

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 12, 1985

The twenty-eighth meeting of the Taxation Committee was called to order by Chairman Thomas E. Towe at 8:05 am in Room 413-415 of the Capitol Building.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF SJR 14: Senator Bob Williams, Senate District 15, was recognized as chief sponsor of the resolution. The resolution, he said, requests an interim committee to study areas of property taxation that are currently causing problems for the taxpayers. He suggested that perhaps quarterly rather than biannual payments be made possible, or that payment plans be done at the option of the taxpayer. He said that with the current system even minor mistakes sometimes turn into major problems down the road.

PROPONENTS

Mr. Charles Gravely, representing the Montana County Treasurers and Assessors, said that the treasurers are not in favor of more frequent payment of taxes as it would increase their work load. He said they do support the study, however, because the tax sale and the tax deed application procedures need looking into.

Mr. Gordon Morris of the Montana Association of Counties said that currently there are problems with tax delinquency procedures. SJR 14 is a resolution passed by MACO, he said. The fiscal note shows no impact as a standing committee such as the Revenue Oversight Committee could handle the study.

Ms. Sue Bartlett, Clerk and Recorder for Lewis and Clark County, said that after taxes are delinquent for three years they come to her office. The procedures currently required are too complicated to be accomplished to the satisfaction of the courts, she said. She said that while the resolution was not a big consideration for the Legislature, it was a very major concern for counties and tax collections at the local level.

OPPONENTS

None were heard.

Questions from the committee were called for.

Senator Eck said that she was planning to introduce a bill that would squeeze down the time limitations in current collection procedures. Mr. Morris was recognized to discuss those procedures. He said that after the county moves to take property for a tax deed, a six-year period is allowed to the property owner to redeem the property. The county is not mandated to take the deed until ten years have passed. When the county assumes ownership, outstanding taxes are forgiven, and if the property is sold, there is a pro rata distribution of the dollars from the sale. He said if it is not sold, the county must

pay the SIDs on the property. He said that some jurisdictions have extended RSIDs too freely to developers. He said those issues might be addressed by this resolution.

Senator Lybeck asked what percentage of the taxpayers pay their tax bill entirely in the first installment. Mr. Morris said that a very small percentage. In the ensuing discussion Mr. Gravely said again that treasurers are not in favor of more frequent payment. He said that it may help some from going delinquent. He pointed out to the committee that it is not old people who don't pay taxes. He said the unreliable taxpayers are the large developments and large establishments. Mr. Morris noted that the collection process related to taxes is unrelated to the budget year of the counties. He said if the first collection were moved closer to the start of the fiscal year, it would help.

Senator Severson asked if monthly payments were accepted. Mr. Gravely said that treasurers are prohibited by law from accepting partial payment of taxes, especially when they are delinquent. He cited an Attorney General's opinion which says the law requires they be paid in full or not at all. He noted that real and personal properties are involved in the difficulties with the current system and cited the tax bill on a mobile home as an example. Under current law when a mobile home is moved into a jurisdiction, the owner is sent a tax bill that becomes delinquent upon receipt of the bill.

Senator Goodover said they could set up an escrow account and avoid these problems.

In closing Senator Williams said that all the resolution asks for is a study and added that it could hedge law suits against counties if these matters could be cleaned up.

CONSIDERATION OF SB 280: Senator Bob Williams, representing Senate District 15, was recognized as chief sponsor of the bill. He said that Representative Ernst was a co-sponsor of the bill. He began by giving the committee a letter from the commissioners of Judith Basin County, requesting the bill (Exhibit 1).

He said that currently there are no taxes on this nonrenewable resource, namely, yogo sapphires. He said that no net proceeds taxes have been paid. He said approximately 16 million carats of sapphires had been sent to England before a California company bought the mine and that now a Colorado firm owns the mine. He said about one-half million carats were mined in 1980-1983 and that no taxes had been paid. He said that a top-grade one-carat sapphire can retail for as much as \$2400. He felt that at least some tax should be paid. He said that he had contacted Mr. Gary Langley representing the Montana Mining Association on January 10th and that he had suggested amendments to exclude bucket-miners and small operators (Exhibit 2).

PROPOSERS

Mr. Jerry Foster, Administrator of the Natural Resource and Corporate Tax Division of the Department of Revenue, said that the bill would

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change a net proceeds tax to a gross proceeds tax. He said it would be much simpler to administer and would generate about \$50,000 in tax income to the county. He said the tax will adjust itself to the price of the product. He told the committee that Mr. Elwood Soderlind who works with this taxation was there to answer committee questions.

Mr. Keith Dirks, a resident of Judith Basin County, said that for the past 100 years there has been no due respect paid to the county as far as taxes from the mine. He felt with the amendments there were good provisions to allow for bucket mining, and that the stones are moving quickly in the retail market. He said the county should realize some revenue from the extraction of the gemstones.

