

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on June 23, 1989, at
10:00 a.m.

ROLL CALL

Members Present: 20

Members Excused: None

Members Absent: 2

Staff Present: Lee Heiman, Legislative Council Staff
Donna Grace, Committee Secretary

Announcements/Discussion: None.

HEARING ON HOUSE BILL 27

Presentation and Opening Statement by Sponsor:

Representative Elliott, House District 51, stated that this bill had been heard before in the preliminary hearing but he would give a brief overview of the issue and then let the opponents and proponents give their opinions. He said the bill would allow the Department of Revenue to assess centrally assessed property in a more fair manner then it presently does, taking inflation into account. It does not change the market value of the property. It does change the way the market value is distributed between jurisdictions. The statewide market value is determined by the department of revenue and it is also determined within taxing jurisdictions. A ratio is created and the ratio is applied to the total value of the revenue available in the state and the ratio becomes the amount of money that goes to that jurisdiction. Previous to 1986 the DOR used what is known as the cost to cost method of distribution. In 1984 the DOR was looking for a more fair way to distribute revenue because they felt they needed more accurate figures to determine the apportionment ratio. The DOR felt that in order to come to a realistic figure, the trending method was the best. That is, expressing the historical dollars as current dollars and it is very similar to indexing costs. The DOR instituted the trending method in 1986 feeling that it had the statutory authority to do so. The Montana Power Company, because the trending method increased their taxes, disputed that the DOR had the authority to use that method. After three years of litigation and arbitration the Montana

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Power Company prevailed and the trending method was declared illegal. For that reason, special legislation is needed to grant the DOR the authority to use trended dollars to determine the tax appropriation ratios from county to county.

Testifying Proponents and Who They Represent:

Kevan Bryan, Yellowstone County
Dick Gasvoda, Cascade County
Dick Michelotti, Cascade County
Harry Mitchell, Cascade County
Jim Campbell, Lewis and Clark County
James Nybo, Lewis and Clark County
Dr. Ken Nordtvedt, Department of Revenue

Proponent Testimony:

Dr. Nordtvedt stated that the issue is before the committee because the previous administration, in trying to solve a tax dispute with Montana Power Company, gave the settlement of the issue to a private arbitrator. The private arbitrator did not endorse the trending method. There were hearings and much to their surprise the decision was in favor of the present allocation method for the centrally assessed taxpayers. He said he was not here to endorse the word "trending" because there are many problems with in. He also said he was not here to talk about Montana Power's taxable value. He said they were trying to arrive at some other means to determine just how much each county should get. Dr. Nordtvedt read the present statute, Section 15-23-105. He said that some assets had been added in 1910 and others were built in this decade. To use original cost to compare a dam in one county and a power plant in another county is not just and proper because the dollars in 1910 might be worth fifteen times the dollars used to arrive at the cost of an asset built in more recently. He said he endorsed the position of the previous administration. He said they should not be measuring assets with different yardsticks to determine the allocation of funds to schools in Montana. There is a need to know what the assets are worth today. In this limited context of how to allocate, they believe that some kind of trending formula is more just and proper. He said he disagreed with the private arbitrator and urged that the legislature find a way to do this correctly. He said there are those who will get a bigger allocation if the valuations are changed and other areas will be losers. Current market value, trending, not taxable value will be in the higher mill levy parts of the state. If you stick to original cost which is not proper, more will remain in low mill parts of the state and taxes will be lower. For allocation purposes the original cost should not be used.

Kevan Bryan, Treasurer of Yellowstone County, said he would

endorse the concept of trending and also the DOR position regarding trending. He brought up two points, that if something isn't in the law, perhaps the law should be changed, and why shouldn't Montana be the first to adopt a new concept rather than waiting for the other states around Montana to do things first. He said this area of the law must have reform. He said that Yellowstone County would be a loser but they still support the concept. He urged passage of HB 27.

Mike Matthew, County Commissioner from Yellowstone County, stated that Yellowstone County is not receiving a windfall from this legislation. If you gave people a choice, few people would want the one that is used now. He said he felt that trending was fair and urged the committee's positive consideration of HB 27.

Dick Gasvoda, Cascade County, stated that when installed costs are used in Cascade County to determine an apportioned taxable value, they receive receipts based on 1915 dollars that will buy less than a dime's worth of product. The dams in the county benefit all the consumers in Montana because of the low cost. As consumers in Cascade County they pay a rate that is the same as people pay throughout the state. He said they were asking for fairness and encouraged the support and passage of this bill.

