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Transcriber's Office

Revenue Committee  
January 17, 2018

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[LB760 CONFIRMATION]

The Committee on Revenue met at 1:30 p.m. on Wednesday, January 17, 2018, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB760 and gubernatorial appointments. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SMITH: Welcome, everyone, to the Revenue Committee and this is a public hearing. My name is Jim Smith. I'm from Papillion, Nebraska, representing District 14, and I serve as Chair of the committee. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that's before us today. We have one new procedure for this session and, if you are able to attend a public hearing and would like your position stated for the record, you must submit your written testimony by 5:00 p.m. the day prior to the hearing. We will make exceptions for holidays. Letters received after the cutoff will not be read into the record and there will be no exceptions to that new rule, so please take particular note to that. To better facilitate today's proceeding, I ask you to abide by the following procedures. First, would you please turn off your cell phones or put them on vibrate, as well as other electronic devices. If you are looking to testify, we would like for you to move to the front of the room and take a seat in the front row so you can easily move up to the front. The order of testimony will be the introducer of the bill, proponents of the bill, opponents of the bill, neutral testimony, and then closing remarks by the introducer. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand those to the page to distribute for you. We will need 11 copies for all committee members and staff. If you need additional copies, please ask the page to make copies for you, in advance if possible. When you begin to testify, we would ask that you state and spell your name for the record. Please be concise with your testimony. We have a small hearing today so we will not limit testimony on this. There are, let's see, when you come to the front and give your testimony, please speak directly into the microphone so our transcribers are able to hear your testimony clearly. It does not amplify your voice, so you will need to also speak loudly enough for the room to hear. Let me introduce my staff today. To my immediate right is legal counsel Mary Jane Egr Edson, and to my left at the end of the table is Krissa Delka and she is committee clerk. And I'm going to invite the committee members to introduce themselves to you and I'm going to start with Senator Burke Harr of Omaha.

SENATOR HARR: Senator Burke Harr of Omaha. (Laughter)

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SENATOR SCHUMACHER: Senator Paul Schumacher of Platte County and parts of Colfax and Stanton County.

SENATOR BRASCH: Lydia Brasch, District 16, of Bancroft, Cuming, Burt, and Washington Counties.

SENATOR FRIESEN: Curt Friesen, District 34: Hamilton, Merrick, Nance, and part of Hall County.

SENATOR LINDSTROM: Brett Lindstrom, District 18: northwest Omaha.

SENATOR GROENE: Mike Groene, Lincoln County.

SENATOR SMITH: And Heather Bentley from Miller, Nebraska, is our page. She is a junior at UNL majoring in agricultural economics. Also, please keep in mind that senators may come and go during the hearing so please don't take offense at that. They have other responsibilities in other committees and so they may be coming and going. We are going...this is our first hearing of the session and we're going to start out with a softball today (laughter) and we ask that Senator Hughes not to use overhand pitches to us today. Keep it easy on us. And Senator Hughes is here to introduce LB760 to change the Volunteer Emergency Responders Initiative (sic-- Incentive) Act. Welcome. [LB760]

SENATOR HUGHES: Thank you, Mr. Chairman. Good afternoon, Chairman Smith and members of the Revenue Committee. For the record, my name is Dan Hughes, that is D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District. In 2016, the Legislature passed LB886 on a 46:0 vote. That bill created the Volunteer Emergency Responders Incentive Act which provided an income tax credit for qualified, active volunteer emergency responders, rescue squad members, and firefighters that serve a village, city, or rural or suburban fire protection district. This bill inadvertently left out volunteers serving a county. LB760 will include volunteers serving a county and provides a mechanism for them to apply for the income tax credit that was originally intended in LB886. Qualified volunteers must complete two years of certification before qualifying for the tax credit. After that, the volunteer can qualify annually for the credit. For 2016, only 2,147 volunteers were eligible to receive the credit in 2017 and that is only if they qualify...they qualified again in 2017. So the cost to the state is considerably less than what the fiscal note for LB886 from 2016 had allotted for. The fiscal note for LB886 was \$2,188,000, but in reality it will be less than \$536,750 in fiscal year 2017 and '18. The number of volunteers has been decreasing across the state and this is an incentive to those who donate their time providing service to our communities. I'd be happy to answer any questions. [LB760]

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SENATOR SMITH: Thank you, Senator Hughes, for the opening on LB760. Do we have questions for Senator Hughes? Senator Groene. [LB760]

SENATOR GROENE: So how many of these are...how many, did you say or did I miss it, how many county fire...rural fire departments are there? [LB760]

SENATOR HUGHES: At least one and maybe two but not very many. Most of them are organized differently. They're not county volunteers. They are fire district. [LB760]

SENATOR GROENE: How is...and Chase County is one of them? [LB760]

SENATOR HUGHES: Chase County is one of them, yes. [LB760]

SENATOR GROENE: So all the rural ones and all the volunteers in Chase County are county volunteers? [LB760]

SENATOR HUGHES: The volunteers in Imperial are county volunteers. I don't know about the other, the Wauneta and Lamar fire districts, if they are part of their...a rural fire district or whether they fall under the county umbrella. I'm not sure of that. I can find out and let you know. [LB760]

SENATOR GROENE: No. I'm going to vote for this. My son-in-law needs 250 bucks. (Laughter) He's a volunteer in Imperial and past chief, brag up him a little bit. Anyway, that was just a side remark. [LB760]

SENATOR SMITH: Additional questions for Senator Hughes? I see none. Thank you, Senator Hughes. I think you said you were going to have to waive closing. [LB760]

SENATOR HUGHES: Yes, I will waive closing. I have another bill coming up today. [LB760]

SENATOR SMITH: All right. Thank you for bringing this bill to us. [LB760]

SENATOR HUGHES: Thank you. Appreciate your time. [LB760]

SENATOR SMITH: All right. We now move to proponents of LB760, proponents, those wishing to testify in support. [LB760]

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JERRY STILMOCK: Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters' Association and the Nebraska Fire Chiefs' Association, in support of LB760. Thanks to Senator Hughes for bringing the legislation. We had heard early on last year that there was a blip and the blip was that county volunteers, as you heard, have been left out, so this legislation would just reinsert them, of course. A bit of background, if I may. Trouble you back to Senator Hartnett's days to 1999, 1999 legislation was passed that would have had a statewide retirement system for volunteers. And it was that framework that was started back in 1999 that was lifted and placed into Senator Davis' bill in 2016 with LB886. So the vetting that occurred back in 1999, that bill for a statewide retirement, different from this, a statewide retirement, actually in year two of that legislation, Senator Hartnett went to your colleagues back then and said, let's form a commission that would go out and actually establish the point system because there were several ideas floating around how a volunteer would earn. Because you, as your predecessors, and our membership believe that just because you're on the roster you shouldn't be able to qualify for, back then, the retirement benefit, if you will. It was going to be a state-sponsored, state-funded retirement. So a commission was set up by the Governor, actually Governor Johanns at that point in time, following Governor Nelson. Governor Johanns set up a panel of nine throughout the state, required participation from volunteer cities, counties. Those nine members met several times but five official meetings and then three public hearings, and that, the vetting process, took place not only on the point system but who would be members, and unfortunately, even all that past work, counties were left out. When LB886 was passed then it just...it just lists now in the law municipalities and fire districts. And of course, with this coming forward with those in Senator Hughes's district, we know it should include counties as well because there are a couple of counties that have a volunteer staff service that, by all means, they were not intended to be left out. But because of the vetting that was done back 17 years ago, they had been left out, not intentionally, mind you. It was just groups didn't know of their existence, frankly. So with that as a brief background, I won't bore you with any other details. But I thought it may be helpful to at least explain that it wasn't Senator Davis that, you know, missed something. It was lifting the language from previous law, putting it into place, and no other reason to have counties omitted. They were just...it was an inadvertent omission. Certainly hope that you will advance LB760 to the floor. Noteworthy is that that price tag coming in for LB886 with the two-year qualification period that a volunteer would have to meet that 50-point threshold out of 100 points that are listed in the law, that price tag was estimated at 7,500 volunteer members participating in this, the first year of eligibility, the 2017 tax year. Of that 7,500, as Senator Hughes said, 2,100 have scratched the first...have checked off the first year of participation in 2016. The 2017 participation has yet to be filed. That's a deadline of mid-February. So when that happens then we will know of that approximately 2,100 volunteers that were able to check box number one in 2016 how many are able to check box number two in 2017, because you have to have two years to serve in order to grab that \$250 tax credit. You all that are past your sophomore year here know, of course there are no sophomores on this body, so

