

# One Hundred Fifth Legislature - First Session - 2017

## Introducer's Statement of Intent

### LB262

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**Chairperson: Senator Justin Wayne**

**Committee: Urban Affairs**

**Date of Hearing: February 21, 2017**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

In 1951, the Nebraska Legislature enacted the Community Development Law (Neb Rev Stat 18-2101-2144) to allow municipalities to create Community Redevelopment Authorities by ordinance and create development plans. In order for the Authorities to be able to purchase and develop property through development plans, the legislature authorized the authorities to issue revenue bonds (Neb Rev Stat 18-2124-2130) and ask municipalities for funding to support the development plans, those municipalities themselves being authorized to transfer general funds to the authorities, levy taxes and sell bonds to fund the authorities' requests (Neb Rev Stat 18-2140).

In 1978, Nebraska voters enacted Article VIII, Section 12 of the Nebraska Constitution allowing “for the purpose of rehabilitating, acquiring, or redeveloping substandard **and** blighted property in a redevelopment project” (emphasis added). A city or village may use Tax-Increment Financing (TIF) enabling the city to confiscate for up to 15 years all property taxes of all taxing bodies in excess of the previous years assessed valuation prior to the project’s completion.

LB 262 seeks to clarify that TIF was never intended as a funding tool in association with Neb Rev Stat 18-2123 (enacted 1951) of the Community Development Law which allows “that the acquisition and development of undeveloped vacant land, not within a substandard or blighted area, is essential to the proper clearance or redevelopment of substandard or blighted areas or a necessary part of the general community redevelopment program of the city, or that the acquisition and development of land outside the city, but within a radius of three miles thereof, is necessary or convenient to the proper clearance or redevelopment of one or more substandard **or** blighted areas within the city [...]”.

LB 262 by amending 18-2123 clarifies that the language of the Constitution Article VIII Section 12 never intended for TIF to be used for development of undeveloped, recently annexed or land that lies outside city limits. This will redirect municipalities to use TIF for its intended purpose “substandard **And** blighted property in a redevelopment project. ”

LB 262 will cause cities and villages to follow the legislative intent to limit TIF to the definition of “blighted” in Neb Rev Stat 18-2103(11) including “unimproved land” in Neb Rev Stat 18-2103(11)(iii) which states “more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time.”

In *Fitzke v. City of Hastings* (255 Neb. 46) the Nebraska Supreme Court stated, "If a private development project is ineligible for tax increment financing because it is located on land which is not blighted **or** substandard within the meaning of the CDL, it logically follows that eligibility could not be created by simply incorporating the project site into an adjacent area which has been declared blighted or substandard and revising the redevelopment plan for that area to include the project." It should follow that the provisions of LB 262 clarify the Courts direction in limiting the land available for TIF financing.

Neb. Rev. Stat. 18-2123 will still be accessible by a city and readily funded by the options outlined as stated above in Neb Rev Stat 18-2124-2130, 2140.

**Principal Introducer:** \_\_\_\_\_

Senator Mike Groene