

NEBRASKA TAXPAYERS FOR FREEDOM RESEARCH PAPER:
GROSS MISUSE OF TAX INCREMENT FINANCING IN NEBRASKA.

BACKGROUND. After NE voters approved a constitutional amendment in Nov. 1978, the NE Legislature passed a bill in 1979 that established tax increment financing (TIF), which became section 18-2147 of state law. This new law amended the NE Community Development Law. **LB 158** permitted local governments to finance projects in substandard and blighted areas by pledging for up to 15 years the increased property tax receipts on real property generated from redevelopment activity. After the principle, if any, and interest on indebtedness incurred to finance a redevelopment project paid, the tax receipts from redevelopment restored to the respective local taxing authorities.

The legislature created TIF to allow local subdivisions to help developers pay the costs of redeveloping blighted areas by freezing increased property tax revenues resulting from the higher valuations generated by the redevelopment project. That money then placed in a separate fund and used to pay redevelopment expenses. The base property tax valuation frozen for 15-20 years. During the period that redevelopment indebtedness retired, property tax receipts on the redevelopment projects collected by the respective taxing authorities bases on the current mill levy for the time the assessed valuation of the property for the years prior to

redevelopment, that is, in abeyance. **LB 158** permitted only the limited pledge of increased tax receipts attributable to redevelopment for the purpose of retiring the project indebtedness and does not authorize the pledge of State or local taxing revenue to guarantee such financing. The intent of the bill was to use TIFs to restore depressed tracts to a condition that would make an area conducive to revived residential and commercial development that would add to the property tax rolls.

IMPORTANT NOTE. The legislation carefully defined the terms “substandard and blighted area.” Blighted area meant an area that has substandard, deteriorating, or deteriorated structures, with unsanitary or unsafe conditions that could endanger life, faulty lot layouts, or obsolete platting. Conditions that constitute an economic or social liability, a menace to public health and safety, morals, or welfare. Once an area declared substandard and blighted, it must meet specific numeric thresholds of severe economic distress. Based on the most recent federal decennial census or the American Community Survey (ACS) 5-Year Estimate, the designated census tracts or block groups must meet the following conditions:

- High Unemployment: The average unemployment rate in the area must total at least 150% to 200% of the state average unemployment rate during the same period.
- Severe Poverty: The average poverty rate within the total federal census tract(s) or block group(s) must exceed 15% to 20%.

MAXIMUM DURATION. For decades, the standard maximum duration of delaying taxes to repay TIF indebtedness was 15 years. Then, NE voters approved Amendment 2 in Nov., 2020, which, with **LB 21** passed by the Legislature in 2021, extended TIF to 20 years for extremely blighted areas. This revision permitted the TIF repayment period to extend to 20 years if over 50% of the property in a TIF area designated extremely blighted. To qualify for the extended term, an area must present a study showing severe, local economic stress beyond standard blighted metrics, meeting strict statistical and procedural requirements.

PURPOSES CHANGED. Further legislation expanded the scope of TIFs beyond rehabilitating depressed properties. **LB 496**, passed in 2017, allowed TIFs to tackle housing shortages and use for smaller projects. TIFs now could fund construction of or rehabilitation of workforce housing in rural communities facing severe housing shortages. **LB 531**, passed in 2023, authorized using TIFs for new construction of or rehabilitation of lower cost housing targeting families living below the median income level, also projects located within 600 yards of the Omaha Streetcar route. This bill also altered micro-TIF guidelines created to accelerate small redevelopment plans. It eliminated specific permit submission requirements to encourage smaller local developers to use TIF. **LB 531** allows a governing body of a locality to remove the designation of blighted and substandard or extremely blighted from an area. By doing so, the governing body may consider any studies or analyses of the area conducted or examine the conditions of the physical area itself. If the governing body finds that the area no longer constitutes a substandard and blighted or extremely blighted area, it may remove the designation by resolution. However, the removal of such designation from an area does not affect the validity of existing redevelopment plans or projects if approved during a time in which the project area designated as blighted and substandard or extremely blighted. Under **LB 531**, if an

area maintains an extremely blighted or substandard designation for more than 30 years, a locality cannot approve a new TIF redevelopment project there until it conducts a comprehensive analysis. This analysis must evaluate why private investment failed to occur despite the incentives and establish updated goals.

NECESSARY PROCEDURES. A municipality cannot simply apply the *extremely blighted* designation; it must use a formal public process outlined in Neb. Rev. Stat. § 18-2101.02:

1. Commission a Study: The city must conduct or pay for a specific independent study or analysis verifying the exact unemployment and poverty percentages within the defined boundaries.
2. Planning Board Review: The study must become formally submitted to a Planning Commission or Board for review and official recommendation.
3. Public Hearing & Notice: The Planning Commission must hold a public hearing. The city must publish a public notice beforehand containing a map of sufficient size to clearly delineate the proposed extremely blighted boundary lines.
4. Governing Body Resolution: The city council or other governing body must pass a formal resolution officially adopting the extremely blighted designation.