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you all know what we've gone through in the volunteer ranks to keep those numbers up, and we believe this will be important. And we're seeing that there were 2,100 people out there that said, yes, we would appreciate that \$250 tax credit. Thank you very much, Senators. [LB760]

SENATOR SMITH: Thank you, Mr. Stilmock. Senator Schumacher. [LB760]

SENATOR SCHUMACHER: Thank you, Senator Smith. Is it doing any good? I mean are we...are the...of course, anybody would appreciate a tax credit and there probably was 2,100 of them that would appreciate it. Were they new people? Were they brought in because of this? Or we just established a program hoping it would do good, and really no demonstrable evidence that it's made any change in the membership rolls and we're just now extending the program when we should be repealing it? [LB760]

JERRY STILMOCK: I hope to be able to answer that question better next year, but right now at least I'm hearing that, yeah, there are younger people coming in. I don't have any hard data, Senator, to prove that to you. We do the best we can in trying to keep up, you know, with new membership. And to answer your question as best I can, I believe so. [LB760]

SENATOR SCHUMACHER: But, naturally, there will be new people coming in, but whether they're coming in as a result of this or we're just making an expenditure here that is not a cause-effect relationship. [LB760]

JERRY STILMOCK: Yeah, not only that but, it doesn't go specifically to your point, but just because I'm on the roster, I got to play. I got to participate. I got to train. [LB760]

SENATOR SCHUMACHER: But that doesn't mean that you're doing it because of this credit. See, we have a lot of these credit programs that are easy to pass and they always are well-meaning. And then we really don't know if they're doing their job, if they're being effective. And they're almost impossible to get rid of. [LB760]

JERRY STILMOCK: Uh-huh. [LB760]

SENATOR SCHUMACHER: And this is, even though it's not about a quarter of what we thought it was going to be when we did this, shouldn't we have some follow-up to be able to see somehow or what kind of a standard that the thing is doing any good or if we're just basically making a gift out of appreciation to people who would have done it anyway? [LB760]

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JERRY STILMOCK: Yeah, hopefully not the latter. And the only thing I can do is pledge to you to continue to look and find out the answer to your question. [LB760]

SENATOR SCHUMACHER: Thank you. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR SMITH: Senator Groene, then Senator Harr. [LB760]

SENATOR GROENE: This really is more of a retention program than a recruitment program, isn't it, I mean because you have to be a volunteer and then you can get the \$250 refundable credit, which in small town Nebraska is a little money. So that's really a retention program. Wouldn't you look at it that way? [LB760]

JERRY STILMOCK: You know we've never split that because we're hitting both avenues at the same time constantly. I appreciate your concept of retention because you know, from the family member that you mentioned, what it's like, and if it's...it's one thing to sign up and say I'm in, but it's another one to participate and earn those 50 points in order to play ball. [LB760]

SENATOR GROENE: It's another thing to get up at 3:00 in the morning and... [LB760]

JERRY STILMOCK: Exactly my comment. [LB760]

SENATOR GROENE: ...get in a truck and go put a grass fire out. [LB760]

JERRY STILMOCK: Exactly. [LB760]

SENATOR GROENE: And then go to work at 7:00 in the morning. [LB760]

JERRY STILMOCK: Exactly, sir. [LB760]

SENATOR GROENE: Another question. [LB760]

JERRY STILMOCK: Sir. [LB760]

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SENATOR GROENE: My assumption was the original fiscal note when we passed this, the Fiscal Office probably got a number of volunteers from you or from somebody. [LB760]

JERRY STILMOCK: You know,... [LB760]

SENATOR GROENE: I mean they had to get a number of volunteers. I guess I'm assuming that when they made the fiscal note they probably assumed the county folks were in there, because you would have...somebody would have gave them a number of volunteers across the state and not said: Well, I doubt the Fiscal Office caught that these few county people were not in the numbers. [LB760]

JERRY STILMOCK: I believe your statement, sir, yes, sir. [LB760]

SENATOR GROENE: I guess the point I'm trying to make is I don't think this is additional cost... [LB760]

JERRY STILMOCK: No. [LB760]

SENATOR GROENE: ...to the past fiscal note that was already approved... [LB760]

JERRY STILMOCK: No. [LB760]

SENATOR GROENE: ...in 2016. [LB760]

JERRY STILMOCK: No, not... [LB760]

SENATOR GROENE: And one last question. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR GROENE: This is retroactive so that this year they could...we would have to put an emergency clause on it so that this year, when they file in April, they could get the credit? [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

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SENATOR GROENE: So there would have to be an emergency clause. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR GROENE: All right. Thank you. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR SMITH: Senator Harr. [LB760]

SENATOR HARR: Thank you. And my first issue is with the fiscal note, not with you. [LB760]

JERRY STILMOCK: Good. [LB760]

SENATOR HARR: And it goes into what Senator Groene says where the bill, 2,100 people are eligible if this bill passes that weren't eligible the day before. At \$250 a person, that's half a million dollars. That could almost buy you one school administrator. [LB760]

SENATOR FRIESEN: No, no. No. [LB760]

SENATOR HARR: I don't see how this doesn't have a fiscal note. So I'll be interested to see, going forward. I've had fiscal notes for as little as \$1,400 when someone doesn't like a bill because... [LB760]

JERRY STILMOCK: Okay. [LB760]

SENATOR HARR: I think it was actually...and I've seen one for \$4,000. Senator Smith had one for parades down the middle of town. So I'm a little skeptical about the fiscal note on this. I guess my question is the same question I had with the original bill, which I voted for, but if you can just repeat it for the record, why should I, why should we on the state level pay for training for volunteer firefighters that we don't pay for professional firefighters? [LB760]

JERRY STILMOCK: One is recognizing that the title that precedes--volunteers, number one. Number two is...and I've shared this with you before, Senator. As you travel from Lincoln to Omaha, those units that protect you, that serve you and serve the public up and down I-80 once you leave Omaha and traverse into Gretna and tail into Waverly at the tail end are all volunteer departments. As Senator Groene said, morning, noon, night, whether it's the fire, that would be

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one reason. The other is something that I've raised with the committee before is we promote tremendously, in this part of the state, Mahoney State Park, protected by volunteer departments that surround it. We spend a tremendous amount of money promoting visitors come visit Nebraska, at Mahoney and throughout the state. I pick on Mahoney because it's eastern but Ogallala is used, served by Ogallala volunteer fire and rescue department. Pick a location, I would pick a location throughout the state and I'd give you that same reply. And then I think of the Mother's Day incident at Tecumseh state facility. Mother's Day it was a constant stream of sirens. I happen to live on Highway 50, north of the...north of the state pen, and as those sirens whizzed by continuously for 45 minutes to an hour, I didn't reflect, till I found out later the days following, that what was going on, what happened. And the volunteer ranks out at Tecumseh volunteer fire department, volunteer rescue stood on standby, as directed by the warden or the person in charge at that time, outside the gates for upwards of eight hours, waiting for the at ease signal to go home on Mother's Day. So just a few that come to my mind off the top of my head as to why us but not them, and hopefully that at least... [LB760]

SENATOR HARR: Thank you. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR HARR: I appreciate it. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR SMITH: Senator Friesen. [LB760]

SENATOR FRIESEN: Thank you, Chairman Smith. I think you probably just need to clarify something on the numbers of people who will benefit from this change. [LB760]

