.

(b) Of the amount appropriated in subdivision (a), 5 percent of the funds shall be set aside for program administration, including state operations expenditures and technical assistance.

SEC. 21. Section 75218.1 is added to the Public Resources Code, to read:

75218.1. For notices of funding availability released after July 1, 2021, in awarding funds under the program, the council shall provide additional points or preference to jurisdictions that have adopted a housing element that has been found by the Department of Housing and Community Development to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to Section 65585 of the Government Code and that are designated prohousing pursuant to subdivision (c) of Section 65589.9 of the Government Code, in the manner determined by the Department of Housing and Community Development pursuant to subdivision (d) of Section 65589.9 of the Government Code.

SEC. 22. Section 75244 is added to the Public Resources Code, to read:

75244. For notices of funding availability released after July 1, 2021, in awarding funds under the program, the council shall provide additional points or preference to jurisdictions that have adopted a housing element that has been found by the Department of Housing and Community Development to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to Section 65585 of the Government Code and that are designated prohousing pursuant to subdivision (c) of Section 65589.9 of the Government Code, in the manner determined by the Department of Housing and Community Development pursuant to subdivision (d) of Section 65589.9 of the Government Code.

SEC. 23. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax," described by Section 12201, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) (i) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(ii) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (6) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in

credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that is a new building and is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) In the case of any qualified low-income building that receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514 or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(5) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)

(A)(ii)(I) shall not apply.

(6) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, and the California Tax Credit Allocation Committee has adopted regulatory reforms aimed at increasing production and containing costs. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee shall prescribe regulations, rules, guidelines, or procedures necessary to implement a new allocation methodology that is aimed at increasing production and containing costs.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, provided that the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a

specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (5) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(D) Subparagraphs (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) (1) (A) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit

has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(p) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

SEC. 24. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the "net tax," defined in Section 17039, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect,

within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (7) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that is a new building that is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(4) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(5) In the case of any qualified low-income building that receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514 or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(6) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(7) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rules for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, and the California Tax Credit Allocation Committee has adopted regulatory reforms aimed at increasing production and containing costs. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in

Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee shall prescribe regulations, rules, guidelines, or procedures necessary to implement a new allocation methodology that is aimed at increasing production and containing costs.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate that there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (6) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(D) Subparagraphs (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) (A) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit

has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(r) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(s) The amendments to this section made by Chapter 1222 of the Statutes of 1993 apply only to taxable years beginning on or after January 1, 1994.

(t) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect. Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

SEC. 25. Section 17561 of the Revenue and Taxation Code is amended to read:

17561. (a) Section 469(c)(7) of the Internal Revenue Code, relating to special rules for taxpayers in real property business, shall not apply.

(b) Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, is modified to refer to the following credits:

- (1) The credit for research expenses allowed by Section 17052.12.
- (2) The credit for certain wages paid (targeted jobs) allowed by Section 17053.7.
- (3) The credit allowed by former Section 17057 (relating to clinical testing expenses).
- (4) The credit for low-income housing allowed by Section 17058.

(c) Section 469(g)(1)(A) of the Internal Revenue Code is modified to provide that if all gain or loss realized on the disposition of the taxpayer's entire interest in any passive activity (or former passive activity) is recognized, the excess of—

(1) The sum of—

(A) Any loss from that activity for that taxable year (determined after application of Section 469(b) of the Internal Revenue Code), plus

(B) Any loss realized on that disposition, over

(2) Net income or gain for the taxable year from all passive activities (determined without regard to losses described in paragraph (1)),

shall be treated as a loss which is not from a passive activity.

(d) (1) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars (\$25,000) offset for rental real estate activities, the dollar limitation specified in

Section 469(i)(2) of the Internal Revenue Code, relating to dollar limitation, for the credit allowed under Section 17058, relating to low-income housing, shall not apply.

(2) The amendments made to this subdivision by the act adding this paragraph shall apply to each taxable year beginning on or after January 1, 2020.

(e) Section 502 of the Tax Reform Act of 1986 (P.L. 99-514) shall apply.

(f) For taxable years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

SEC. 26. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax," defined in Section 23036, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the

Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) Except as described in clause (ii) or (iii), for buildings located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code, relating to low-income housing credit, is computed on 100 percent of the qualified basis of the building.

