

Approved On: \_\_\_\_\_

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 15, 1988 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Grotewiel and Fuller

Committee staff present:

Tom Severn, Legislative Research  
Chris Courtright, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

Roger Franzke, Senior Vice President Bank IV, Topeka, spoke as a proponent for Substitute for Senate Bill No. 491 - AN ACT relating to property taxation; concerning the exemption of certain property therefrom and providing a procedure therefor. He explained the many benefits the YMCA has provided for the citizens of Topeka and surrounding area because it has had a tax exempt status for over a hundred years. He said that if the YMCA is forced to pay \$500,000 back taxes, they will be forced to close their doors. (Attachment 1)

Velma Paris, Shawnee County Commissioner, also spoke as a proponent for the bill. (Attachment 2) She distributed copies of testimony of Commissioner Eric Rucker and a list of over forty service agencies who support the bill. (Attach. 3) Senator Paul Burke also spoke as a proponent of the bill and offered an amendment to clarify the parsonage exemption. (Attachment 4)

Representative Snowbarger moved, second by Representative Wunsch, that SN-491 be amended as requested. The motion carried. Representative Reardon moved, second by Representative Smith, that Substitute for SB-491 be passed as amended. The motion carried.

Representative Guldner discussed HB-2671 - AN ACT relating to income taxation; relating to personal exemptions of an individual. He believes the double deduction should be returned to persons over 65 and individuals who are blind. Harley Duncan explained the bill and answered questions from committee members. Mr. Rex Hoy said a non-partisan bill should be introduced to solve the problem and that it should be done at once.

T. C. Anderson, Executive Director of Kansas Society of Certified Public Accountants, spoke as a proponent for HB-3019 --AN Act concerning corporations; relating to the annual franchise tax. He said favorable consideration of this bill would permit Kansas businesses to prorate their annual franchise tax. (Attachment 5) Mr. Danton Rice, Legal Counsel for the State of Kansas, testified that the Secretary of State strongly supports this bill. (Attachment 6)

The minutes of March 8 were approved.

There being no further business, the meeting was adjourned.

  
\_\_\_\_\_  
Ed C. Rolfs, Chairman

TESTIMONY BEFORE THE  
HOUSE TAXATION COMMITTEE

SUBSTITUTE FOR SENATE BILL NO. 491

MARCH 15, 1988

PRESENTED BY:

ROGER FRANZKE, SENIOR VICE PRESIDENT, BANK IV TOPEKA

Mr. Chairman and Honorable Members of the House Taxation Committee, thank you for the opportunity to testify today on behalf of the more than 36,000 men, women and children that are served by the Topeka YMCA. My name is Roger Franzke, I am Senior Vice President of Bank IV Topeka and am current Chairman of the volunteer Board of Directors for the Topeka YMCA.

My professional responsibilities include, in addition to marketing and business development for the bank, evaluating and developing recommendations for bank support for a variety of community service organizations based on community need and benefit. The YMCA has long been a recipient of our corporate support for youth scholarships, as well as subsidizing our employees to help make YMCA programs and services affordable to them also.

In the early 1940's, my first pair of swimming trunks, promised by my Mom, came as a result of swimming badges earned at the "Y" . . . my sons had the same experience . . . without the same incentive, however.

I joined the Board several years ago because it has been a major force in my upbringing, my family development, my personal and professional involvement. I believe it is a major force for shaping character and youth, just as it has been for my family and me.

For 108 years, the Topeka YMCA has been recognized by the County, State and U.S. Government as a tax-exempt organization because for 108 years, the Topeka "Y" has been providing important community needs through a diversity of programs offered for youth, as well as adults.

I won't take the time to list our programs that serve all ages, incomes, races religions and abilities. You are aware of many of them and what they mean to our community.