JERRY STILMOCK: The information that I received from the Department of Revenue today, that I've requested previously, was ten people from a county volunteer department were denied because they were associated specifically with a county volunteer department. So that number would be ten, sir. [LB760]

SENATOR FRIESEN: Okay. I think there was a misunderstanding that it was larger than that. That's why there's no fiscal note is it's ten people. Sorry. Thank you. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

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SENATOR SMITH: Okay. Senator Schumacher, then Senator Lindstrom. [LB760]

SENATOR SCHUMACHER: Thank you, Senator Smith. I think I understood you to say that you thought this was retroactive. [LB760]

JERRY STILMOCK: This piece of legislation brought by Senator Hughes recognizes that the 2016 year was the first reporting year, but... [LB760]

SENATOR SCHUMACHER: So it would... [LB760]

JERRY STILMOCK: ...and so it would be retroactive for those ten or for those county members that would be able to go back. The qualification, because a person has to qualify in two years, not even consecutively, the 2016 is not a tax credit for the 2016 tax year. I'm anticipating that's what you're asking. That's not where you're going. But the original legislation required checking the box twice. So the first opportunity to check the box to qualify, realizing I have to have two hits, was 2016. So these county volunteers would be able to go back to...not to amend or do anything with their tax returns. It would just be a form of reporting to the Department of Revenue that these ten people qualified in 2016 by having 50 points accumulated so that the Department of Revenue can recognize that in 2016 they were able to check the box; that they...that those ten members, I'm using ten of course, that they qualified. Then in 2017 would be the second opportunity to earn that second qualification year. These county members would be able to do that as well. They, to carry your thought process through, this legislation, assuming it's not going to pass and be passed by the middle of February where this second cutoff date is for reporting your 2017, Senator, Senator Hughes has worked into the bill language that would allow only those county volunteers to go back and have their overseeing county, the governmental subdivision, report to the Department of Revenue. And the Department of Revenue would recognize the reporting for the county volunteers in 2016 and 2017, sir. [LB760]

SENATOR SCHUMACHER: Right. But we aren't giving any refundable credits, at least according to your interpretation, if I understand you, for 2017 or 2016 to these people, right? [LB760]

JERRY STILMOCK: They would not get it, they would not receive a refundable credit of \$250 in the year 2016. [LB760]

SENATOR SCHUMACHER: What about '17? [LB760]

JERRY STILMOCK: They may. [LB760]

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SENATOR SCHUMACHER: How can we forgive a past-due tax? [LB760]

JERRY STILMOCK: The tax is... [LB760]

SENATOR SCHUMACHER: It's due already, 2017 books are closed. [LB760]

JERRY STILMOCK: Yeah, I'm not tracking with you, sir. When I file my 2017 tax return by April 15, I'm going to...I'm going to have a box that I'll be able to check on the return that will show I have qualified and earned a \$250 tax credit in the year 2017. [LB760]

SENATOR SCHUMACHER: But we cannot forgive a past tax and as of today the particular fireman... [LB760]

JERRY STILMOCK: Uh-huh. [LB760]

SENATOR SCHUMACHER: ...or woman... [LB760]

JERRY STILMOCK: Thank you. [LB760]

SENATOR SCHUMACHER: ...owes a tax of whatever it is without the benefit of the \$250. We can't go back and say, oh, by the way, we're going to give you a credit for something there wasn't a credit on in 2017. The earliest that we could be giving them a credit that they could take against a real tax would be 2018, isn't it? [LB760]

JERRY STILMOCK: No. Well, the Department of Revenue has told us that they are allowing a credit on the return for 2017. [LB760]

SENATOR SCHUMACHER: Right, but that's for people who already qualified while in a city or municipal. These are a new group. [LB760]

JERRY STILMOCK: True. [LB760]

SENATOR SCHUMACHER: We're going back and forgiving a past-due tax. [LB760]

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JERRY STILMOCK: No, because they...even the fire districts, I'm not doing a good job of explaining, sir, so I'll continue. The first time that anybody, whether it's a city organized or a fire district organized, the first time that that tax credit will be earned is in the year 2017. [LB760]

SENATOR SCHUMACHER: But these firefighters weren't eligible in 2017. They may...you may be able to do the documentation and say they've now got their training... [LB760]

JERRY STILMOCK: Uh-huh. [LB760]

SENATOR SCHUMACHER: ...but the books are closed on 2017. We couldn't go back and say, you know, we're going to give all lawyers a tax credit of 1,000 bucks for the year 2015 if they wanted to amend their (inaudible)... [LB760]

JERRY STILMOCK: Yeah, I... [LB760]

SENATOR SCHUMACHER: ...because it didn't exist. [LB760]

JERRY STILMOCK: I don't do a great deal of tax work but I understand that other credits are allowed on that 2017 tax return in order... [LB760]

SENATOR SCHUMACHER: But they're in existence today. This credit for those firefighters doesn't exist today. Their taxes are due. Books are closed on 2017. I guess I raise the issue. I don't want to be argumentative about it,... [LB760]

JERRY STILMOCK: Yes, sir. Yeah. [LB760]

SENATOR SCHUMACHER: ...but I think...and legal counsel has told us she won't give us an opinion on constitutionality, so I don't know. (Laugh) [LB760]

SENATOR SMITH: We're going to go to Senator Lindstrom, and then back to Senator Harr. [LB760]

SENATOR GROENE: I have a question too. [LB760]

SENATOR LINDSTROM: Thank you, Chairman. Going back to maybe the difference between the full-time and the volunteers and drawing that distinction with regards to you brought up

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Senator Davis' bill from a few years ago, if I remember right, that dealt with cash balance. Is that correct, to go from a traditional retirement plan to a cash balance, or am I incorrect? [LB760]

JERRY STILMOCK: Yeah. I only really know that the retirement plan was just...it formed the basis of how I earn that, one of the possible 100 points. Senator Davis lifted that language out of that possible 100 points of earning and brought it into LB886. It, yeah, it wasn't retirement at all. [LB760]

SENATOR LINDSTROM: No. Okay. [LB760]

JERRY STILMOCK: No, sir. [LB760]

SENATOR LINDSTROM: Okay. Thanks for clarifying (inaudible). [LB760]

JERRY STILMOCK: Yes, sir. Thank you for asking. Yes. [LB760]

SENATOR SMITH: Senator Harr. [LB760]

SENATOR HARR: Thank you, Chairman Smith. I'm confused after Senator Friesen's questions. [LB760]

JERRY STILMOCK: Okay. [LB760]

SENATOR HARR: How many county volunteer firefighters are there? [LB760]

JERRY STILMOCK: I don't know. [LB760]

SENATOR HARR: More than ten? [LB760]

JERRY STILMOCK: Sure. [LB760]

SENATOR HARR: Okay. And ten firefighters in the past mistakenly requested the \$250 but you'd agree with me that more than ten qualified for the \$250. [LB760]

JERRY STILMOCK: Yeah. I don't know. I don't know. I know ten submitted applications per the Department of Revenue. [LB760]

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SENATOR HARR: I think that's something important we need to know. Is it we're only doing this for ten, then it's \$2,500? Or is it...are there 2,000 and this is a half a million dollars? I think... [LB760]

JERRY STILMOCK: There's no way there's 2,000. If there's 20 or 25, I'd be surprised, total. I'd be shocked if it were more. It would shock my conscience. [LB760]

SENATOR HARR: Okay. Well, I will take your word on that. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR HARR: Okay. [LB760]

SENATOR SMITH: Senator Groene. [LB760]

SENATOR GROENE: Yes. Thank you, Mr. Chairman. When you said 2,100, you said that's how many checked boxes you've got. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR GROENE: It's not...has nothing to do with the county when that number was 2,100. [LB760]

JERRY STILMOCK: Yes, sir. [LB760]

SENATOR GROENE: When you say volunteer fire departments, I know Norfolk is unionized, but...and also North Platte have also a volunteer department... [LB760]

JERRY STILMOCK: Yes. [LB760]

SENATOR GROENE: ...that...call it the auxiliary department. Do those individuals qualify? [LB760]

