Nevada Affordable Housing Tax Credit Program
General Structural Elements for Consideration

The following is an outline of the proposed structure for the Nevada Affordable Housing Tax Credit Program.

1) The program is a 4-Year pilot program which authorizes up to $10 million of transferrable tax credits per fiscal year, not to exceed a total of $40 million, to be administered by the Housing Division of the Department of Business and Industry to encourage the development and preservation of low-income residential housing projects statewide.

    - The structure of the Nevada Affordable Housing Tax Credit Program is based in part on the Nevada Film Tax Credit Program approved in S.B. 165 during the 2013 Session, which was originally a 4-year pilot program authorizing up to $20 million per fiscal year, not to exceed a total of $80 million, in transferrable tax credits to encourage film production in Nevada.

2) The program would become effective on July 1, 2019, for the purpose of allowing the Housing Division to develop regulations. The Housing Division would be authorized to allocate up to $10 million of transferrable tax credits beginning on January 1, 2020.

    - If any portion of the $10M in tax credits is not allocated in a fiscal year, that amount can be carried forward and allocated in any following fiscal year during the 4-year pilot program.
    - The 4-year pilot program authorizing the total of $40 million in tax credits would end on December 31, 2023.
    - Although the 4-year program ends on December 31, 2023, any applications for credits that are received by the Housing Division on or before that date may receive an allocation of tax credits, even if those credits are issued after that date.
    - All tax credits issued will have a 4-year expiration date from the date of issue.

3) The tax credit program is intended to be used in combination with the existing federal and state affordable housing programs administered by the Housing Division and will provide gap funding to enhance the financial viability of eligible projects that would not otherwise be possible without the gap funding provided by this state tax credit program.

    - The program is not focused specifically on new versus rehabilitation projects, urban versus rural projects, or rental versus owner occupied projects.

4) The program will authorize the Housing Division to annually allocate transferrable tax credits to a Project Sponsor/Developer based on the eligibility criteria established in the Qualified Allocation Plan (QAP). (The QAP is a required annual plan developed by the Housing Division to comply with the administration and allocation of tax credits under the federal Low Income Housing Tax Credit (LIHTC) programs.)

    - Tax credits allocated to a project will not actually be issued until after the Project Sponsor/Developer has satisfactorily met all of the program criteria as established in statute, the QAP, and the regulations to be adopted by the Housing Division.
    - If tax credits are allocated but not issued to a project, the unissued tax credits become available to be reallocated by the Housing Division to other eligible projects.

5) Upon the issuance of a tax credit by the Housing Division and before it is transferred or used, the Project Sponsor/Developer must declare the specific State taxes (eligible taxes) that the credit will be used against. The credit can be used against one or more of the following eligible taxes:

   - Modified Business Tax (NRS 363A.130 and 363B.110)
   - Insurance Premium Tax (NRS 680B.027)
   - Gaming Percentage Fee (NRS 463.370)

6) Upon the issuance and declaration of a tax credit, the Housing Division will be required to provide notification regarding who the credits were issued to and which taxes they were declared against to the Department of Taxation, the Gaming Control Board, the Legislative Counsel Bureau and the Governor's Finance Office.

   - The Project Sponsor/Developer may either use the tax credit or transfer it. The tax credit may be transferred to one or more investors or to one or more taxpayers that have a liability to pay the eligible taxes for which the tax credit was declared.
   - If the tax credit is transferred to an investor(s), the investor may either use the tax credit or transfer it to a taxpayer(s) that has a liability to pay one or more of the eligible taxes for which the tax credit was declared.
   - Each time a credit is transferred the Project Sponsor/Developer or the investor(s), as applicable, will be required to provide notification of the transfer to the Housing Division. The Housing Division will then be required to provide notification to the Department of Taxation, the Gaming Control Board, the Legislative Counsel Bureau and the Governor's Office of Finance to ensure these agencies can administer the program with respect to verifying the status and ownership of the tax credits as they are allocated, issued, declared, transferred and used.

7) The program will include clawback provisions that mirror the provisions of the federal LIHTC program such that if a project falls out of compliance during the 15-year LIHTC compliance period, all or a portion of the state tax credits used may be required to be repaid to the State by the Project Sponsor/Developer. The program would need to continue to be administered by the Housing Division until all tax credits have been used and all projects have met the compliance period for the clawback provisions.

8) The program will include requirements for various reports and legislative updates to be provided with respect to the amount of tax credits allocated, the amount issued, and the amount actually used by fiscal year, including information about the types of entities that are using the tax credits. Information regarding the number and type of affordable housing projects funded by the 4-year pilot program will also be required.