(ii) Notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit for buildings located in DDAs or QCTs that are restricted to having 50 percent of the building's occupants be special needs households, as defined in the California Code of Regulations by the California Tax Credit Allocation Committee, or receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), even if the taxpayer receives federal credits pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, provided that the credit allowed under this section shall not exceed 30 percent of the eligible basis of the building.

(iii) On and after January 1, 2018, notwithstanding clause (i), the California Tax Credit Allocation Committee may allocate the credit pursuant to paragraph (7) of subdivision (c) even if the taxpayer receives federal credits, pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term "applicable percentage" means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, relating to temporary minimum credit rate for nonfederally subsidized new buildings, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that is a new building and is federally subsidized and receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g), the term "applicable percentage" means for the first three years, 9 percent of the qualified basis of the building, and for the fourth year, 3 percent of the qualified basis of the building.

(4) In the case of any qualified low-income building that receives an allocation after 1989 pursuant to subparagraph (A) of paragraph (1) of subdivision (g) and that is a new building that is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(5) In the case of any qualified low-income building that receives an allocation pursuant to subparagraph (A) of paragraph (1) of subdivision (g) that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is either:

(i) Serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(ii) Financed under Section 514, or 521 of the National Housing Act of 1949 (42 U.S.C. Sec. 1485).

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(6) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715I(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 514 of the Housing Act of 1949, Section 1484 of Title 42 of the United States Code, as amended, and Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(vii) Programs for loans or grants administered by the Department of Housing and Community Development.

(B) The restrictions on rent and income levels will terminate or the federally insured mortgage or rent subsidy contract on the property is eligible for prepayment or termination any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(7) On and after January 1, 2018, in the case of any qualified low-income building that is (A) farmworker housing, as defined by paragraph (2) of subdivision (h) of Section 50199.7 of the Health and Safety Code, and (B) is federally subsidized, the term "applicable percentage" means for each of the first three years, 20 percent of the qualified basis of the building, and for the fourth year, 15 percent of the qualified basis of the building.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity, which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, does not apply and instead the following provisions apply:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Five hundred million dollars (\$500,000,000) for the 2020 calendar year, and up to five hundred million dollars (\$500,000,000) for the 2021 calendar year and every year thereafter. Allocations shall only be available pursuant to this subparagraph in the 2021 calendar year and thereafter if the annual Budget Act, or if any bill providing for appropriations related to the Budget Act, specifies an amount to be available for allocation in that calendar year by the California Tax Credit Allocation Committee, and the California Tax Credit Allocation Committee has adopted regulatory reforms aimed at increasing production and containing costs. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving a nonfederally subsidized allocation under subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(i) Eligible projects for allocations under this subparagraph include any new building, as defined in Section 42(i)(4) of the Internal Revenue Code, relating to newly constructed buildings, and the regulations promulgated thereunder, excluding rehabilitation expenditures under Section 42 (e) of the Internal Revenue Code, relating to rehabilitation expenditures treated as separate new building, and is federally subsidized.

(ii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2020 calendar year, the California Tax Credit Allocation Committee shall consider projects located throughout the state and shall allocate housing credits, subject to the minimum federal requirements as set forth in Sections 42 and 142 of the Internal Revenue Code, the minimum requirements set forth in Sections 5033 and 5190 of the California Debt Limit Allocation Committee regulations, and the minimum set forth in Section 10326 of the Tax Credit Allocation Committee regulations, for projects that can begin construction within 180 days from award, subject to availability of funds.

(iii) Notwithstanding any other provision of this section, for allocations pursuant to this subparagraph for the 2021 calendar year and thereafter, the California Tax Credit Allocation Committee shall prescribe regulations, rules, guidelines, or procedures necessary to implement a new allocation methodology that is aimed at increasing production and containing costs.

(iv) Of the amount available pursuant to this subparagraph, and notwithstanding any other requirement of this section, the California Tax Credit Allocation Committee may allocate up to two hundred million

dollars (\$200,000,000) for housing financed by the California Housing Finance Agency under its Mixed-Income Program.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) A provision that the remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (6) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(D) Subparagraph (B) and (C) shall not apply to projects receiving an allocation pursuant to subparagraph (B) of paragraph (1) of subdivision (g).