JERRY STILMOCK: Yes. [LB760]

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SENATOR GROENE: So it's not just small town rural fire department. How many of the bigger municipalities have a rural...a volunteer auxiliary department? I know Norfolk does. I know North Platte does. [LB760]

JERRY STILMOCK: You hit the two. [LB760]

SENATOR GROENE: Kearney. [LB760]

JERRY STILMOCK: Kearney is all...well, Kearney has paid drivers, you know, maybe numbered seven to nine paid, full-time, but the rest are all volunteers in Kearney. [LB760]

SENATOR GROENE: I texted my son-in-law, who was the fire chief in Chase County for a while, and I would say he volunteers more time than two full days, the union guys do, and also has a full-time contracting company. He said 35 in Chase County, which is the biggest county we're concerned about. [LB760]

JERRY STILMOCK: Yes, sir. You made me think of another state institution. It would be University of Nebraska at Kearney that would be protected by volunteers, by your question, sir. Thank you for your statement. [LB760]

SENATOR GROENE: So really, there's no...and clarify this. Apparently the legislation said nobody gets a tax credit until they check the box two consecutive years. So nobody got anything in '16 and the first year 2,100 will be available to get the \$250 if they check the box again this year. Is that correct? [LB760]

JERRY STILMOCK: Yes. So the max number is 2,157,... [LB760]

SENATOR GROENE: All right. [LB760]

JERRY STILMOCK: ...plus a handful on the county that we're here with today. [LB760]

SENATOR GROENE: But only those ten that checked it the first time mistakenly would qualify. [LB760]

JERRY STILMOCK: The way Senator Hughes's legislation is drafted, it would open it up to counties, volunteer...county volunteers universally, not just those ten, sir. [LB760]

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SENATOR GROENE: Because some of them were advised by their accountants that they couldn't take the 250 bucks. [LB760]

JERRY STILMOCK: Exactly. Yeah. And I want to be accurate, as everybody always wants to be accurate in front of a panel like this. The years do not have to be consecutive but because it just started in '16, in order to get the hit, the tax credit in 2017, it would have to be '16 and '17. To be responsive to your point, if I qualified in 2016 and I did not qualify in 2017 and I came back in 2018 and qualified, even though those years aren't consecutive, my first year of earning the credit would be in that year of 2018, sir. [LB760]

SENATOR GROENE: And what...how do you qualify again? [LB760]

JERRY STILMOCK: I have to earn 50 out of 100 points. [LB760]

SENATOR GROENE: And who checks them points off, your fire chief? [LB760]

JERRY STILMOCK: The...there is a administrator that has to be approved by the governing body, that being a city, a rural district, municipality, a rural district, or in the case of this bill a county. That person then so deputized as the administrator has to report that information to the city, county, fire district, and then the city, county, or fire district reports that information to the Department of Revenue, sir. Thank you. [LB760]

SENATOR SMITH: Additional questions for Mr. Stilmock? I see none. [LB760]

JERRY STILMOCK: Okay. Thank you, Senators. [LB760]

SENATOR SMITH: Thank you for your testimony. [LB760]

JERRY STILMOCK: Yes. Thank you. [LB760]

SENATOR SMITH: Appreciate it. Next proponent of LB760. Welcome. [LB760]

MICHELLE WEBER: (Exhibits 1 and 2) Good afternoon, Chairman Smith, members of the Revenue Committee. My name is Michelle Weber, M-i-c-h-e-l-l-e W-e-b-e-r. I'm testifying on behalf of the Nebraska Emergency Medical Services Association, NEMSA, in support of LB760 to change the Volunteer Emergency Responders Incentive Act. NEMSA members are both career and volunteer emergency responders, including emergency medical responders, emergency

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medical technicians, advanced emergency medical technicians, and paramedics. When the original Volunteer Emergency Responders Incentive Act, LB886, was passed in 2016, NEMSA did support the bill as an effort to aid the recruitment and retention of volunteer emergency service providers whose numbers have been dwindling. Nebraska is very reliant on volunteer emergency responders, and this bill was hailed as a means of supporting a volunteer emergency responder no matter the sector they served from. LB886 had 28 cosponsors, including 6 current members of this committee, and did pass with unanimous support. Unfortunately, as Senator Hughes explained, the bill inadvertently excluded volunteers from county-run services from qualifying for the bill, and this error was not realized until such volunteers made application to the Department of Revenue and were denied simply because they came from a county-run service rather than a city service, village service, or rural or suburban fire protection district. In addition to the letter from NEMSA, which has been distributed, we're also providing a letter from the Chase County EMS, which is comprised of Imperial EMS and Wauneta EMS, whose volunteers applied for this tax credit and then were denied. Chase County is 100 percent volunteer service and this change would be very meaningful to its volunteers. LB760 is needed to fix that error that pertains to a handful of volunteers with county services in Nebraska. It's the right thing to do to honor the intent of LB886 and the commitment that the Legislature made to all volunteer emergency responders. To Senator Harr's questions about the fiscal note for the bill that shows minimal impact, we want to be clear that the \$546,000 note that was talked about is for the previous bill that was passed. That's for the city, village, suburban, and rural fire protection district volunteers. We are aware of as many as 25 county-run services with volunteers. Chase County, Imperial in Chase County, Wauneta being two of those, and we know that ten people from those two departments did apply and, as was explained, this would open it up to other county volunteers, even those that did not apply in error this last year. And NEMSA respectfully requests the committee to advance LB760 to General File. Thank you. [LB760]

SENATOR SMITH: Thank you, Ms. Weber. Do we have questions? Senator Harr. [LB760]

SENATOR HARR: And I don't recall LB886, and maybe you can refresh my memory. Is there a limit on the number of people who can apply for this tax credit? [LB760]

MICHELLE WEBER: The only limit would be the qualifications. [LB760]

SENATOR HARR: I just have a question. I guess it's a spur on the side of my saddle. I don't understand how this doesn't have a fiscal note. I don't understand how this doesn't have a fiscal note. I had a bill personally that cut property taxes in Omaha, and they put a...hung a fiscal note on it because it affected TEEOSA. That was less than what I'm figuring out this is. And I just...and that was almost...for almost only one property. It wasn't special legislation, of course. I just can't figure out how this doesn't have a fiscal note. And while I support this underlying bill, I

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may not vote for it because this is a type of bill that shouldn't be on consent calendar because it does have a fiscal impact. And so if I do vote against this, it's not because I don't think your people are worthy. It's because I think that this is the type of bill that does not deserve to be on consent because it has one. Thank you. [LB760]

SENATOR SMITH: Senator Schumacher. [LB760]

SENATOR SCHUMACHER: Thank you, Senator Smith. And thank you for your testimony. And I, like Senator Harr, am trying to remember the particulars of the bill and trying to read through the old language in addition to the new stuff. Now you have to have 50 points for two years in order to qualify. Is that correct? [LB760]

MICHELLE WEBER: That's correct. [LB760]

SENATOR SCHUMACHER: And those do not have to be consecutive years. [LB760]

MICHELLE WEBER: That's correct. [LB760]

SENATOR SCHUMACHER: Once you qualify, is that it? I mean ten years later you're still qualified? [LB760]

MICHELLE WEBER: You would have to have two years of consecutive service or two years of service prior to the year that you're claiming the credit, is my understanding. [LB760]

SENATOR SCHUMACHER: Okay. But can that be two years of service ten years ago? Once I've checked that box twice that I'm a volunteer, am I good for life? [LB760]

MICHELLE WEBER: That will get you \$250 one year. [LB760]

SENATOR SCHUMACHER: One. So you got to have...you can trade two check boxes for \$250? [LB760]

MICHELLE WEBER: That's my understanding. [LB760]

SENATOR SCHUMACHER: As long as you keep checking, you get your \$250. But then if you skip out for a year and you don't...you were sick or out of state, vacationing or whatever or enjoying warm weather, then you don't get it that year. Is that right? [LB760]

