

Approved: 2/17/94
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidricksen at 9:00 a.m. on February 15, 1994 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Senator Robert Vancrum - 11th District
Jerry Reece - Past President, American Cancer Society
Frank Thompson - Auto Auction, American Cancer Society
Nelson Mann - Exec. Vice-President, American Cancer Society, Johnson County
Betty McBride - Director, Division of Vehicles
Hugh Taylor - Board of Public Utilities of Kansas City, Kansas

Others attending: See attached list

SB 589 - Donating motor vehicles to charitable organizations

Senator Vancrum addressed the Committee by way of introduction to this bill explaining that charitable auto auctions are a major source of cancer research dollars at the Kansas University Medical Center. However, this auto auction work has some restrictive requirements which have made it difficult to transfer title by means of an auction where it is not possible to have the previous owner of the automobile directly transfer the title to the buyer. He stressed that a change in statutes is needed to allow cars to be retitled in the name of the charity and transferred in its name. This will would eliminate any requirements that the charity register as a dealer, pay any fees and any requirement that it had to pay sales tax on the immediate transfer. (Attachment 1)

Jerry Reece briefly explained the history of the American Cancer Society Auto Auction and its growth and introduced several people who would address the challenges of the program. (Attachment 2)

Frank Thompson elaborated on this, explaining that selling these donated vehicles to individuals from both Kansas and Missouri has increased the burden of assuring transfer of title in accordance with all legal requirements. This had been done by power of attorney but this has caused misunderstandings with repeated situations in which the county vehicle offices will not recognize the valid transfer of title in issuing new titles and licensing vehicles. Therefore it was requested that when vehicles are donated to the Auto Auction they be titled to the American Cancer Society and at the time of purchase at the Auto Auction, the will be transferred to the buyer who will pay the sales tax. He asked that the American Cancer Society and other designated philanthropic organizations be exempted from complying with the same requirements as used car dealers in the state. (Attachment 3)

The previous remarks were reiterated by Nelson Mann who urged the Committee to adopt the proposed legislation so that the American Cancer Society will be able to continue this type of fund raising events. (Attachment 4)

Betty McBride addressed a concern in section (3)(b), paragraph 2 which restricts charitable organizations to one charitable auction per year, per county. She explained that this part would be difficult to enforce because they have no way of knowing which charitable organizations have held auctions, how many auctions were held and in which counties they were held. Also there is no penalty provision in the bill if a violation occurs. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES, Room 254E-Statehouse, at 9:00 a.m. on February 15, 1994.

The Committee discussed this bill. A motion was made by Senator Jones to amend line 35 to read "1995". A second was made by Senator Burke. Motion carried.

The Fiscal Note was distributed and discussed. It was decided that more information was needed.

SB 178 - Utility vehicles - permanent registration

Mr. Taylor appeared in support of this bill explaining that their Board operates approximately 381 vehicles which are currently individually licensed each year. This annual licensing represents considerable staff and clerical time and this proposed legislation would allow the Utility vehicles to be licensed as an agency of the City and carry City license plates thereby enabling them to be licensed at the time of purchase and not annually. (Attachment 4)

Attention was turned back to **SB 589.**

Senator Emert made a motion to amend SB 589 on page 2, in line 12, by striking all after the comma; by striking all of line 13; by striking all in line 14 before the period and inserting in lieu thereof "selling motor vehicles at a charitable auction". A second was made by Senator Tiahrt. Motion carried.

A motion was then made by Senator Burke to recommend the bill favorable to be passed as amended. This was seconded by Senator Papay. Motion carried.

Senator Brady made a motion to approve the minutes of the February 14 meeting. A second was made by Senator Papay. Motion carried.

The meeting was then adjourned by the Chairman.

The next meeting is scheduled for February 16, 1994.

