

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 29, 1979

The sixty-seventh meeting of the Senate Judiciary Committee was called to order in room 331 of the capitol building by Senator Everett R. Lensink on the above date at 2:35 p.m.

DISPOSITION OF HOUSE JOINT RESOLUTION 44:

Senator Towe moved that the bill be amended on page 3, line 18 by striking "liquor" and inserting "investigation". The motion carried unanimously.

Senator Linsink noted on page 2, line 20 that it should be 42-2-212. Senator Towe moved that the bill be amended to correct this. The motion carried unanimously.

Senator Anderson moved that this bill be concurred in, as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 461:

Senator Towe moved that the bill be amended on page 8, line 20, strike "or verify" and insert "or". The motion carried.

Senator Turnage stated that he thought the Department of Revenue is overreacting to this group of people we had in here.

Senator Towe said that he did not have much sympathy for these people that call themselves fifth amenders, but he does have sympathy with the tax protestors - he said that there are some people who have reason to want to challenge the tax laws and we should not give so much authority for the department to come down on them.

Senator Brown said you are not talking about some little innocent guy, they thumb their noses at the Department of Revenue and he did not feel that we should legitimize this type of conduct.

Senator Galt said they got this fellow, convicted him, sent him to jail, got his property and wondered what do they need more for.

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Senator Brown said there is a small distinction between the white-collar crime and the real criminal.

There was further discussion and Senator Brown said it is the end result that counts and why can't he pick and chose what other laws he wants to obey.

Senator Olson said that if we allow the objectors to not pay their taxes, in a number of years, we will have a plethora of objectors.

Senator Turnage said going after sparrows with an anti-aircraft gun is wrong and compared this to people who were stealing water from the well and the others poisoned the water in the well. He said that he had no problem with lengthening it to five years and staying with a misdemeanor. Senator Turnage moved that the bill be amended by striking sections 3 and 4 in their entirety. The motion carried.

Senator Towe moved on page 8, lines 17, 18 and 19, that the bill be amended by reinserting all the stricken material and further amend on line 20, following "render" insert "or" and following "sign" strike "or verify" and on page 8, lines 23 and 24, insert all stricken material and on lines 22, following "who" insert "purposely and knowingly". Senator Van Valkenburg questioned striking the word "knowingly" and Senator Towe said an easy solution would be to say "purposely evades any tax" and so moved. The motion carried with Senators Brown and Van Valkenburg voting no.

Senator Towe moved to amend on page 9, lines 13 through 21 by striking the material in its entirety; and on lines 22, by striking "certificate of" and inserting "evidence produced by". Senator Van Valkenburg moved to amend the bill on page 9, line 22, insert "with respect to the imposition of a civil penalty". The motion carried with Senator Brown voting no.

Senator Towe moved that the bill be amended by striking section 6 in its entirety; and further amend on page 10,

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lines 3, 4, and 5, following "venue" strike all the material through 5 and insert "venue of prosecution under 15-30-321 is in the district court of the county of the defendant's residence and if the defendant is not a resident of the state of Montana, venue is in the district court of Lewis and Clark County. The motion carried unanimously.

Senator Turnage asked if we should do anything about when the offense is committed. Senator Van Valkenburg said this may have affected venue in some cases that are already on file.

Senator Towe moved to amend the bill on page 10, line 15 following "approval", insert "but shall have no effect on prosecutions commenced prior to the effective date of this act. The motion carried unanimously.

Senator Towe moved that on page 4, lines 15 and 16, the bill be amended by reinserting the stricken material and on line 25, following "return" insert "with the intent to evade the tax". The motion carried with Senator Brown voting no.

Senator Olson moved to amend the bill on page 4, line 15, by striking "5" and inserting "3". He withdrew his motion.

Senator Towe moved on page 7 and the top of page 8 and then withdrew his motion.

Senator Van Valkenburg moved that Joan Mayer from the Legislative Council be authorized to change the title to conform to the amendments. The motion carried unanimously.

Senator Turnage moved that this bill be concurred in, as amended. The motion carried with Senator O'Hara voting no.

There being no further business, the meeting was adjourned at 3:26 p.m.

SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee.