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MICHELLE WEBER: That's my understanding. [LB760]

SENATOR SCHUMACHER: Thank you. [LB760]

SENATOR SMITH: Senator Groene. [LB760]

SENATOR GROENE: Would you make the assumption or could you get back to us and find out what number Fiscal Office used two years ago when they estimated the number of volunteer firemen in the state? My assumption is the 40 or 50 county ones were also in the numbers; that they contacted you guys or the Volunteer Association and said how many volunteers are in the state of Nebraska, and I would doubt very much they added up...they separated county from city to village to volunteers of North Platte. I will guarantee you that these 40 or 50 individuals were already in consideration in that fiscal note, so there is no new fiscal note. Could you help this committee and get us that information? I think you lobbyists would be able to know that or find out what the Fiscal Office used, because that would clarify a lot that there's not one more dollar involved in the fiscal note. [LB760]

MICHELLE WEBER: We will endeavor to get that information to the committee. [LB760]

SENATOR GROENE: Do you understand what I'm asking? [LB760]

MICHELLE WEBER: Yes. [LB760]

SENATOR GROENE: Good. And you said 25 counties. [LB760]

MICHELLE WEBER: Twenty-five counties that have volunteers as a part of their county-run service. Some are a mix of paid and volunteer professionals. [LB760]

SENATOR GROENE: But they're organized as a county volunteer... [LB760]

MICHELLE WEBER: Yes. And... [LB760]

SENATOR GROENE: ...with the state? [LB760]

MICHELLE WEBER: ...it would be counted. I made the point of Imperial and Wauneta are...they're both county-run but they each would count as 1 in the list of 25 that I have seen. [LB760]

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SENATOR GROENE: That's what I'm asking you: 25 counties or 25 communities that are involved in county? [LB760]

MICHELLE WEBER: Twenty-five communities that are involved in county-run services. [LB760]

SENATOR GROENE: All right. So it's not 25 counties. You said 25 counties. Twenty-five communities are involved in county, so it could be five counties. [LB760]

MICHELLE WEBER: I apologize. Yes. So to be clear we mean 25 county-run services. [LB760]

SENATOR GROENE: You've got Venango in Chase County also. You've got...I think that's it. So there's more than one. [LB760]

MICHELLE WEBER: I know Webster County has a couple different within Webster County. That would be another one that would have multiples within one county. [LB760]

SENATOR GROENE: All right. So it's not 25 counties. Thank you. [LB760]

MICHELLE WEBER: Correct. [LB760]

SENATOR SMITH: Senator Brasch. [LB760]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Ms. Weber, for coming forward. I do recall the hearing that we had on this and now this credit is for the volunteer firemen, correct? [LB760]

MICHELLE WEBER: And emergency responders, EMS, EMRs, paramedics. [LB760]

SENATOR BRASCH: And responders, okay. So they...no one who is paid qualifies for this credit, correct? [LB760]

MICHELLE WEBER: That's correct. [LB760]

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SENATOR BRASCH: So it's only those who are not paid. And if I recall from the hearing that the number of unpaid volunteer firefighters is declining, that there's a struggle to get new individuals involved. Are you familiar with that or are you aware of that or...? [LB760]

MICHELLE WEBER: I mean we are aware that generally volunteer numbers are dwindling across the state. [LB760]

SENATOR BRASCH: Do you agree? Okay. Right. And then when I...it's been a while, not that long ago, but I toured the volunteer fire departments in each of my three counties, and I believe that there are costs that the volunteers absorb into their personal lives. One of their manuals or their courses may run \$200. Are you aware of this? Am I... [LB760]

MICHELLE WEBER: Yes. [LB760]

SENATOR BRASCH: Yes. [LB760]

MICHELLE WEBER: Some, their personal expense. [LB760]

SENATOR BRASCH: Yes. And then sometimes they have fund-raisers or whatever to cover. But they're not paid mileage at all to get to the fire or anything. That's all out of pocket. [LB760]

MICHELLE WEBER: That's all correct. [LB760]

SENATOR BRASCH: The reason for some of the decline is the out-of-pocket expense to be a volunteer, and it was the intent of this legislation that they may recoup some of their personal expenses. [LB760]

MICHELLE WEBER: Yes, that's my understanding as well. [LB760]

SENATOR BRASCH: And that's my memory too. I just wanted to double-check that it has not changed, people are paid, somebody is now paying expenses and their manuals. They're not getting mileage or... [LB760]

MICHELLE WEBER: Your understanding is correct. [LB760]

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SENATOR BRASCH: Is correct. And nothing has changed. There isn't a superfund out there that's now making up for not only lost time with family but lost income to be this volunteer. [LB760]

MICHELLE WEBER: No. [LB760]

SENATOR BRASCH: All right. Thank you for bringing me back up to speed. [LB760]

MICHELLE WEBER: Thank you. [LB760]

SENATOR BRASCH: I have no other questions. [LB760]

SENATOR SMITH: Further questions for Ms. Weber? I see none. Thank you for your testimony. [LB760]

MICHELLE WEBER: Thank you. [LB760]

SENATOR SMITH: Next proponent of LB760. Seeing no additional proponents, anyone wishing to testify in opposition to LB760, opponents? Seeing none, anyone wishing to testify in a neutral capacity on LB760? Seeing none, Senator Hughes has waived closing and that concludes our hearing on LB760. Thank you all. We are now going to move into confirmations and I'm going to take the liberty of just reversing the order here of the individuals because we first want...I'm going to invite the person that is being reappointed to come forward first, and that way kind of leads the way for our newest commissioner. So I'm going to invite Steven Keetle forward. And Steven Keetle is being reappointed by the Governor to the Tax Equalization and Review Commission. And I know you serve a broad area but your state senator is Merv Riepe from District 14. [LB760 CONFIRMATION]

STEVEN KEETLE: District 12, yes. [CONFIRMATION]

SENATOR SMITH: Or District 12. I'm sorry. [CONFIRMATION]

STEVEN KEETLE: That's right. [CONFIRMATION]

SENATOR SMITH: I'm District 14. (Laughter) I knew it sounded familiar. But welcome. [CONFIRMATION]

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STEVEN KEETLE: (Exhibit 1) Thank you. Good afternoon, Chairman Smith, members of the Revenue Committee. My name is Steven Keetle, that's S-t-e-v-e-n K-e-e-t-l-e. I'm here today to ask for your confirmation of my reappointment to the Tax Equalization and Review Commission. As Senator Smith noted, I'm being reappointed to the commission. I've served just over two years, filling in the remainder of...filling in a partial term. I'm the commissioner from the 2nd District. I live in Omaha and I'm currently the chair of the commission. I've just been doing that since July. I'm an undergraduate...or graduate of the University of Nebraska-Lincoln. I received an undergraduate degree in business administration with minors in math and history. I also have a juris doctorate from the University of Nebraska College of Law. After law school I was hired as an attorney with the commission and I was either that or legal counsel for the commission until my appointment in 2015. I have received certification in administrative law fair hearing from the National Judicial College, as well as certification in basic mediation training from the Nebraska Mediation Association. I also hold a Nebraska assessors certificate. I've enjoyed my time as a member of the commission, holding hearings both as a presiding hearing officer and as a single commissioner holding hearings with taxpayers throughout the state. I believe the commission plays an important part in the property assessment process by providing an avenue for appeal from decisions made at the county level that property owners don't agree with. I think that everyone that comes to the commission deserves a fair and equitable hearing before an impartial body and I will work hard to continue to provide such a forum for the citizens of Nebraska. That's a brief summary. I'd be happy to answer any questions anyone may have. [CONFIRMATION]

SENATOR SMITH: Thank you, Mr. Keetle. You're very well qualified and I know you've served very, very well and it's a tough job. And I thank you for your willingness to serve in that capacity. Do we have questions from the committee? Senator Harr. [CONFIRMATION]

SENATOR HARR: Thank you, Mr. Chairman. Thank you for coming back in front of us. Thanks for your service. And obviously you have a great...your family has a great history of serving this state, so thank you for your service and your family's service. My question, since you are a TERC commissioner and before that you were counsel, is it your belief that the TERC process is working or do you think there needs to be changes? [CONFIRMATION]

