

COMMITTEE STATEMENT  
LB 490

HEARING DATE: FEBRUARY 9, 1995

COMMITTEE ON: REVENUE TITLE:

LB 490 (Kristensen) Adopt the Tax Equalization and Review Commission Act

ROLL CALL VOTE. FINAL COMMITTEE ACTION

Advanced to General File

Y Advanced to General File with amendments

Indefinitely Postponed

Vote results:

6 Yes Senators Coordsen, Hartnett, Kristensen, Warner, Wickersham and Will

0 No

2 Present, not voting Senators Landis And Schellpeper

0 Absent

Proponents	Representing
Senator Doug Kristensen	Introducer
John Jordison	Ne Tax Research Council

Opponents	Representing
David Burkholder	Ne Cattlemen
John Boehm	Self
John Moore	Ne Assn. Of County Officials
R. J. Brown	Self

Neutral	Representing
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Summary of purpose and/or changes:

Lb 490 provides for a tax equalization and review commission to hear appeals of individual assessment and exemption disputes. The bill also would separate the property tax division of the department of revenue from the control of the tax commissioner.

Section 1 titles the act the -tax equalization and review commission act-.

Section 2 provides definitions.

Section 3 creates the tax equalization and review commission to be completely separate from the department of revenue. The commission is to have three members appointed. One from each congressional district. Commissioners are to serve six-year staggered terms.

Section 4 provides that commissioners devote their full time to the work of the commission, are not to hold another office and are to have knowledge about appraisal and taxation. The chairperson is to be a licensed attorney.

Section 5 provides that commissioners be paid 85% of the salary of supreme court judges and his or her actual and necessary expenses as are county judges.

Section 6 provides that a majority of members shall constitute a quorum. Investigations and hearings could be conducted by a single commissioner with the prior approval of the commission and decisions ratified by the commission.

Section 7 provides that the commission be headquartered in Lincoln.

Section 8 lists nine powers and duties of the commission. In summary, the commission is to hear appeals of property tax disputes including:

- 1) individual property assessments, homestead exemption applications, and Property exemption requests of county boards:
- 2) unit valuation decisions of the property tax administrator. And
- 3) any claim for refund of property tax.

Section 9 provides that the commission may employ assistants and clerical staff and may also employ special masters to help in resolving disputes. Special masters are to have all the investigative powers of the commission and be empowered to issue advisory opinions in resolving disputes.

Section 10 clarifies that the commission is to have no power to set levies.

Section 11 provides that the commission is to have access to all public records.

Section 12 provides that the chairperson is to call and conduct meetings of the commission.

Section 13 requires the commission to submit an equalization plan to the state board of equalization by January 1 of each year. The property tax administrator is to assist the commission in developing the plan.

Sections 14-17 set out the procedures to be followed by the commission in resolving contested cases. Parties are allowed a hearing and an opportunity to present all relevant evidence and cross examine witnesses. An official record is to be maintained. Either party may require the commission to be bound by formal rules of evidence by requesting as much at least three days prior to the hearing. The commission may also consider any specialized knowledge which it possesses in resolving disputes. Orders are to be in writing and set out findings of fact and conclusions of law. These are essentially the same provisions as are currently in the Nebraska a.p.a.

Section 18 states that appeals are to the court of appeals. The petition is to be filed within 30 days of the decision by the commission. Procedures are set out for obtaining stays of the order and obtaining a transcript of the proceedings. The court of appeals is to hear cases for error on the record and may affirm. Reverse or remand for further proceedings before the commission. Appeals are to be given precedence over all civil cases before the court of appeals.

Section 19 allows a small claims procedure if the property at issue is a single-family residence or valued at more than \$300,000.

Sections 20 and 21 set out an informal, small claims procedure. Judgments are to be final on all parties except that the full commission may grant an appeal if requested within ten days of the judgment.

Section 22 allows the commission to adopt rules and regulations.

Sections 23-25, 27-31, 33-83, 85-108, 1410-132, 135-136, 138-140, 142-158, and 160-169 change the terms "tax commissioner" and "department of revenue" to "property tax administrator" wherever property tax is involved throughout the statutes.

Sections 26, 32, 84, 133-134, 137, 141, and 159 provide for appeals to the commissioner rather than the district court, where appropriate throughout the statutes.

Section 109 provides that by January 1, 1996, the governor shall appoint a property tax administrator with the approval of the legislature. The property tax administrator shall serve a six-year term and may only be removed for cause.

Sections 170-172 provide that provisions of the Nebraska a.p.a. do not apply to the tax equalization and review commission.

Section 173 provides an operative date of January 1, 1996.

Section 174 declares severability of the provisions of the act.

Section 175 repeals original sections.

Section 176 repeals five sections outright. Four of them deal with the tax commissioner's authority to challenge what he or she sees as underassessment; the other deals with class adjustments by the county board of equalization.

Explanation of amendments. If any:

The committee amendments:

- 1) strike the small claims procedure,
- 2) specifically allow the commission to consider statistical measures of assessment levels and centrality in resolving contested cases,
- 3) allow the commission to order reappraisals and changes in assessment practices as a means of resolving problems within counties, and
- 4) grant the commission authority to enforce those orders including by having the property tax administrator act and bill the county for the cost.

Chairperson