OPPONENTS

Mr. Harry Bullock, Chairman of Intergem, Inc., from Aurora, Colorado, rose in opposition to the bill saying he felt "like a carpet bagger in the holy land". He said that Intergem has been operating the mine since 1980 and that they have filed returns regularly. He said they have paid no taxes because their costs have exceeded the value of the stones. He said that they have been recently audited and are basically in compliance with Montana law. He said the company lost \$818,545 in 1983 and that the loss would be approximately the same for 1984. He said the loss is common for a development-stage company and that when they became profitable they would be paying taxes. He pointed out that taxes paid include the metal mines tax, the resource indemnity tax, Montana property tax, mobile home tax, personal property tax, filing fee and operating fees. He said that in addition the company has eight employees at the mine on which they pay FICA, and other withholding taxes. He said that they spend \$259,735 purchasing area services and have paid a \$60,000 bond with the reclamation department. He said they have been reclaiming 80 years of damage that they are in fact exempt from doing, but have done it anyway.

Mr. Bullock said Intergem is the first company to seriously try to handle the compny in a business-like manner. He said many people failed in the past. He said the yogo sapphire as an unlimited source of wealth is an illusion. He said their current per-carat cost is \$53.27 and that with this tax it would increase that cost to \$75.90. He said they compete with companies from Seattle and Idaho who do not mine at all, but buy from people holding barrels of sapphires previously mined; and also with Australian sapphires which are heat treated and will not hold color and lustre.

He showed the committee samples of rings produced by Intergem and said that the sapphire in the rings accounts for four percent of the profit on the rings.

Intergem has been responsible for development of retail sales and also has generated increased interest in the gems as a Montana product. He said that this is the only natural stone being produced in the world today and that it has done alot to help Montana. He said they have featured this sapphire on 40 television and radio shows, in 750 newspaper articles, in PM Magazine, and on CBS specials. He said that

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Intergem is committed to making it go, and that eventually when they go to underground mining they will have more than sixty employees at the mine.

In closing he asked the committee to look down the road at the greater benefits to Montana than the immediate tax revenue proposed by this bill.

Mr. Lynn Seeley, an attorney from Great Falls representing Intergem, spoke against SB 280. He said the company uses Arthur Anderson as its accountant. He said the gems have value only if cut and marketed on a national basis and that has not been profitable. He said this is a large input of venture capital into Montana and a potential source of viable economic development. He said the company has no intent of avoiding or escaping taxation. He said this tax is regressive and discriminatory in nature. If the bill is passed in its current form, it would lead to the early demise of the enterprise, he said.

FURTHER PROPONENTS

The chairman recognized Representative Gene Ernst, cosponsor of the bill, who stated that this is a nonrenewable natural resource currently escaping taxation.

Questions from the committee were called for.

Senator Goodover noted that the fiscal note had not been adjusted to account for the amendments.

The committee discussed that the gross proceeds tax based on gross yield was done at the mine mouth. Senator Towe asked where the product was sold. Mr. Bullock said it had no value until it became jewelry and that the sapphire itself accounted for less than 10 percent of the sale. Mr. Seeley said that seven percent of the gems bear the cost of 100 percent of extraction as much of the mined stones are below saleable grade.

Senator Eck asked where the jewelry was manufactured. Mr. Bullock said seven companies in New York, one in Rhode Island and one in California make their jewelry. The stones, he said, are cut in Thailand.

Senator McCallum asked of the 123,000 carats mined annually how many were sellable. Mr. Bullock said about 3,250 now; perhaps 3,250 additional carats could be sold with more market development.

Senator Towe asked why should we assess those stones which don't sell and are merely stored. He suggested a solution of taxing only those that sell, but increasing their per carat value. Senator Towe said that perhaps the distinction could be to tax only grades one and two. Mr. Soderlind said that the problem exists because the value is added in another state.

Senator Towe explained that Montana has gone to gross proceeds rather than net proceeds on all items except petroleum and suggested that to make that switch would be in keeping with tax policy. Senator Eck suggested that net proceeds tax might never be collected.

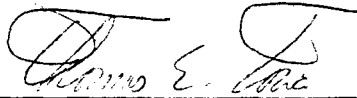
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In response to a question about record keeping, Mr. Bullock said they have a millimeter size breakdown on everything that is mined every day.

Senator Williams closed by saying that the total property taxes paid by the company to Judith Basin County amount to \$4,700. He said that he appreciated Intergem's promotion of Montana, but that the tax situation was an irritation to his constituents.

FURTHER CONSIDERATION OF SB 234: Blake Wordal, lobbyist for the farm implement dealers, was recognized to explain the difference in the appraisal manuals used in farm equipment valuation. He said that the Inner Tech manual uses straight depreciation with age; while the national association of implement dealers uses actual sales of used equipment through implement dealers to determine value. He said the problems with the dealer's manual lie in exclusion of auctions and private sales date in their price. He said banks use the dealer's manual for both loan value and net worth.