No one is denied participation or membership at the YMCA due to inability to pay. Our Scholarship Program for youth and adults includes free memberships and programs for anyone. Last year 1,466 individuals participated free in YMCA programs and the "Y" provided free memberships to 649 people, who otherwise would not have been able to use the facilities. We follow SRS guidelines, using their low energy assistance program's income scale to determine eligibility or amount of subsidy. We finance our scholarships, our youth programs for so many hundreds of youngsters, and our senior activities though income generated from our health and fitness programs and through contributions from individuals and the United Way.

The magnitude of this \$500,000 back tax bill is a dark cloud hanging over the Topeka "Y". The fact is, if we have to pay these back property taxes, we will be forced to close our doors altogether. We are already operating at a deficit, and have very limited financial reserves.

No one profits from the "Y". It is run by a volunteer board, none of whom are paid a cent for doing so. All revenue, whether from memberships or from program fees, is applied exclusively to either the YMCA's cost of services or to charitable scholarship subsidies of programs or membership fees, especially for the disadvantaged youth. From 1984 through 1987, the YMCA has been operating at a loss. Mr. Chairman, there is simply no way the "Y" could pay the back tax liability and remain in operation.

Your support of Substitute for Senate Bill No. 491 will offer us a solution to this problem, a solution that is clearly in the public interest. We believe that we are entitled to win and that we can ultimately win in court. But, the YMCA has spent thousands of dollars that could otherwise support important YMCA community service programs.

The Topeka YMCA has been tax exempt for a century, and in recent years, its exemption was repeatedly confirmed by the Board of Tax Appeals. There has never been an attempt to defraud the County on the part of the YMCA. The YMCA has been property tax exempt since 1880 with documented exemptions as late as 1981. During that time, it was apparent that Shawnee County and the YMCA thought the property was tax exempt, as exemption was never questioned.

At the first hearing before the Board of Tax Appeals in January 1987, County Appraiser Gary Smith's testimony acknowledged that the YMCA had a reasonable basis to believe the Downtown Branch property was exempted by George Schnellbacher, the former County Appraiser, and that Mr. Schnellbacher had granted a "de facto" kind of exemption to the YMCA. The YMCA relied on this historic position in good faith all these years. It never occurred to us that we did not have an exemption.

Given these facts, making the YMCA pay back taxes is fundamentally unfair. Few other organizations in Kansas can point to such a long-standing, well-established tax exemption. Thus, few other organizations can make so strong an argument against back tax liability.

Members of the committee, on behalf of the thousands of Topekans who are served by the "Y", on behalf of the YMCA's more than 700 volunteers, on behalf of all the families who reach down into their pockets and reach out in their lives to make it possible for others to participate in the YMCA too, we urge your support of Substitute for Senate Bill No. 491. Thank you.





# Shawnee County Board of Commissioners

Rm. 205, Courthouse Topeka, Kansas 66603-3970  
(913) 291-4040

Winifred Kingman, 1st district  
Velma Paris, 2nd district  
Eric K. Rucker, 3rd district

## M E M O R A N D U M

DATE: March 15, 1988

TO: MEMBERS OF THE HOUSE TAXATION COMMITTEE

FROM: Velma Paris, Shawnee County Commissioner *Velma Paris*

RE: Substitute for Senate Bill No. 491

I appreciate the opportunity again to speak with you regarding issues related to the dilemma of fair taxation treatment for human service agencies in Kansas, specifically today regarding the substitute for Senate Bill 491.

I would first like to express my appreciation and respect for those persons who have been working long hours to construct a fair resolution of this whole question.

The letter which I distributed to each of you, signed by Commission Chairman Eric Rucker on behalf of the County Commission, clearly states that the support which the County offered for the original Senate Bill 491 is still intact. I think there is no reason for me to belabor you again with the important role the YMCA has in our community; I will simply indicate our strong belief that the glitch in consistency of operation of the County Appraiser's office several years ago, should not result in YMCA's being placed in the precarious position that would result if the ruling by the Board of Tax Appeals were allowed to prevail. Of course, the same situation would exist if there were any other agency in a similar situation in our State. Therefore, this substitute for Senate Bill 491 offers a reasonable and measured solution to a most unfortunate situation.