MICRO-TIF. The Nebraska Legislature adopted **LB 1021** in 2020. Under this law, city councils may pass a resolution allowing for expedited reviews of redevelopment plans for specific Micro-TIF Projects. For those projects that qualify, expedited review means that the city may forego the initial 5 city council meetings currently required for all other TIF projects. Redevelopers must use the standard form developed by the NE Dept. of Economic Development to prepare their redevelopment plans. The project must meet the following criteria:

1. The redevelopment plan includes only 1 project;
2. The project involves the repair, rehabilitation, or replacement of an existing structure located within a substandard blighted area and the existing structure is at least 60 years old;
3. The project located in a county with a population of less than 100,000;
4. The assessed value of the property within the project area when the project completed estimated at no more than:
 - \$250,000 for projects involving a single-family residential structure;
 - \$1 million for a project involving a multi-family residential structure; or
 - \$10 million for a project involving the revitalization of a structure included in the National Register of Historic Places.

Application fees for Micro-TIF Projects may not exceed \$50. Such redevelopment plans then submitted to the city administrator for review, and the plan must win approval within 30 days after submission.

During the years that TIFs increased in scope and use, opposition has mounted among the taxpaying public who regard expansion of its use as unwarranted and contrary to its original intent, redevelopment of obvious substandard and blighted urban areas.

THE FOLLOWING ARE FUNDAMENTAL CRITICISMS OF TAX INCREMENT FINANCING IN NEBRASKA.

IMPACT ON FUNDING AND SERVICES. Property tax revenues now diverted for up to 15-20 years to repay private loans instead of funding local school districts and city fire and police protection and infrastructure maintenance. TIF often takes revenues that would have become generated through normal appreciation in property values without the TIF-funded investment. This over-capture of revenue robs resources from public services.

BOGUS CLASSIFICATIONS. Local taxing entities often label viable census tracts as blighted in order to qualify projects for TIF status. Critics assert that many developments would have risen there without a TIF subsidy. Local governments have grown too lenient in setting the required designation of an area as blighted. The grandiose Mutual of Omaha project looks like an abuse of TIF. The site sits at the entrance to the renovated Gene Leahy Mall park to the east and the Omaha State Office Building to the south. Several thriving businesses and restaurants are in the area. Odd to consider such areas blighted when compared to neighborhoods with poorer infrastructure, less development, dilapidated structures, struggling businesses, and lower-income residences.

LOOSE OVERSIGHT. State audits have criticized the use of TIFs statewide, noting sporadic monitoring and millions in revenues lost. NE State Auditor Mike Foley warns of profligate TIFs causing a property tax burden, TIFs

doubling in one decade. He questioned the escalating cost and use of this tool cities use for economic development in a 26-page letter to state senators, pointing to the Omaha streetcar project as an example. He said that during the 5-year period from 2019 to 2023, TIF projects resulted in over a half-billion dollars in property tax collections being used to fund urban redevelopment. During 2023, over \$121 million in property tax collections paid for TIF projects approved by municipal authorities, more than double the amount of such funding a decade earlier. Foley notes that state law allows municipalities an inordinate degree of flexibility in implementing TIFs. Several of the locations included within the financing area for the streetcar project are 6 city blocks from the proposed route of the line and do not appear sufficiently dilapidated to qualify as deteriorated or deteriorating, an element required by statute for a “blighted area” designation. The streetcar project now financed with over \$350 million in TIF proceeds, resulting in the largest diversion of property tax dollars for an economic development project in NE history.

NO ECONOMIC BOOST FOR DESIGNATED AREAS. The entire premise for TIF based on the belief that it would economically boost depressed areas. However, a study entitled Assessing the Local Impacts of Tax Increment Financing (Nov. 2025) found that, though state senators designed TIF to stimulate economic development and broaden the tax base, its benefits appear concentrated in wealthier districts, with little or no improvement and sometimes economic decline in poorer areas. These findings suggest that TIF may reinforce the very inequalities it meant to reduce. Verifying that development would not take place if not for subsidies is extremely difficult, because governments cannot directly observe what would have happened in the absence of a TIF subsidy.



CRONYISM. TIFs can encourage corruption by giving developers an incentive to lobby local officials for subsidies rather than competing on the basis of market fundamentals. Developers can argue that unusual circumstances make the project too expensive to develop otherwise, say that the development would be bigger or better with TIF assistance, or threaten to do business elsewhere if not gaining TIF status. Favoritism for politically-connected developers and companies at the expense of others.