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(l) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(l) In the case in which the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) (1) (A) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, a taxpayer may elect in its application to the California Tax Credit Allocation Committee to sell all or any

portion of any credit allowed, subject to subparagraphs (B) and (C). The taxpayer may, only once, revoke an election to sell pursuant to this subdivision at any time before the California Tax Credit Allocation Committee allocates a final credit amount for the project pursuant to this section, at which point the election shall become irrevocable.

(B) A credit that a taxpayer elects to sell all or a portion of pursuant to this subdivision shall be sold for consideration that is not less than 80 percent of the amount of the credit.

(C) A taxpayer shall not elect to sell all or any portion of any credit pursuant to this subdivision if the taxpayer did not make that election in its application submitted to the California Tax Credit Allocation Committee.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(s) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(t) Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

(u) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

(v) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

SEC. 27. Section 24692 of the Revenue and Taxation Code is amended to read:

24692. (a) Section 469 of the Internal Revenue Code, relating to passive activity losses and credits limited, shall apply, except as otherwise provided.

(b) Section 469(c)(7) of the Internal Revenue Code, relating to special rules for taxpayers in real property business, shall not apply.

(c) Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, is modified to refer to the following credits:

(1) The credit for research expenses allowed by Section 23609.

(2) The credit for clinical testing expenses allowed by Section 23609.5.

(3) The credit for low-income housing allowed by Section 23610.5.

(4) The credit for certain wages paid (targeted jobs) allowed by Section 23621.

(d) Section 469(g)(1)(A) of the Internal Revenue Code is modified to provide that if all gain or loss realized on the disposition of the taxpayer's entire interest in any passive activity (or former passive activity) is recognized, the excess of—

(1) The sum of—

(A) Any loss from that activity for that taxable year (determined after application of Section 469(b) of the Internal Revenue Code), plus

(B) Any loss realized on that disposition, over

(2) Net income or gain for the taxable year from all passive activities (determined without regard to losses described in paragraph (1)), shall be treated as a loss which is not from a passive activity.

(e) (1) For purposes of applying Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars (\$25,000) offset for rental real estate activities, the dollar limitation specified in Section 469(i) (2) of the Internal Revenue Code, relating to dollar limitation, for the credit allowed under Section 23610.5, relating to low-income housing, shall not apply.

(2) The amendments made to this subdivision by the act adding this paragraph shall apply to each taxable year beginning on or after January 1, 2020.

(f) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(g) For each taxable year beginning on or after January 1, 1987, Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall apply, except as otherwise provided.

(h) The amendments to Section 469(k) of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to separate application of section in case of publicly traded partnerships, shall apply to each taxable year beginning on or after January 1, 1990, except as otherwise provided.

SEC. 28. Section 8256 of the Welfare and Institutions Code is amended to read:

8256. (a) Agencies and departments administering state programs created on or after July 1, 2017, shall collaborate with the coordinating council to adopt guidelines and regulations to incorporate core components of Housing First.

(b) By July 1, 2019, except as otherwise provided in subdivision (c), agencies and departments administering state programs in existence prior to July 1, 2017, shall collaborate with the coordinating council to revise or adopt guidelines and regulations that incorporate the core components of Housing First, if the existing guidelines and regulations do not already incorporate the core components of Housing First.

(c) (1) An agency or department that administers programs that fund recovery housing shall comply with the requirements of subdivision (b) by July 1, 2020.

(2) An agency or department that administers programs that fund recovery housing shall additionally do both of the following:

(A) Consult with the Legislature, the Homeless Coordinating and Financing Council, the Business, Consumer Services, and Housing Agency, and other stakeholders between July 1, 2019, and July 1, 2020, to identify ways to improve the provision of housing to individuals who receive funding from that agency or department, consistent with the applicable requirements of state law.

(B) By March 1, 2020, submit a report to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on its efforts to comply with Housing First specifically and to improve the provision of housing to individuals who receive housing assistance from the agency or department generally.

(3) (A) For purposes of this subdivision, "recovery housing" means sober living facilities and programs that provide housing in an abstinence-focused and peer-supported community if participation is voluntary, unless that participation is pursuant to a court order or is a condition of release for individuals under the jurisdiction of a county probation department of the Department of Corrections and Rehabilitation.