So, I join my fellow Commissioners and the Senate in asking that your Committee enthusiastically support the Substitute for Senate Bill 491.

Again, thank you for the opportunity to talk about this important issue.

VP/jr



# Shawnee County Board of Commissioners

Rm. 205, Courthouse Topeka, Kansas 66603-3970  
(913) 291-4040

Winifred Kingman, 1st district  
Velma Paris, 2nd district  
Eric K. Rucker, 3rd district

March 10, 1988

The Honorable Edward Rolfs, Chairman  
House Taxation Committee  
Statehouse  
Topeka, KS 66612

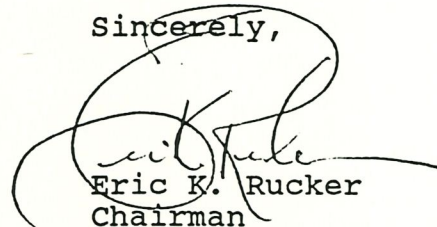
RE: Substitute for Senate Bill No. 491

Dear Representative Rolfs:

This letter is regarding the Substitute for Senate Bill No. 491.

The County Commission previously sent a letter to the Senate Assessment and Taxation Committee expressing support of the purposes of Senate Bill No. 491. We are aware of the changes which are embodied in the Substitute Bill. They do not alter our stance, since the facts which pertain to its effect on the relationship of the YMCA of Topeka and Shawnee County remain the same. Attached is a copy of the letter sent to the Senate Assessment and Taxation Committee on February 25.

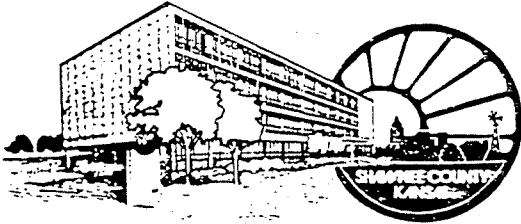
Sincerely,



Eric K. Rucker  
Chairman

EKR/bg

cc: Members of the House Taxation Committee



## Shawnee County Board of Commissioners

Rm. 205, Courthouse Topeka, Kansas 66603-3970  
(913) 291-4040

Winifred Kingman, 1st district  
Velma Paris, 2nd district  
Eric K. Rucker, 3rd district

February 25, 1988

The Honorable Fred Kerr, Chairman  
Senate Assessment and Taxation Committee  
Statehouse  
Topeka, KS 66612

RE: Senate Bill No. 491

Dear Chairman Kerr:

This letter is regarding Senate Bill No. 491 which would forgive the ad valorem property taxes for the Topeka Young Men's Christian Association for the years 1979 through 1986.

Shawnee County would receive approximately 20% or less of the taxes that would be associated with this bill, and accordingly the Board of County Commissioners is not prepared to speak for those other taxing entities that might otherwise receive tax dollars from the YMCA.

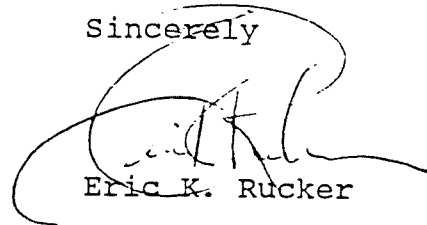
For the nine years cited above, the YMCA had a significant portion of its real property exempted from ad valorem property taxes by reason of earlier orders from the Kansas Board of Tax Appeals. None of the remaining property was placed on the tax rolls until 1986. Now the YMCA is faced with a tax bill for the property that was not exempted previously for the years 1979 through 1986.

Due to the special and unusual facts of this situation, the Board of County Commissioners is of the opinion that the equities in this case point toward the Topeka YMCA not being required to pay the ad valorem property taxes for the years 1979 through 1986.



We believe that the Topeka Young Men's Christian Association is an important asset to our community and want to ensure the continuing existence of this organization. We encourage the Kansas Legislature to appropriately address this situation so that a fair solution can be reached for the benefit of our community.