UNFAIR COMPETITION. If TIF used to fund a new mall in one area of town, nearby commercial centers may see fewer customers at their own stores. TIF often shifts consumer spending and commerce rather than expanding it, with online shopping also creating constant competition. This activity leads to a cannibalization effect in which little or no new economic activity created and instead shifts from other areas at taxpayer expense.

TAXPAYER SUBSIDIZED HOUSING. Omaha City Council member Pete Festersen introduced and passed a resolution instructing the Planning Dept. to update city policy to incentivize or require multi-family projects to include taxpayer-subsidized housing, stating that it also should include use of our public subsidy projects, including required use of TIFs. Mayor Ewing believed in 2025 that only 23% of the housing units developed in the city affordable. “So, I think we have to look at that and say is there any circumstance where we would ever have a requirement for housing that would be higher than 23%,” he said, adding that he prefers incentives to mandatory requirements for developers seeking TIFs, especially for developers who want concessions from the city. “When they want more TIF I’ve always said to them you have got to include affordable housing and so we’re going to look at ways to do that. Partnering with people to go a little bit extra to get a project done but then we want you to do affordable housing with that project,” Ewing said. Thus, taxpayer-subsidized housing linked to a TIF requirement.

HURTS PROPERTY TAXPAYERS. Critics immediately saw a negative factor caused by TIFs. The abeyance in the collection of property taxes stemming from improvements in the TIF areas deprives local governments like schools and municipalities of increased property tax revenue. This occurrence means that all property taxpayers outside TIF areas shoulder an increased property tax load, especially if local taxing authorities raise their tax levies to make up the difference. As state senators examine ways to lower our property taxes, such as reducing levies, they meet opposition from TIF users and proponents. If levies decrease, less property tax generated within current TIF districts, meaning those developers may not produce the revenue projected and therefore may not be able to cover their loans. Thus, in their view, the more TIF used, the more important it is to maintain the property tax rates that determined the loan amount, based on projected growth in property value. The more a community relies on TIF, the more current property tax levels must become maintained. This argument occurs while owners of residential and commercial properties that are not part of TIF projects but are within a district see their property valuations and taxes increase. Property owners who can afford the tax increase may seem eager to see their property value increase and

appreciate the improvements in their neighborhoods. However, residents or business owners who cannot pay the higher taxes may find themselves priced out of the area or have difficulty paying higher tax rates. TIF gentrification can displace residents and small businesses that have resided there for a long time. Gentrification, meaning that as the neighborhood improves, low-income people forced out while higher earners move in. State senators have presented multiple proposals for curbing rising property taxes burdening Nebraskans, and the impact on TIFs varies under each. Lynn Rex, executive director of the League of Nebraska Municipalities, and others say that a call for cutting the levy, the amount of property tax a school or local government collects, would reduce the amount of revenue generated and available to pay back a TIF loan. They say a shift potentially could wreak havoc with existing loan obligations and, if developers have less borrowing clout, that could result in less incentive to begin urban infill projects that developers say typically cost more and have more complications than building in suburbia. “A giant artificial drop in the levy would ... make trouble for current TIF projects and make new TIF projects unworkable,” said Steve Curtiss, finance director for the City of Omaha, “It would stop development.” Curtiss said a sizable cut in the school property tax, which is about 56%-60% of a property tax bill, would place the streetcar plan in jeopardy, that the city would have to find another funding mechanism (like taxpayers). If a TIF development falls below expectations, taxpayers will pay for project costs or find their taxes increased to cover such shortfall, according to the Kansas Policy Institute. Heath Mello, representing the Omaha Chamber of Commerce, said business leaders also are wary about the impact of a potential freeze on property tax collections by cities and counties, saying there is no increment coming from a 0% cap in the growth of property taxes. He said that could “kill” TIF projects.

HOGGING OUR DOLLARS. Auditor Foley points out that the failure of several redevelopment projects to operate strictly within the statutory timeframe results in sizeable overcollections of TIF proceeds. The Aksarben Apartments project he identified as a gross example of Omaha redevelopment projects for which significant amounts of TIF proceeds continued to become collected after the statutory deadline had passed. The amount of property tax revenues received improperly for that project totaled \$1,213,365, all of which withheld wrongly from units of local government that could have used that money to pay for important civic services. Such improperly-collected funds, totaling tens of millions of dollars from over a dozen TIF projects throughout NE, could have lowered property taxes in the affected communities. Foley helped to return over \$650,000 of excess tax increment financing. According to his office, in 2023, there existed over 1,300 TIF projects with excess property tax dollars totaling \$6.1 billion. Foley stated that TIF projects usually last 15 years and that municipalities cannot collect taxes after this period. After 15 years usually, then the TIF dollars no longer go to property development, it returns to where it would ordinarily go, to local governments. Foley noted that his office cannot force these localities under current law to rightfully timely return the money but can only report their findings.¹



