

## MEMORANDUM

### Urban Redevelopment Act Guidance

This policy remains effective until it is amended, superseded, or rescinded.

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#### **SUBJECT: Tax Incentive Program, Defined & Applied**

This guidance document is advisory in nature but is binding on the Department of Economic Development (DED) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DED and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

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#### **ISSUE:**

- I. What constitutes “any other tax incentive program offered by the State of Nebraska” for purposes of administering the Urban Redevelopment Act?
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#### **ANALYSIS:**

- I. [Neb. Rev. Stat. § 77-6920\(6\)](#) provides:

A taxpayer shall not qualify for any credits under the Urban Redevelopment Act if the taxpayer is receiving benefits under any other tax incentive program offered by the State of Nebraska.

- II. Pursuant to [Neb. Rev. Stat. § 50-1209\(1\)](#), tax incentive programs subject to audit by the Legislative Performance Audit Committee include the following:

- (a) The Beginning Farmer Tax Credit Act;
- (b) The ImagiNE Nebraska Act;
- (c) The Nebraska Advantage Act;
- (d) The Nebraska Advantage Microenterprise Tax Credit Act;
- (e) The Nebraska Advantage Research and Development Act;
- (f) The Nebraska Advantage Rural Development Act;
- (g) The Nebraska Job Creation and Mainstreet Revitalization Act;
- (h) The New Markets Job Growth Investment Act;

(i) The Urban Redevelopment Act; and

(j) Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

III. Additional tax incentive programs recognized by the Department of Economic Development include, but are not limited to:

(a) The Renewable Chemical Production Tax Credit Act;

(b) The Key Employer and Jobs Retention Act;

(c) The Nebraska Historic Tax Credit Act;

(d) The Nebraska Higher Blend Tax Credit Act; and

(e) The Nebraska Affordable Housing Tax Credit Act.

IV. In addition to the programs enumerated above, the Department of Economic Development understands “any other tax incentive program offered by the State of Nebraska” to include any program created by the Nebraska Legislature under which the State of Nebraska provides tax credits, reductions, or refunds to a taxpayer based upon performance or achievement of specific goals, without regard for which state agency administers the program.

V. A reduction in taxable value from Tax Increment Financing (TIF) under a redevelopment plan pursuant to [Neb. Rev. Stat. § 18-2101](#) et seq. does not constitute receiving benefits under a tax incentive program for the purpose of the Urban Redevelopment Act.

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## CONCLUSION:

I. Any program listed in Paragraphs II or III, *supra*, or any other program meeting the general definition in Paragraph IV, *supra*, are included within “any other tax incentive program offered by the State of Nebraska” for purposes of administering the Urban Redevelopment Act. Any taxpayer receiving benefits under such a program is ineligible to receive benefits under the Urban Redevelopment Act. TIF is specifically excluded from this definition.

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## END OF GUIDANCE MEMORANDUM