Sincerely

A handwritten signature in black ink, appearing to read "Eric K. Rucker", is written over the word "Sincerely". The signature is stylized and somewhat cursive.

Eric K. Rucker

EKR/bg

cc: Members of the Senate Assessment and Taxation Committee

JEANNE HOFERER  
 SENATOR, EIGHTEENTH DISTRICT  
 SHAWNEE COUNTY  
 1916 S.W. OAKLEY  
 TOPEKA, KANSAS 66604-3255



TOPEKA

COMMITTEE ASSIGNMENTS  
 CHAIRPERSON: CONFIRMATIONS  
 V-CHAIRPERSON: JUDICIARY  
 MEMBER: FEDERAL AND STATE AFFAIRS  
 TRANSPORTATION AND UTILITIES  
 ELECTIONS  
 GOVERNMENTAL ORGANIZATION

## SENATE CHAMBER

March 15, 1988

## Substitute for Senate Bill No. 491

Thank you Mr. Chairman and Members of the Committee for the opportunity to appear here today in support of Substitute for Senate Bill 491.

Before I explain the bill, I would like to take a minute to give you a little background on why this bill was introduced and how it came to be in its present form.

The original S.B. 491 was introduced as one of two bills drafted to address an order of the State Board of Tax Appeals which revoked the tax exempt status of the YMCA in Topeka and assessed \$500,000 in back taxes for the years 1978 to 1985. The second of this pair was H.B. 2651 which has already passed this committee.

The issue of the property tax status of the YMCA was brought to the Board of Tax appeals attention by the Shawnee County Appraiser. While reviewing property in the County for purposes of reappraisal, he discovered that the main Y facility in downtown had never been granted an exemption. Apparently, when the Y purchased the downtown property from the County, the property was already off the tax rolls because it had been the site of the old County Courthouse. At that time the County Appraiser did not put the property on the tax rolls and told the Y that it wouldn't be necessary to apply for an exemption. This was obviously at a time when business operated in a more leisurely fashion at the courthouse.

In subsequent years the Y acquired three additional properties, including the Y facility in North Topeka. The Y applied to the Board of Tax Appeals for exemptions for each of these properties and each application was granted. As a result, the YMCA never received a property tax bill on any of it's property until this issue erupted in 1986. During all these years the YMCA operated under the belief that it was exempt from property taxes.

The YMCA in Topeka is obviously faced at this point with two problems - the problem of its current tax status and the problem of paying the back tax bill for \$500,000. The first of these questions is addressed in H.B. 2651 which will be heard in the Senate Assessment and Taxation Committee today. The second problem of the back taxes was the reason for introduction of S.B. 491.

S.B. 491 started out as a very narrow bill which

*Written Testimony Only*

*Attach 4*

specifically nullified the order of the Board of Tax Appeals which assessed back taxes. When the bill was heard in the Senate Committee, the Board of Tax Appeals appeared and raised several questions about the bill. Those questions included concerns about constitutionality and potential adverse affect on the appeal which the Y had filed in Shawnee County District Court. The Chairman of the Senate Tax Committee appointed a subcommittee which was successful in getting cooperation from the Board of Tax Appeals and the attorney YMCA in working out a solution to the back tax problem that satisfied the concerns of both sides. Those of us who have been concerned about the possibility that the YMCA could very likely be forced to close its doors, if it were required to pay the back tax bill, were very appreciative of the time the Board of Tax Appeals spent assisting with the current language.

That gets us to an explanation of the bill, which is really very simple in concept. The bill was drafted to recognize that what happened to the YMCA might not be an isolated incident. All 105 counties in Kansas are in the process of implementing reappraisal and it is very likely that other similar cases will occur in other counties. As a matter of fact, the Board told the subcommittee that it is withholding action on several cases in anticipation of legislative action on S.B. 491.