GUEST LIST

SENATE TRANSPORTATION COMMITTEE

DATE: February 15, 1994

[illegible]

STATE OF KANSAS

BOB VANCURUM

SENATOR, ELEVENTH DISTRICT
OVERLAND PARK, LEAWOOD,
STANLEY, STILWELL, IN
JOHNSON COUNTY
9004 W. 104TH STREET
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(913) 341-2609



TOPEKA

SENATE CHAMBER

STATE CAPITOL
TOPEKA, KANSAS 66612-1504
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COMMITTEE ASSIGNMENTS

VICE-CHAIRMAN: ENERGY AND NATURAL RESOURCES
MEMBER: WAYS AND MEANS
JUDICIARY
MEMBER: COMMERCE, LABOR AND REGULATIONS
COMMITTEE, NATIONAL CONFERENCE ON
STATE LEGISLATURES
MEMBER: ENVIRONMENTAL TASK FORCE,
COUNCIL ON STATE GOVERNMENTS

TESTIMONY FROM SENATOR BOB VANCURUM

TO THE

SENATE TRANSPORTATION COMMITTEE

ON

SENATE BILL 589

RE: CHARITABLE AUTO AUCTIONS

I had this bill introduced at the request of several people who have been very active in the automobile auction conducted every year by the American Cancer Society, Kansas Division in Johnson County. Joyce and I have been active in the ACS for over 10 years, primarily working on a general auction that raises over \$500,000 a year and approximately half the budget of American Cancer Society, Kansas Division. More recently, other volunteers including Frank Thompson and Nelson Mann have developed and expanded an annual auto auction which now raises an additional \$60,000. This charity is a major source of cancer research dollars at the Kansas University Medical Center among other things.

Mr. Frank Thompson is an automobile dealer in Overland Park and he and his staff have given tirelessly of their time as volunteers in making the auto auction work. However, Kansas has some fairly restrictive requirements which have made it difficult at times to transfer title in an automobile by means of an auction where it is impractical to have the previous owner of the automobile directly transfer title to the buyer.

Everyone involved tells me that the Department of Revenue and the Attorney General have done everything they can do to try to cooperate with this charity, short of changing the statute, including allowing them to transfer titles by means of a power of attorney and sending out notices to County officials in Kansas telling them it is OK to accept this power of attorney. Unfortunately as the auction has grown, there are an increasing number of buyers who want to register automobiles in Kansas Counties far removed from the metropolitan area and in Missouri Counties as well. Even if we could eventually get the message out to all County officials in Kansas, we cannot rely upon officials in Missouri, who continue to insist that there is "skip" or gap in title in these automobiles which prevents them from being registered without a lot of time consuming documentation. We have reached the point where only a change in statutes allowing cars to be retitled in the name of the charity and transferred in its name will allow Mr. Thompson to go forward. This bill would eliminate any requirements that the charity register as a dealer, pay any fees and any requirement that it had to pay sales tax on the

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intermediate transfer. It is not our intent to eliminate sales tax on the ultimate purchaser or change the fact that it they will have to re-register the car.

Since we cannot make laws applicable only to one charity, this law is broad enough to allow any charity conducting an auto auction to similarly register. It is, however, unlikely that many charities will have enough at stake to actually work through the process to do this, so I doubt there will be much administrative cost attached to this bill.

I hope you will promptly pass this legislation and send it over to the House. I have not had any discussion with the Department of Revenue about the bill recently, but I want to repeat that the Department has been very cooperative in trying to assist the cancer auction in the past and I am confident they will try to make it work through this bill as well.



J. D. REECE

REALTORS

February 15, 1994

The Text of Mr. Jerry Reece's speech:

On behalf of the American Cancer Society of the state of Kansas, I want to thank you for this opportunity to present our case. This morning we will break our short presentation down to three points: first, a brief history of the American Cancer Society Auto Auction, then a summary of the problem and finally a suggested solution.