(B) A recovery housing program shall comply with the core components of Housing First, other than those components described in paragraphs (5) through (7), inclusive, of subdivision (b) of Section 8255.

SEC. 29. (a) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, the sum of five hundred million dollars (\$500,000,000) from the General Fund to the Department of Housing and Community Development. The moneys appropriated pursuant to this section shall be transferred to the Self-Help Housing Fund established pursuant to Section 50697.1 of the Health and Safety Code, based on the following schedule:

(1) For the 2019–20 fiscal year, two hundred million dollars (\$200,000,000).

(2) For the 2020–21 fiscal year, ninety-five million dollars (\$95,000,000).

(3) For the 2021–22 fiscal year, one hundred twenty million dollars (\$120,000,000).

(4) For the 2022–23 fiscal year, eighty-five million dollars (\$85,000,000).

(b) Notwithstanding Section 50697.1 of the Health and Safety Code, the Department of Housing and Community Development shall transfer the moneys appropriated pursuant to subdivision (a) to the California Housing Finance Agency, to be used to finance low and moderate income housing.

(c) The Director of Finance may change the release of funds scheduled in subparagraphs (1) through (4), inclusive, of subdivision (a), if deemed necessary. The director shall notify the Chairperson of the Joint Legislative Budget Committee, or the chairpersons's designee, of the director's intent to notify the Controller of the necessity to change the release of funds scheduled in paragraphs (1) through (4), inclusive, of subdivision (a). The total amount appropriated shall not be greater or lesser than the amount appropriated in subdivision (a). The Controller shall make the funds available to the department not sooner than five days after receipt of this notification.

SEC. 30. The Legislature finds and declares that Section 4 of this act, amending Section 65585 of, and Sections 5 and 6 of this act, adding Sections 65589.9 and 65589.11 to, the Government Code, address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 4, 5, and 6 of this act apply to all cities, including charter cities.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 32. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

CDLAC
Demand Survey Results 2022

Private Activity Bond Program	Total Demand per Program		# of Projects	
QRRP's	\$	8,670,680,710	268	
Single Family Housing	\$	409,000,000		
IDB's	\$	-		
Exempt Facility	\$	4,138,830,000	18	
TOTAL PAB DEMAND	\$	13,218,510,710	286	
BIPOC	\$	69,563,311	3	
Homeless, ELI/VLI	\$	2,972,847,493	79	
MIP	\$	950,470,000	21	
Rural	\$	90,000,000	4	
Preservation	\$	132,500,000	7	
Other Rehab	\$	118,500,000	8	
Geographic	\$	3,955,498,398	62	
TBD	\$	566,864,827	92	
%				
% of Demand in Regions				
Bay Area	33.77%	\$ 2,928,382,397	75	Average per project \$ 39,045,098.63
Northern	14.30%	\$ 1,240,192,165	34	\$ 36,476,240.15
Los Angeles City	13.34%	\$ 1,156,496,098	41	\$ 28,207,221.90
Los Angeles County	6.58%	\$ 570,528,960	15	\$ 38,035,264.00
Coastal	15.48%	\$ 1,342,069,260	51	\$ 26,315,083.53
Inland	5.73%	\$ 496,541,830	24	\$ 20,689,242.92
TBD	10.80%	\$ 936,470,000	28	\$ 33,445,357.14
Region Totals		\$ 8,670,680,710	268	

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

-
- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
 - ☒ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
 - ☐ 3. Request for Hearing on a subject matter at Committee
 - ☐ 4. Request for Letter beginning with "Supervisor [] inquires..."
 - ☐ 5. City Attorney Request
 - ☐ 6. Call File No. [] from Committee.
 - ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
 - ☐ 8. Substitute Legislation File No. []
 - ☐ 9. Reactivate File No. []
 - ☐ 10. Topic submitted for Mayoral Appearance before the Board on []

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Chan

Subject:

[Supporting California Assembly Bill No. 346 (Quirk-Silva): Income tax credits: low-income housing: California Debt Limit Allocation Committee rulemaking]

Long Title or text listed:

Resolution supporting the passage of California State Assembly Bill No. 346 authored by Assemblymember Sharon Quirk-Silva, which would make various amendments to the Low-Income Housing Tax Credits program and the California Debt Limit Allocation Committee rulemaking.

Signature of Sponsoring Supervisor:

