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February 19, 2020

The Honorable Chair Steven Johnson
House Taxation
Capitol Building, Room 112-N
Topeka, KS 66612

Re: Written Testimony in Opposition to HB 2440

Dear Chair Johnson and Members of the Committee:

On behalf of a unanimous Board of Riley County Commissioners, please accept this written testimony in opposition to HB 2440.

As my client's testimony notes, I have advised the Board of Riley County Commissioners HB 2440 may, if enacted, significantly reduce, even eliminate, the Board's ability to oversee the budget of the county appraiser's office.

In *Board of County Commissioners of County of Lincoln v. Nielander*, 275 Kan. 257, 62 P. 3d 247 (2003) our Kansas Supreme Court significantly reduced every county commission's ability to oversee the budget of every county elected official's budget. Simply put, the *Nielander* rule is: If a county elected official's annual budget exceeds the budget approved and provided by the county commission, the county commission must approve the overage if it represents expenses incurred to carry out statutory duties of that elected official.

It is difficult to imagine what duties (and expenses) of an elected county appraiser will not represent their costs to appraise and assign value to all property within the county, as required by state statutes. So it is likely, under *Nielander*, every county commission will lose its current ability to finally determine the budget of its currently appointed county appraiser, if that office is led by an elected county official.

In my opinion, at a minimum, if HB 2440 is enacted, *Nielander* can be read as explicit authority an elected county appraiser who exceeds their commission-approved annual budget may rightly sue the Board and force it to pay the overage from the general fund. The issue in such a lawsuit will be whether or not the budget overage is caused by the elected appraiser's need to carry out their statutory duties.

Thank you for allowing me to express my client's opposition to HB 2440.

Sincerely,

Clancy Holeman
Riley County Counselor

cc: Board of Riley County Commissioners