Before we begin, I would like to introduce the members of our team. I am Jerry Reece, immediate past president of the Johnson County unit of the American Cancer Society. With me is Ms. Bea Haley, a member of the staff of the Johnson County Unit of the American Cancer Society and Director of Income Development for the eastern region of Kansas. Also with me are Mr. and Mrs. Frank Thompson, who are the volunteer chaircouple of the American Cancer Society Auto Auction and have served in this position since the auction's inception in 1990. Mr. Thompson is also the owner of the Overland Park Jeep Eagle dealership. Also here is Mr. Nelson Mann, an attorney with Morrison Hecker law firm, who is the Chairman of the Executive Committee of the Johnson County Unit of the American Cancer Society. Also, I want to thank Senator VanCrum for his work as a volunteer for the American Cancer Society and for being an advocate for our cause today.

In 1989 Bea Haley and I attended the national kick off meeting for the American Cancer Society. At that meeting we heard about the success of the American Cancer Society Auto Auction in Oklahoma City which now generates \$250,000 a year on behalf of the fight against cancer. We brought the idea home, worked things out with Attorney General Bob Stefan, and conducted our first Auto Auction in 1990 which generated \$12,000. We repeated the process in 1991 with an income of \$26,000; 1992 - \$35,000; 1993 - \$62,000. The 4 year program raised \$135,000 with an opportunity for continued increases. We have had very few problems until this past year when the growth of the program created new challenges. With that said, let me now turn the podium over to Mr. Frank Thompson who will define the problem and suggest a possible solution.

During the Q & A, Mr. Reece spoke again.

(Sensing that the Transportation Department was concerned about loosing control by allowing all 105 counties in the state of Kansas and all charities to have the same benefits as we were requesting, I felt it was necessary to point out that it is highly unlikely that any other similar auto auction would occur in the state of Kansas other than possibly in Wichita or Topeka, and even then it would be necessary to find an auto dealer to volunteer to manage the program as Frank Thompson has done.)

American Cancer Society
Auto Auction

SENATE BILL 589

The American Cancer Society has held an annual charity auto auction for the last four years in Overland Park, Kansas. Each year, there has been steady growth and with the growth have come problems. In the early years, the majority of vehicles were sold to local wholesale dealers. However, as the auction became more popular, the vehicles were sold to individuals from both Kansas and Missouri. This has increased the burden of assuring transfer of title in accordance with all legal requirements.

In the past, title to motor vehicles has been transferred to individuals under separate powers of attorney executed by each owner, authorizing us to actually sign the required documentation on their behalf. The use of power of attorney to transfer title was suggested by counsel and approved by the Office of the Attorney General and the Motor Vehicle Division. This had been a workable solution until recently. It appears the various county vehicle offices in both Missouri and Kansas do not fully understand the workings of the power of attorney. Consequently, we are confronted with repeated situations in which the county vehicle offices will not recognize the valid transfer of title in issuing new titles and licensing vehicles.

For that reason, we are requesting at the time of the donation the vehicles donated to the Auto Auction be titled to the American Cancer Society. At the time of purchase at the Auto Auction, title will be transferred to the buyer who will pay the sales tax. Because the American Cancer Society cannot satisfy the requirements to be permitted as a used car dealer and because the nature of the Auto Auction does not give rise to many of the issues that are resolved through the permitting process specified by statute, we request that the American Cancer Society and other designated 501(c)(3) philanthropic organizations be exempted from complying with the same requirements as used car dealers in the State of Kansas. This will require that title to vehicles be transferred to the American Cancer Society when vehicles are donated to the Auto Auction and transferred to individuals when they are sold at the Auction.

Frank & Evangeline Thompson
Co-Chairpersons - Volunteers
Auto Auction
American Cancer Society

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To: Whom It May Concern
Date: February 15, 1994
Re: Exemption of Motor Vehicles

The American Cancer Society - Johnson County Unit has sponsored an automobile auction the past four years to raise monies in support of cancer research, education, and personal assistance. A significant amount of these funds have been committed through the national office to research and programs located throughout the State of Kansas. In order to continue the success and growth of this event, it is necessary to provide a more effective means by which title to vehicles may be transferred by donors to the American Cancer Society and to purchasers at the auction.