HJR 44

1. Page 2, line 20.

Following: "4"

~~REVENUE~~

Insert: "2"

2. Page 3, line 18.

Following: "REVENUE"

Strike: "LIQUOR"

Insert: "investigation"

HB 461

~~Page~~

1. Title, lines 5 and 6.

Strike: "AND PENALTIES"

2. Title, lines 8 and 9.

Strike: "PROVIDING THAT AN ATTEMPT TO EVADE THE TAX IS A FELONY;"

3. Title, lines 9 and 10.

Strike: "IN LEWIS AND CLARK COUNTY"

4. Title, line 12.

Strike: "15-30-209, 15-30-224,"

5. Page 4, line 14.

Following: ~~with intent to evade the tax~~ "who"

Insert: ", with intent to evade the tax,"

6. Page 4, line 24.

Following: ~~with intent to evade the tax~~ "who"

Insert: ", with intent to evade the tax,"

7. Pages 5, line 15 through line 7 on page 7.

Strike: sections 3 and 4 in their entirety

Remember: all subsequent sections,

8. Page 8, line 17.

Following: "who"

Insert: ", with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,"

9. Page 8, line 20.

Following: "render,"

Insert: "or"

Following: "sign"

Strike: ", or verify"

10. Page 8, line 22.

Following: "chapter"

Insert: "or who, with like intent, ^{purposefully or knowingly} makes, renders or signs any false or fraudulent return or statement or supplies any false or fraudulent information"

11. Page 9, lines 13 through 22.

Strike: line 13 through "(5)" on line 22

12. Page 9, line 22.

Following: "(5)"

Strike: "The certificate of"

Insert: "With respect to the imposition of a civil penalty, evidence produced by"

13. Page 10, line 3.

Following: "Venue."

Strike: "A"

Insert: "Venue for a"

14. Page 10, lines 3 and 4.

Strike: "of an offense"

15. Page 10, line 4.

Following: "15-30-321"

Strike: "must be tried"

Insert: "is in the district court of the county of the defendant's residence. If the defendant is not a resident of Montana, venue is"

16. Page 10, line ~~13~~ 14.

Following: "date"

Insert: "-- applicability"

17. Page 10, line 15.

Following: "approval"

Insert: "but has no effect on prosecutions commenced prior to the effective date of this act"

STANDING COMMITTEE REPORT

March 30 1979

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 461

Respectfully report as follows: That House Bill No. 461,

third reading bill, be amended as follows:

1. Title, lines 5 and 6.

Strike: "AND PENALTIES"

2. Title, lines 8 and 9.

Strike: "PROVIDING THAT AN ATTEMPT TO EVADE THE TAX IS A FELONY;"

3. Title, lines 9 and 10.

Strike: "IN LEWIS AND CLARK COUNTY"

4. Title, line 12.

Strike: "15-30-209, 15-30-224,"

5. Page 4, line 14.

Following: "who"

Insert: ", with intent to evade the tax,"

~~XXXXXX~~
~~XXXXXX~~

(Continued)

6. Page 4, line 24.

Following: "who"

Insert: ", with intent to evade the tax,"

7. Page 5, line 18 through line 7 on page 7.

Strike: sections 3 and 4 in their entirety

Renumber: subsequent sections.

8. Page 8, line 17.

Following: "who"

Insert: ", with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder,"

9. Page 8, line 20.

Following: "render,"

Insert: "or"

Following: "sign"

Strike: ", or verify"

10. Page 8, line 22.

Following: "chapter"

Insert: "or who, with like intent, purposely or knowingly makes, renders, or signs any false or fraudulent return or statement or supplies any false or fraudulent information"

11. Page 9, lines 13 through 22.

Strike: line 13 through "(5)" on line 22

12. Page 9, line 22.

Following: "(5)"

Strike: "The certificate of"

Insert: "With respect to the imposition of a civil penalty, evidence produced by"

13. Page 10, line 3.

Following: "Venue."

Strike: "A"

Insert: "Venue for a"

14. Page 10, lines 3 and 4.

Strike: "of an offense"

15. Page 10, line 4.

Following: "15-30-321"

Strike: "must be tried"

Insert: "is in the district court of the county of the defendant's residence. If the defendant is not a resident of Montana, venue is"

16. Page 10, line 14.

Following: "date"

Insert: "-- applicability"

(Continued)

17. Page 10, line 15.

Following: "approval"

Insret: "but has no effect on prosecutions commenced prior to
the effective date of this act"

And, as so amended,
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 30

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MR. President

We, your committee on Judiciary

having had under consideration HJR Bill No. 44

Respectfully report as follows: That HJR Bill No. 44

third reading bill, be amended as follows:

1. Page 2, line 20.

Following: "4"

Insert: "2"

2. Page 3, line 19.

Following: "REVENUE"

Strike: "LIQUOR"

Insert: "Investigation"

And, as so amended,
BE CONCURRED IN

EXYKASS

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