The bill creates a window between July 1, 1985 (the beginning of reappraisal) and January 1, 1990 (one year after the completion of reappraisal). It provides simply that if you had a reasonable basis to believe that you were tax exempt, but are found during the reappraisal process to not have an exemption, you will not be liable for back taxes. The bill does not eliminate the need to go before the Board of Tax Appeals in such cases to establish tax exempt status. This bill is actually a tax amnesty bill for unsuspecting non-profit groups who might be discovered during the reappraisal process to have not qualified all their property for exemption.

This bill will not have a negative impact on local units of government because the taxes at issue were never collected. The bill solves the back tax problem of the YMCA, while also providing a solution for anyone else who might find themselves in a similar situation. There could be a possible application for this bill in any location in the state, urban or rural. The effect for us in Topeka will be to allow us to keep the doors open at our YMCA.

I urge your support of Substitute for Senate Bill 491 and I would be glad to answer any questions.

## Proposed amendment to Substitute for SB 491

After line 36, by inserting two new sections to read as follows:

"Sec. 2. K.S.A. 1987 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or school district purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any other political or taxing subdivision of the state or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto.

Second. All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such

exempt purposes. This exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because an agency or organization: (a) Is reimbursed for the provision of services accomplishing the purposes enumerated in this paragraph based upon the ability to pay by the recipient of such services; or (b) is reimbursed for the actual expense of using such property for purposes enumerated in this paragraph; or (c) uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purposes of this paragraph; or (d) charges a reasonable fee for admission to cultural or educational activities or permits the use of its property for such activities by a related agency or organization, if any such activity is in furtherance of the purposes of this paragraph.

Third. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fourth. The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

Fifth. All buildings of private nonprofit universities or colleges which are owned and operated by such universities and colleges as student union buildings and student dormitories.

Sixth. All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit



Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

Seventh. For all taxable years commencing after December 31, 1984, all parsonages owned by a church society and actually and regularly occupied and used exclusively as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

Eighth. All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the internal revenue code of 1954, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

Except as otherwise more specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 1985.

Sec. 3. K.S.A. 1987 Supp. 79-201 is hereby repealed.";

In line 37, by striking "2" and inserting "4";

In the title, in line 18, before the period by inserting ";  
amending K.S.A. 1987 Supp. 79-201 and repealing the existing section"



# Kansas Society of Certified Public Accountants

FOUNDED OCTOBER 17, 1932

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460

Kansas House Taxation Committee  
RE: HB 3019

Mr. Chairman, members of the Committee, I am T. C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants.

Section 806 of the federal Tax Reform Act of 1986 required most partnerships, personal service corporations and S corporations to conform their taxable years to those of their owners, forcing many of these entities to switch from a fiscal to calendar year beginning in 1987.

While the Omnibus Budget Reconciliation Act of 1987 contains provisions to give some relief to this situation it came to late (December 22, 1987) and with a \$34 million tax increase over the next three years so as to cool most owners on the idea of keeping their fiscal year ends.

Thus many Kansas business owners are being forced to file the short year reports with the Secretary of State's Office for a period ending after November 30, 1987.

The Kansas Society's Federal and State Taxation Committee urges your favorable consideration of HB 3019 which would permit these affected Kansas businesses to prorate their annual franchise tax.

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

STATE OF KANSAS  
TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE  
ON HB 3019

BY: DANTON B. RICE - LEGAL COUNSEL

House bill 3019 amends K.S.A. 17-7507 which deals with the annual franchise tax liability paid by corporations that change tax year ends. Under the present statute, if a corporation changes its tax year end a short report is required. However, no proration or reduction of the tax owed is allowed.

House bill 3019 would allow proration of the annual franchise tax in these situations.

This change is of particular importance at this time due to recent federal tax law changes that have required many subchapter S corporations, professional corporations and limited partnerships to change tax year ends.

In addition, the bill will impose a \$20 minimum for all franchise taxes regardless of proration. This will minimize any fiscal impact upon the general fund.

The Secretary of State strongly supports this bill because it is equitable and will remove an adverse economic consequence that hinders many Kansas corporations when making a necessary business decision.