STEVEN KEETLE: I think the process is working. If I didn't think it was, I wouldn't be here asking for a reappointment. I think that at hearings before me, people have an opportunity to bring evidence and I will evaluate that evidence in every hearing and grant relief where it's...where the evidence shows they should be granted relief. I think since I've been doing this, we've been doing more...since I've been chairman, which is not that long, I've been trying to schedule more single-commissioner hearings, which is more of a one-on-one meeting with the represent...the taxpayer and a representative of the county. That's more of a discussion type hearing. [CONFIRMATION]

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SENATOR HARR: Yeah. [CONFIRMATION]

STEVEN KEETLE: I get more of a chance to ask questions of both sides and get the parties to ask questions of each other in that type of hearing, and I think that's been helpful to the process. And we've been able to not only schedule more hearings that way but also follow through in holding them that way as well. But neither the counties or the taxpayers haven't been asking to move those to regular hearings, so I think that has helped a lot. And I do think that it is a meaningful part of the process. I think somebody who has an error, something that's wrong with their valuation, can come to the commission and get that corrected. [CONFIRMATION]

SENATOR HARR: Thank you. [CONFIRMATION]

STEVEN KEETLE: Thank you. [CONFIRMATION]

SENATOR SMITH: Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Senator Smith. I believe it was the TERC board that a couple years ago had a bill involving mileage. Am I remembering that correctly?  
[CONFIRMATION]

STEVEN KEETLE: That's correct. Last session there was a bill introduced to that effect.  
[CONFIRMATION]

SENATOR SCHUMACHER: Okay. And it seemed to me that there was testimony or discussions regarding really very long hours that you put in and some of the other members of the commission put in, and staff issues of being maybe could use some help, could use some additional legal horsepower at the TERC level, and even, I think, maybe have an issue of compensation. Does that time shortage that...to put in on a case, the lack of staff, of facilities, is that still affecting you guys? [CONFIRMATION]

STEVEN KEETLE: Well, since I was here last we have added some staff at the commission so we do have more help in order to get decisions written and to get taxpayers who call with questions, get their questions answered. So that part of what was going on last time I was here, which was about two years ago, has been...I think we've done a good job of filling in that gap. The commissioners still don't get any mileage or reimbursement. For myself, I just come from Omaha every day actually. Depending on traffic, I can get to Lincoln faster than my wife can get to downtown Omaha some days, so it's not really that big a burden for me. But Commissioner

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Kuhn, for example, who is going to follow me today, he comes in from Grand Island every day to conduct hearings and he doesn't get any reimbursement for that. [CONFIRMATION]

SENATOR SCHUMACHER: So you guys are in favor of the 80-mile-an-hour bill. (Laughter)  
[CONFIRMATION]

STEVEN KEETLE: Depending on the day, yeah. [CONFIRMATION]

SENATOR SCHUMACHER: What does your budget look like over the last two years? I mean have you got more operating budget to do this, how that's compared to your caseload?  
[CONFIRMATION]

STEVEN KEETLE: The budgets have been fairly stable. It hasn't increased or decreased significantly over that time. We've rearranged our expenses. We changed the type of staff that we had in order to try to cover the issues we were talking about before. We have less administrative personnel and more legal personnel to get that work done. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you. [CONFIRMATION]

STEVEN KEETLE: Thank you. [CONFIRMATION]

SENATOR SMITH: Senator Friesen. [CONFIRMATION]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. Keetle, I guess property taxes are always kind of a hot topic everywhere. [CONFIRMATION]

STEVEN KEETLE: Yes. [CONFIRMATION]

SENATOR FRIESEN: And you do receive a lot of protests, I take it, in the urban areas also?  
[CONFIRMATION]

STEVEN KEETLE: We do. Yeah. We get throughout the state. We cover the whole state, so we do get. [CONFIRMATION]

SENATOR FRIESEN: Do most of those who file a protest, do they show up to the protest or the hearing? [CONFIRMATION]

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STEVEN KEETLE: A lot of the cases we will receive a, you know, a settlement. It's not called a settlement under our statute but the parties, the county and the taxpayer, will oftentimes reach a resolution without coming to a hearing before us. We do have some hearings that we schedule and people don't show up for those. It's part of the nature of the type of hearings, especially the single commissioner hearings with less required. We don't require anything. All you have to do is show up, bring what you're going to bring that day so we don't have any advanced notice of when that's going to happen. If we do have advanced notice of somebody who might not appear at a regular hearing, we might reschedule that or do something like that, but.

[CONFIRMATION]

SENATOR FRIESEN: I've had several constituents complain that if they...when they take something to TERC it's a rubber stamp of what the county says and it does no good so just walk away and don't fight it. Do you track the number of cases where the property owner succeeds in changing his value versus the ones where they don't? [CONFIRMATION]

STEVEN KEETLE: I don't know that off the top of my head. I try not to keep track of that myself for this reason. Every case that comes before me, I look at it based on what is brought to me in that case. There are even...in the short amount of time I've been a commissioner and actually hearing the cases, I've had people appear before me for multiple tax years and I don't consider what happened to them the year before as being determinative of what happens to them in the year...the subsequent year even. So it's really based on the evidence that's presented. One thing that there are people who show up at one of our hearings and do not bring any evidence, and I feel we are lumping that in with somebody who does bring evidence. You know, the person who shows up but doesn't bring the evidence, just says I think it's too high, they're probably not going to win that appeal. That's a different situation than someone who does bring evidence in and does present me some information I can use to adjust a valuation on a property, so.

[CONFIRMATION]

SENATOR FRIESEN: I know there's a bill that's going to be coming before the Legislature eventually that talks about putting the burden of proof on the county to prove that they're correct. How would that change the appeal process, from your perspective, if somebody wanted to take it to TERC? [CONFIRMATION]

STEVEN KEETLE: That bill, as written, wouldn't change what we do. It wouldn't change our burdens at our level. It would just affect the county board hearings. [CONFIRMATION]

SENATOR FRIESEN: Okay. [CONFIRMATION]

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STEVEN KEETLE: I don't know if that would result in more hearings being appealed to us or fewer. I really couldn't answer that question because if there is more information in front of the county board or additional information in front of the county board, that may impact the way they rule on their protest hearing, so. [CONFIRMATION]

SENATOR FRIESEN: Okay. Do you ever feel any political pressure to make sure valuations are either on the high end or the low end of a range? [CONFIRMATION]

STEVEN KEETLE: Not any more than anyone who works in state government does. It's a hot button issue. Everybody knows what they pay in property taxes and typically would prefer to pay less. So as far as that goes, it's always out there, but I think my job is to apply the law without consideration of what those political influences are. I think that's one thing I like about the commission, why it was initially created back in the late '90s. And I think that's...and I try to uphold that when I make my decisions too. I don't use that...I don't let that influence my decisions on the valuations that are in front of me. [CONFIRMATION]

SENATOR FRIESEN: Thank you, Mr. Keetle. [CONFIRMATION]

STEVEN KEETLE: Thank you. [CONFIRMATION]

SENATOR SMITH: Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Senator Smith. One follow-up question: A comment that you made, that a lot of cases settle out? [CONFIRMATION]

STEVEN KEETLE: Some do, yes. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. And as I understand the procedure, the assessor sends out a notice of valuation. And then if you feel the assessor is off base, you file an appeal with the county board, and the county board rules on it. And if you're still unhappy with the world then you can appeal to TERC. Is that basically the way it works? [CONFIRMATION]

STEVEN KEETLE: Yes. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. And now suppose I've appealed, and I guess I would sit down with the county attorney to do my negotiations to see if we can come up with a settlement, right? [CONFIRMATION]

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STEVEN KEETLE: That varies from county to county, but the county attorney or someone from the assessor's office may contact somebody who files an appeal with us and ask to either review any additional information they might have or ask them questions about the property in preparation for our hearing. That... [CONFIRMATION]

