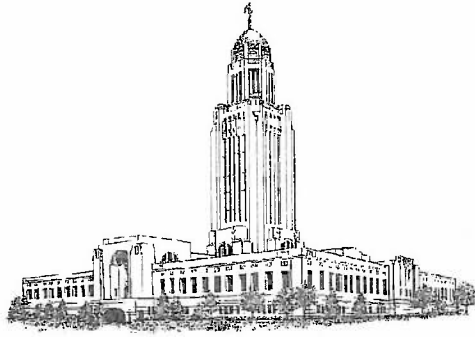


# Nebraska State Legislature

SENATOR MIKE MCDONNELL

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## COMMITTEES

Chairperson - Nebraska Retirement Systems  
Appropriations  
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October 8, 2024

Mayor Jean Stothert

Mayor, City of Omaha  
1819 Farnam St.  
Omaha, NE 68183

Via email  
Original via USPS

Councilman Pete Festersen  
President, Omaha City Council  
1819 Farnam St.  
Omaha, NE 68183

Dear Mayor Stothert and Councilman Festersen:

I read with great concern Auditor of Public Accounts Mike Foley's recent letter regarding issues with Tax Increment Financing across the state. My particular concerns involve his examination (and the City of Omaha's response) to the issues raised regarding the City of Omaha's use of the TIF process for the streetcar project.

My first concern is Auditor Foley's observation that he was unable to locate any organizational filing for the Redevelopment Plan Area Alliance which claims to be a 501(c)(3) non-profit. I also question the use of a non-profit organization to administer the TIF funds (public funds), along with other non-public funds. The Alliance, which may or may not be properly organized, apparently becomes the custodian of the public funds despite the Auditor's observation that the Community Development Law does not authorize a not for profit organization "... to act as custodian of the "excess" ad valorem property taxes received...".

My second concern involves the City's actions following the Legislature's passage of LB 25 (2021) which established a new "extremely blighted" category and establishes the timeframe for collection of TIF funds from 15 to 20 years for properties included in the "extremely blighted" category. It appears from Auditor Foley's letter (and the City of Omaha's response), that several TIF projects that were approved prior to the passage of LB 25 and were close to the end of the fifteen year term for projects in "substandard and blighted" areas were extended to LB 25's 20 year term as they are within the streetcar Redevelopment Project's TIF District or Influence Area.

I do acknowledge the City's response to this observation which includes the ability to amend existing TIF projects, approve new TIF projects on the same property after expiration, and language that provides that provisions shall be "liberally construed", as well as a presumption of validity. While I recognize that such arguments appear to justify the City's actions, I do note Auditor Foley's question of whether such

an approach was the intention of the Legislature. I can say, that as a Member of the Legislature who voted for LB 25, it was not my intention to allow an extension in this manner

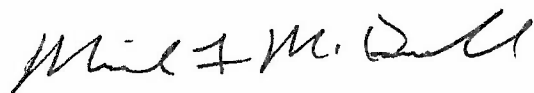
I would also note that Auditor Foley appears to have identified an internal conflict within the Redevelopment Plan. In his letter, he highlighted Section 9 of the Plan which appears to establish a policy of utilizing a 20 year division within the TIF area, while Section 2 seems to indicate that previous/existing projects "remain undisturbed."

My third, and perhaps most serious concern, involves the designation of areas designated as "substandard and blighted" or "extremely blighted", particularly in light of the extensive area incorporated into the streetcar TIF Area. As you are aware, each of these designations has a specific statutory definition. I assume prior to inclusion of properties into either of the categories, there is some showing that the properties meet the statutory definitions. **I would ask that you identify how these determinations are made, and provide an example of information provided prior to a property being designated as "substandard and blighted" or "extremely blighted".**

I raise these concerns because I fear that the aggressive approach taken by the City of Omaha in implementing TIF projects may result in legislation that severely restricts or possibly eliminates what can be an effective development tool. I would urge a pause in new TIF projects until these concerns can be addressed.

I thank you for your attention to this letter, and should you have questions, comments, or concerns, please don't hesitate to contact me.

Sincerely,



Senator Mike McDonnell  
District 5

cc: Councilwoman Juanita Johnson, District 2  
Councilman Danny Begley, District 3  
Councilman Ron Hug, District 4  
Councilman Don Rowe, District 5  
Councilman Brinker Harding, District 6  
Councilwoman Aimee Melton, District 7  
Planning Board Member Greg Rosenbaum - Chair  
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