Chairman Towe asked Mr. Wordal if he would return to answer questions and adjourned the meeting at 10 a.m.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 12 February 85, 8:05am

Location -- Room 413-415

Name	Present	Absent	Excused
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Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

DATE February 12, 1985

COMMITTEE ON Senate Taxation

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

(This sheet to be used by those testifying on a bill.)

NAME: Sue Bartlett DATE: 2/12/85

ADDRESS: Helena, MT

PHONE: 443-1010 or 443-1018

REPRESENTING WHOM? MT Assoc. of Clerk and Recorders

APPEARING ON WHICH PROPOSAL: 5JR14

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

It has proven nearly impossible to conduct tax
sales and tax deed procedures in a manner
that withstands court challenge. This would
be a major study for local government jurisdictions
which are largely dependent on property taxes
for revenue.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: HARRY C. Bullock DATE: 2-12-85

PHONE: 303-695-8777

APPEARING ON WHICH PROPOSAL: #280

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: LYNN M. SEELYE DATE: FEB 12, 1985

ADDRESS: PO Box 1673

REPRESENTING WHOM? InterGen Ltd

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

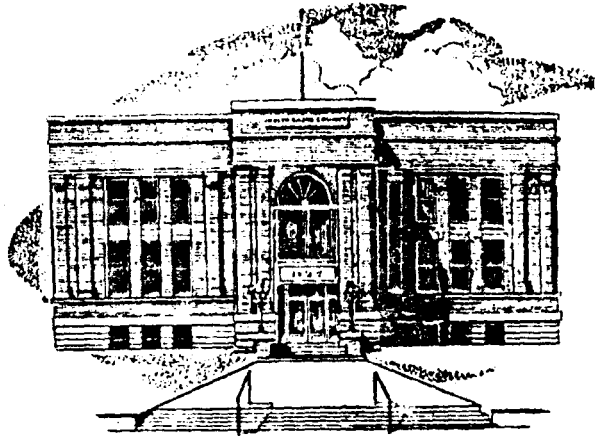
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

GERALDINE LYNN
Clerk and Recorder

DEPUTY
Clady L. Newman

COMMISSIONERS:
Robert L. McCray, Chairman
Arnold Haack
Russell Hodge



Judith Basin County, Montana

OFFICE OF CLERK AND RECORDER

Stanford, Montana 59479

JANUARY 2, 1985

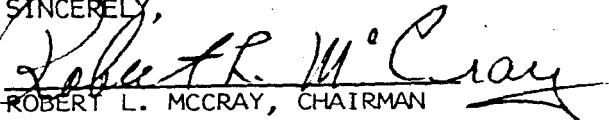
SENATOR ROBERT WILLIAMS
LEGISLATOR GENE ERNST


DEAR SIRs:

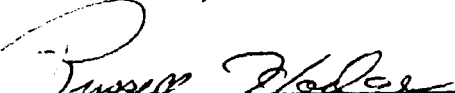
THE COUNTY COMMISSIONERS OF JUDITH BASIN COUNTY REQUEST THAT YOU PRESENT TO THE UPCOMING LEGISLATURE, A BILL TO PUT PRECIOUS AND SEMI-PRECIOUS STONES MINED IN MONTANA UNDER THE GROSS PROCEEDS TAX.

ANY EFFORT THAT YOU CAN PUT FORTH TO HAVING THIS BILL INTRODUCED AND PASSED WILL BE GREATLY APPRECIATED BY THE PEOPLE OF JUDITH BASIN COUNTY AND THE COUNTY COMMISSIONERS.

SINCERELY,


ROBERT L. MCCRAY, CHAIRMAN


ARNOLD HAACK, COMMISSIONER


RUSSELL HODGE, COMMISSIONER

FILED
JAN 14 1985

PROPOSED AMENDMENTS

Senate Bill No. 280
Introduced Copy

1. Title, line 6.

Following: "AT"

Strike: "50"

Insert: "45"

2. Title, line 7.

Following: "15-6-132,"

Insert: "15-6-208"

3. Page 2, line 13.

Following: "at"

Strike: "50%"

Insert: "45%"

4. Page 4, line 15.

Following: "subtracting"

Strike: "such portion of the proceeds as may be"

Insert: "the first \$40,000 of merchantable value, which is"

5. Page 12.

Following: line 9

Insert: "Section 16. Section 15-6-208, MCA, is amended to read:

"15-6-208. Mineral exemptions. (1) One-half of the contract sales price of coal sold by a coal producer who extracts less than 50,000 tons of coal in a calendar year is exempt from taxation.

(2) Metal mines producing less than 20,000 tons of ore in a taxable year shall be exempt from property taxation on one-half of the merchantable value.

(3) The first \$40,000 of merchantable value of gemstones produced annually from any gemstone mine are exempt from taxation."