SENATOR SCHUMACHER: So who do you get a paper from that says, we settled this, signed taxpayer, signed who? [CONFIRMATION]

STEVEN KEETLE: That is from the county attorney's office typically prepares those for the county. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. Now does the county attorney, before he or she settles it, have to get approval from the county board? Or is this something like a lawsuit? The county attorney, he just is empowered to settle? [CONFIRMATION]

STEVEN KEETLE: I don't know the answer to that question for sure. My understanding is it varies from county to county how the county boards delegate that authority. Some county attorneys that I've talked to over the years have called and said, I think we've reached an agreement with this, this taxpayer, for our hearing that's coming up in two weeks. I want to let you know that it's probably not going to happen, but the county board has to approve it before we can make it final. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. [CONFIRMATION]

STEVEN KEETLE: So I know that is the process for some counties and then there are other counties where the county attorney does everything. [CONFIRMATION]

SENATOR SCHUMACHER: So the job of the commission is to maintain some tax equity throughout the system. Is there any follow-up to determine that one county attorney isn't a pushover while another one is really, really hard, and that those settlements in fact meet some standard? Or is that just kind of, well, you know, whatever works out, works out? [CONFIRMATION]

STEVEN KEETLE: A lot of times when we get those settlements, what I'll call a settlement from the counties, we also have certification from the assessor saying that they've reviewed the value and then that is... [CONFIRMATION]

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SENATOR SCHUMACHER: Is that mandatory or is that just a lot of times?  
[CONFIRMATION]

STEVEN KEETLE: It's a lot of times. It's not mandatory. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. So really we have a little bit of an issue there as far as tax equalization because, at that stage, we may have a lot of rules that the assessor has got to follow and some the county board has got to follow. But in that limbo stage between it leaving the county board with a ruling and you guys getting it, there's this kind of very loose process for which there really is not too much standards? I mean have you ever said, hey, wait a minute, county, you're out of line on this settlement? [CONFIRMATION]

STEVEN KEETLE: The commission doesn't have to accept a settlement. They don't have to approve the settlement number, so I can't think of one that I've seen where it seemed an unreasonable number. [CONFIRMATION]

SENATOR SCHUMACHER: And how would you know? [CONFIRMATION]

STEVEN KEETLE: Based on the initial valuation set by the county and the information. We do get information from...with the appeals that sets forth the reasons for the appeal, the requested valuation, and things like that are in the case files. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you. [CONFIRMATION]

STEVEN KEETLE: You're welcome. [CONFIRMATION]

SENATOR SMITH: Additional questions for Mr. Keetle? I see none. Thank you for reintroducing yourself to us. [CONFIRMATION]

STEVEN KEETLE: All right. Thank you very much. [CONFIRMATION]

SENATOR SMITH: Thank you again for your service. [CONFIRMATION]

STEVEN KEETLE: Thank you. [CONFIRMATION]

SENATOR SMITH: We now invite James Kuhn, who is a first-time appointment to the Tax Equalization and Review Commission. [CONFIRMATION]

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JAMES KUHN: Thank you. [CONFIRMATION]

SENATOR SMITH: So Mr. Keetle got all the tough questions out of the way already.  
[CONFIRMATION]

JAMES KUHN: I hope so. I hope so. (Laughter) That was a softball. I get the softball, right? I'm pretty good at old-man softball. [CONFIRMATION]

SENATOR SMITH: Well, welcome. Thank you for being here today. Please introduce yourself to us. [CONFIRMATION]

JAMES KUHN: (Exhibit 1) Thank you. Good afternoon, Senator Smith and members of the committee. My name is James Kuhn, J-a-m-e-s K-u-h-n, and I'm here today asking for your confirmation to serve as a commissioner on the Tax Equalization and Review Commission. I live in Grand Island, as Commissioner Keetle had said, and I was appointed by Governor Ricketts to represent the 3rd District. I know that you guys probably know quite a bit about me already. But just real quick, I want you to know I'm a lifelong Nebraskan, grew up in Loup City, Nebraska, home of Polish Days, the Polish capitol of Nebraska--a claim to fame for the little tiny town. And I consider myself a...you know, a small town guy yet. I am a licensed real estate appraiser with the state of Nebraska and most recently I worked nearly 15 years with the Adams County Assessor's Office, and the last 5 years of that I did as the head appraiser for the county assessor's office. So I got appointed and started work September 1 at the TERC commission and so I've only been on the job for four and a half months. But working with Commissioner Hotz and Keetle and the rest of the office staff, I really enjoy it a lot. Learning quite a bit being on the other side of the table, so a lot of things that I'm learning. And so far, I've been able to be the second commissioner on most all of the panel hearings that we've had since then. And no two have been the same yet in the last four and a half months, so getting quite a bit of information inundated to me right now. And I'll be starting single commissioner hearings here starting next month, so looking forward to getting that started as well. So that's just a little bit about myself, so if anybody has any questions, I'd be happy to try and answer. [CONFIRMATION]

SENATOR SMITH: Very good. Questions from the committee? Senator Friesen.  
[CONFIRMATION]

SENATOR FRIESEN: Thank you, Chairman Smith. I'm just curious. In your past life, if you had a case go to TERC, what do you feel the odds were of...did you always win your case? You...  
[CONFIRMATION]

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JAMES KUHN: I'm ten and two. [CONFIRMATION]

SENATOR FRIESEN: What's that? [CONFIRMATION]

JAMES KUHN: I'm ten and two. [CONFIRMATION]

SENATOR FRIESEN: Ten and two. [CONFIRMATION]

JAMES KUHN: Ten wins, two losses. [CONFIRMATION]

SENATOR FRIESEN: That's not too bad. [CONFIRMATION]

JAMES KUHN: That's not too bad; it's a pretty good average, but... [CONFIRMATION]

SENATOR FRIESEN: Do you feel, overall, the system, the way it's built...I mean from what I've been hearing from the, you know, the urban areas, you get your assessment and you're angry and, for a few bucks you can put down, and you can file a protest. And by the time you get to that process, you know, you've probably had constituents or...be there, you forget how angry you were and you filed your 25 bucks or whatever it cost, and you walk away. Is that...do you think a lot of that happens? [CONFIRMATION]

JAMES KUHN: There is an initial kind of angry period. I know that through what I used to do, we would contact a taxpayer and really talk to them after they had filed to TERC and, you know, go over information with them if they had any more information, you know, appraisals, anything that we could talk about. And what I found is a lot of times just educating the taxpayer on...most of them don't know what the heck the assessor's office does anyhow. And just educating them on the whole system, as to how it works. They see their value go up \$5,000, they think their taxes go up \$5,000. And we see that, just tons of that. And when I first started at the county assessor's office, we'd have probably close to 500 protests a year through June and July. And by the time I finished, we were down to about 158 that we were doing in a year. And I think that is a lot of the fact that we would, once a person protested, we'd go visit their property with them--myself and another appraiser. We would go out, we'd review the property with them and talk to them. And I think just educating the taxpayer was huge in reducing the number of appeals that we had each year. Some of them are just...they're going to go no matter what, just as a matter of a purpose, I guess. And you know that's certainly their right to do that, so. [CONFIRMATION]

SENATOR FRIESEN: So did you do commercial, farm, and residential also?  
[CONFIRMATION]

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JAMES KUHN: Yeah, I took care of all three. Yeah, and I had associate appraisers that would kind of individualize in each one of those. I took care of the commercial, mostly, and the ag, and had a couple people working on the residential portion of it. [CONFIRMATION]

SENATOR FRIESEN: Did you ever have to go out and borrow sales from other counties in order to... [CONFIRMATION]

JAMES KUHN: I didn't like borrowing sales. I like using my own data. My own data tell me what my values are showing. It got...the last couple years the state was kind of really pushing to try and borrow some more sales. In Adams County, did not have a lot of grassland. You can almost count on one hand the amount of grassland there is. Most everything is either dry or irrigated, so we would have to go look for a few grassland sales just to show some more data to kind of double-check our numbers. [CONFIRMATION]