Because the American Cancer Society is unable to qualify as a used vehicle dealer under K.S.A. §8-2401 et seq., it has transferred title to vehicles pursuant to a power of attorney executed by the donor. It is my understanding that this method was approved by the Office of the Attorney General and has been acceptable to the Department of Motor Vehicles. However, as the automobile auction has grown, increasing difficulty has arisen in processing titles because the use of the power of attorney, although legal and proper, is unique and not understood by the county vehicle offices.

The American Cancer Society has requested that it and other not-for-profit 501(c)(3) charitable organizations be exempted from the applicable requirements of the Kansas statutes that preclude them from accepting and transferring title to vehicles without paying and collecting property and ad valorem taxes or otherwise qualifying as used car dealers. To this end, it has been proposed that any motor vehicle donated to a 501(c)(3) charitable organization for the purpose of being sold at a charity auction be exempted from the requirements of K.S.A §8-135 and all property and ad valorem taxes related to the transfer of vehicle titles.

Without an exemption such as this, the American Cancer Society will not be able to continue one of the more significant and innovative fund raising events in the State of Kansas for the benefit of cancer patients and their families. Many dedicated volunteers commit extraordinary effort to the success of this event with their sole reward being the benefit derived by the American Cancer Society and those for whom it provides grant monies and direct assistance. To facilitate this endeavor, I encourage the adoption of the proposed legislation.



T. Nelson Mann
Executive Vice-President
American Cancer Society
Johnson County Unit

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STATE OF KANSAS

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Department of Revenue
Division of Vehicles
Vehicle Services

To: Senator Ben Vidricksen, Chairman
Senate Committee on Transportation and Utilities

From: Betty McBride, Director
Division of Vehicles

Date: February 7, 1994

Re: Senate Bill 589

Mr. Chairman, Members of the Committee,

My name is Betty McBride. I am the Director of the Kansas Division of Vehicles, and I appear before you on behalf of the Kansas Department of Revenue regarding Senate Bill 589.

This bill creates a new section which would exempt charitable organizations from property or ad valorem taxes, vehicle registration, and vehicle dealer licensing requirements when auctioning a motor vehicle.

We do have a concern with this bill in section (3) (b), paragraph 2. This section restricts charitable organizations to one charitable auction per year, per county. This part of the bill will be difficult to enforce because we have no way of knowing which charitable organizations have held auctions, how many auctions were held, and in which counties the auctions were held in.

A manual system would be required for tracking charitable auctions in our pre-edit section, because the County Treasurer, at the time of application for a title, would not know if the charitable organization had already met the one county, one year requirement. And there is no penalty provision in the bill if a violation were to occur.

Thank you for allowing me this opportunity to present my testimony on this bill. I would stand for your questions.

TESTIMONY OF HUGH J. TAYLOR
OF THE BOARD OF PUBLIC UTILITIES
IN SUPPORT OF
SENATE BILL NO. 178

My name is Hugh J. Taylor. I am Manager of Rates and Regulations for the Board of Public Utilities of Kansas City, Kansas. The Board of Public Utilities is the largest municipally-owned utility in the State and serves electricity and water to the City of Kansas City, Kansas.

I am here in support of Senate Bill 178, amending K.S.A. 8-1,134, relating to the permanent registration of City, County or Township vehicles. The Board of Public Utilities is an agency of the City of Kansas City, Kansas. The Board operates approximately 381 vehicles which are currently individually licensed each year in accordance with the present statute. Licensing these vehicles each year represents significant staff time and clerical activities associated with the re-licensing process. The proposed statute revision is simply to allow the Utility vehicles to be licensed as an agency of the City and to carry City license plates. This means that the vehicles would only be licensed at the time of purchase and not annually. We sincerely urge your favorable consideration of this proposed change. This is a modification that affects only municipally operated utilities.