EGREGIOUS EXAMPLES. Bluewater: 250 acres of lake water, an area larger than Disneyland Park, surrounded by 7 miles of sandy shores and very expensive homes. Ten years ago, this tract was a “blighted” sand pit. Now, whoever buys a 5-bedroom, 6-bathroom house listed for \$3.25 million can fish, windsurf, and go boating in this upscale neighborhood in Valley. The transformation made possible by TIF. Three of Valley’s 4 TIF projects are lakefront neighborhoods. Bluewater, which has 268 home lots on a 250-acre lake, won approval for \$32.6 million in TIF subsidies in 2014. Douglas County Assessor records show that almost \$14

million of the taxes reimbursed in the past decade would have otherwise gone to the Douglas County West Community Schools, one of the fastest-growing NE public school districts. Supporters of the tax breaks, including developers and the former mayor, say the Valley projects have helped create a citywide boost, one that would not have occurred otherwise if tax revenue and the city population had remained stagnant. Craig Maher, a professor of public administration at UN-O, believes NE provides little TIF oversight, that its definition of “blight” is so broad that it is essentially meaningless. He states that Valley is a more extreme example of TIF pivoting away from lawmaker original intent. Maher stated that several states like Minnesota require more strict financial documentation, that Wisconsin requires review boards to vet applications. In NE, making the financial case often made by the developer. Over the years, Valley TIF projects grew larger. Mallard Landing, 149 homes on a 78-acre lake approved in 2006, has received \$14.5 million so far. Bluewater approved for \$32.6 million in TIF subsidies in 2014. TIF approval of \$6 million for Catalina, a development that includes lake neighborhoods, sports fields, and commercial

¹ NTV, John Bartlett, TIF audit uncovers issues across the state, Sept. 24, 2024.

areas. However, these TIF-financed lakes not open to the public. Attempts to obtain a public beach or pier for Valley residents so far unsuccessful. In Valley, justifications to establish blighted areas include population declines of as few as 6 people and the presence of old mining equipment and rubble that can create a breeding ground for rats.² Angry taxpayers in Midtown Omaha loudly oppose creating a TIF district for Center Mall at 42nd & Center Street, because the neighborhood definitely is not blighted. Small businesses currently thrive in that location. Citizens are actively lobbying the city council to repeal TIF status there.



REMEDIAL LEGISLATION. Former State Sen. Mike Groene of North Platte stated that the overuse and misuse of TIFs by irresponsible local city councils and other governing bodies is costing tax dollars to fund public education, that TIF not being used for its original purpose which is re-development of blighted areas. “They’re not even using it for infrastructure, tax dollars used for tax purposes, they’re using it to bribe companies to come to their communities,” he said. His killed bill, **LB 432**, would have allowed school districts to tax re-

developed properties at their full market value instead of the reduced value the law sets currently. Lobby your state senator for the following TIF reforms:

- Amend the original TIF statute to allow use *only* for truly blighted and substandard census tracts.
- Most states already monitor property tax assessment and could easily report on the number of TIF districts and the changes in property values. NE should follow this requirement.
- Enact a public hearing notice requirement for all TIFs.
- Require publication of cost/benefit analyses.
- TIF agreements should include measurable benchmarks for success, and regular performance reviews should measure progress towards those benchmarks.
- Allow counties, school districts, and other overlying local governments to retain some revenue otherwise taken by TIF.
- Require substantial proof that a proposed development would not occur if not for the establishment of a TIF district.
- Levy heavy penalties against localities that continue to collect TIF dollars after deadlines.

TAKE ACTION NOW. Taxpayers must act now to lobby state senators to restrict the use of TIFs and restore this process to its original intent, to allow development of properties and areas truly substandard and blighted, so that such census tracts can become viable residential and commercial areas once again. Scheming developers, chambers of commerce, and elected officials who profit from the misuse and overuse of TIFs will fight us in the Legislature, but taxpayers must fight hard and prevail in mandating the true usefulness of TIFs. Using the content above, lobby your state senator immediately to sponsor or co-sponsor a bill in the Legislature. Email netaxpayers@gmail.com for state senator contact information and join our NTF *Legislature Watch Project*.

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² Flatwater Free Press, Chris Bowling, In Valley, public tax dollars pay for private lakes, neighborhoods with multimillion-dollar TIFS, Aug. 2, 2025.