SENATOR FRIESEN: I apologize. It's not often I get a chance to question the assessor. (Laughter) [CONFIRMATION]

JAMES KUHN: That's fine. Those are the easy ones. I had a lot of years of that, so. [CONFIRMATION]

SENATOR FRIESEN: All right. Thank you. [CONFIRMATION]

SENATOR SMITH: Senator Harr. [CONFIRMATION]

SENATOR HARR: Thank you, Chairman Smith. I have a couple questions. First of all, in my limited experience, I find that some of what Senator Friesen said jogs my memory that commercial property often appears to be income-based. Are there any...would you have any inherent concerns if we moved ag from comparable sales to income-based? [CONFIRMATION]

JAMES KUHN: (Laugh) That's kind of a tough one right off the bat. (Laughter) Going back to my previous life, I guess,... [CONFIRMATION]

SENATOR HARR: Yeah. [CONFIRMATION]

JAMES KUHN: ...I wouldn't be in favor of going to the income on ag land. It's supposed to be fair. However, you can have a bad farmer with great ground do terrible things to it, and you have a great farmer with bad land doing great things to that. So the actual land itself has the ability to

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do great things, but it's just the person that holds it that may kind of hold it back. The comparable sales...I think using three years is pretty tough, because when the values were finally getting to \$12,000 an acre in Adams County for irrigated ground we were still valuing it at like 3,000-3,500 bucks. So using the past three years of sales, you're not with the current trends. Once that started going back down, we finally got up to the top. And that's when we...we weren't seeing many protests when they were buying it for \$12,000 and we were valuing it at \$3,800. But once they start buying it for \$6,000 and we were valuing it at \$6,000, things took a big turn right there. So using that three years of sales is, you know, the tail. We're always trying to catch up, and you're always behind. [CONFIRMATION]

SENATOR HARR: Okay. And looking...this is more of a personal question, based on your resume. [CONFIRMATION]

JAMES KUHN: Um-hum. [CONFIRMATION]

SENATOR HARR: And looking it over, how come you don't do guides for fall turkey hunting (laughter) and only spring? [CONFIRMATION]

JAMES KUHN: And only spring. Well, guiding for fall turkey hunts is a little bit difficult. It's 400 turkeys in a wad, so you just go out and get in front of them. So it's not much of a hunt. [CONFIRMATION]

SENATOR HARR: Not much of a hunt. [CONFIRMATION]

JAMES KUHN: I would be happy to take you, don't get me wrong. But most of my clients are the purist turkey hunter that want them strutting and gobbling and all of that, all the way in. [CONFIRMATION]

SENATOR HARR: The fun. [CONFIRMATION]

JAMES KUHN: And that's a little bit difficult to do in the fall. [CONFIRMATION]

SENATOR HARR: All right. Thank you. [CONFIRMATION]

JAMES KUHN: Sure. [CONFIRMATION]

SENATOR SMITH: Senator Schumacher, then Senator Brasch. [CONFIRMATION]

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SENATOR SCHUMACHER: Thank you, Senator Smith. I want to thank you for giving us a new term of tax law: the angry period. (Laughter) I always thought it was like April 16. But that's all. [CONFIRMATION]

SENATOR SMITH: Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you for your testimony here today and your interest in serving on the board. I'm...I've talked to many individuals in many counties and in my district. When you're saying that--I thought this is what I heard--that the ability of a piece of land reflects the ability of that farmer for their income, is that correct, the producer? [CONFIRMATION]

JAMES KUHN: It's directly related, I think. [CONFIRMATION]

SENATOR BRASCH: But even our top producers...the commodity prices have just tanked, I guess. [CONFIRMATION]

JAMES KUHN: Um-hum. [CONFIRMATION]

SENATOR BRASCH: And so that income has fallen no matter how hard they try. And so many of our surrounding ten states or more are going to the income or have for several years. [CONFIRMATION]

JAMES KUHN: Um-hum. [CONFIRMATION]

SENATOR BRASCH: But still, your looking at what...not what the individual's ability to bring back in income is a fair way to assess, I guess I do have an issue with that. [CONFIRMATION]

JAMES KUHN: Well, it is. It's a tough way of doing it. And I've thought about it. There's not a great answer; I wish there was. Otherwise you guys probably would have already had it. The commodity prices have been historically low. And I think the...as far as I'm concerned, when a farmer buys a piece of ground, he buys what he can afford or, at least, hopefully. And what he pays for it is what he thinks it's worth. That's why I lean a little more toward the sales comparison approach. I would really hope that they weren't...which people are going to do. They're going to...they're just going to try and get more land they're going to pay whatever for it. But on the whole, I would think somebody, in buying land, would only get what they could afford. And the best way to show what a piece of land is worth is what a willing buyer and a willing seller can sell it for. [CONFIRMATION]

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SENATOR BRASCH: But if they're not interested in it as a buying/selling...I'm also the Chair of the Ag Committee. [CONFIRMATION]

JAMES KUHN: Sure. [CONFIRMATION]

SENATOR BRASCH: And so like the average family farm is what this state was built upon, and it's not someone looking to sell when the prices are high. They're looking at the next generation, moving forward. And... [CONFIRMATION]

JAMES KUHN: Sure. And the small farms are...we're losing a lot of those, the small farms. [CONFIRMATION]

SENATOR BRASCH: And we are, absolutely. So...and this is where when you're on this, the TERC board... [CONFIRMATION]

JAMES KUHN: Sure. [CONFIRMATION]

SENATOR BRASCH: ...and you're trying to determine, you know, how...what is fair value. And to say that one farmer might not be as competent or able as the next, you know, I... [CONFIRMATION]

JAMES KUHN: And I wish I knew how...a little bit more on how the income portion of that would actually work. Just like I'm... [CONFIRMATION]

SENATOR BRASCH: So you're not that familiar... [CONFIRMATION]

JAMES KUHN: Like I'm not totally against it. [CONFIRMATION]

SENATOR BRASCH: Okay. [CONFIRMATION]

JAMES KUHN: I'm going back to my assessor days. (Laugh) [CONFIRMATION]

SENATOR BRASCH: Okay. [CONFIRMATION]

JAMES KUHN: And I'm just thinking the amount of paperwork and data that you're going to have to collect, and at what time of year you're going to have to collect that information could be

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a real added burden to the assessor's office, because when they're selling commodities and then when we're setting values for the state are two totally different time periods. So you know, somebody smarter than me could probably... [CONFIRMATION]

SENATOR BRASCH: So you're looking at the amount of work for the assessor, not... [CONFIRMATION]

JAMES KUHN: It would add a lot of work. I mean... [CONFIRMATION]

SENATOR BRASCH: Okay. [CONFIRMATION]

JAMES KUHN: ...if that's the best way to do it, that's the way it needs to be done, is my philosophy on things. [CONFIRMATION]

SENATOR BRASCH: Okay. [CONFIRMATION]

JAMES KUHN: If you're going to do it, do it right. I just would like more information about it. [CONFIRMATION]

SENATOR BRASCH: And that's fair. Thank you. I have no other questions. [CONFIRMATION]

JAMES KUHN: Thank you. [CONFIRMATION]

SENATOR SMITH: Thank you, Senator Brasch. Remaining questions for Mr. Kuhn? I see none. Thank you for your testimony today... [CONFIRMATION]

JAMES KUHN: Thank you. [CONFIRMATION]

SENATOR SMITH: ...and for introducing yourself to us. And Mr. Kuhn, he's from District 30 (sic--District 35). His state senator is Dan Quick. Very good. And that...I think we now open it up to anyone wishing to testify in...or not testify but...yes, testify in support of these confirmations, please come forward. And anyone in opposition? Anyone wishing to testify in a neutral capacity on these confirmations? I see none. We thank you for introducing yourselves to us today. And that closes our hearings for today. We are going to go into Exec Committee so if senators could hang around for a few minutes. Thank you, everyone. [CONFIRMATION]