Harry Mitchell, Cascade County Commissioner, said that he supported this concept. The citizens of Montana statewide pay the same per kilowatt hour no matter where the power is generated and if it is good enough to charge on a trending method it should hold true for taxing also.

Dick Michelotti, Cascade County Treasurer, read a portion of the legislative audit statement which encouraged the trending concept. He encouraged the committee to look at the trending method and vote in favor of it.

Jim Campbell, Lewis and Clark County Commissioner, said he would support the testimony given so far because he felt it was a good, fair policy. He urged the committee to support it.

Jim Nybo stated that he was a consulting economist appearing on behalf of the Lewis and Clark County Board of Commissioners. His prepared testimony is attached as Exhibit 1. He encouraged that the committee pass the bill favorably out of the committee.

Testifying Opponents and Who They Represent:

Don Bailey, Rosebud County
John Lahr, Montana Power Company
Jerry Pederson, Montana Power Company
Dennis Lopach, U.S. West Communications
Representative Larry Grinde, House District 30

John Alke, Montana Dakota Utilities
Gene Phillips, Pacific Power and Light
Chris Gallus, Butte Silver Bow
Willie Duffield
Milton Markuson, Carter County
Gordon Morris, M.A. Co.
Paul T. Fleming, Montana Power Company
Gary Willis, Montana Power Company

Opponent Testimony:

John Alke, representing the Montana Dakota Utilities, stated that he did not formally oppose this bill because they would save \$50,000 but he could not support the bill because of the taxing methodology. The company does business in 19 eastern Montana counties. Under trending, 18 of those counties were losers and Richland was a winner. They have three small generating stations which were constructed in the 60's and 70's. Through trending they have taken value from 18 of those 19 counties and sent it to Richland where the mill levies are lower than the mill levies in the other 18. He said he would agree with the proponents that they weren't a true appraisal. The total taxable value is \$112 million. He said the other reason they didn't like trending was that it gave the DOR the power to delegate which counties would receive what portion of a taxpayers total assessment.

Larry Grinde, Representative from House District 30, said that he had not been aware of this trending bill and it had been brought to his attention yesterday. Fergus County would be a loser and he said it was his responsibility to protect his county. He questioned whether it was wise to take power away from the DOR or any other department every time it hurts someone else. He said he felt that it undermined the integrity of the legislature and they should be looking at the long term effects and not just who was getting hurt.

John Lahr, Montana Power Company, stated that his company would oppose this bill. He asked Jerry Pederson, Controller for the Montana Power Company, to present the company's testimony. Mr. Pederson's testimony is contained in Exhibit 2. He urged the rejection of HB 27.

Gene Phillips stated that he was an attorney from Kalispell and represented the Pacific Power and Light Company. He said they served electric customers in seven northwestern states and they have property located in 23 counties in Montana. They strongly oppose HB 27 because they think it is bad tax policy. The method is not used in any of the other states in which they operate and he pointed out to the committee that in the case of a utility, value is a function of the cost because cost is what the public service commission looks to in setting rates so the value of the system is based on the cost of that system. Property taxes are meant to be a function of that value and they should be taxed

according to that value and at the location where the value is located. The effect of the trending proposal contained in HB 27 would be to transport value out of one county and into another and the impact on Pacific is a small increase because most of their property is located in Rosebud County where they would be reduced but increased in the other counties. He urged the committee to give it a do not pass recommendation.

Joe Quilici, Representative from House District 71, Butte, said that he had heard a lot of discussion concerning this particular measure and tax inequity. He said he was not a tax expert but he thought that everyone had looked at the handouts (See Exhibit 3) and he could see that his county would be a big loser. There are nine counties that will be winners and thirty counties will be losers as far as tax base is concerned. Even in the nine counties that are supposed to be winners, there are losers and the people will also be losers because that increase to the utilities will be passed on to the ratepayer. The nine counties will receive with one hand and be taken away with the other hand. The other thirty counties will lose their tax base and also pay higher rates. He said he felt it was poor legislation and when considered ten years ago it didn't pass and shouldn't pass now and he hoped the committee would agree.

Dennis Burr, Montana Taxpayers' Association, stated that this issue had been considered in 1979 and for some of the same reasons it is being discussed today. Prior to that time the property being talked about, buildings, dams, etc., was assessed locally and in the same manner as residential property which was replacement cost less depreciation. Once it had been assessed the value was subtracted from the unit value established by the state. At that point the remainder of the centrally assessed value was distributed on the basis of miles of electric lines or telephone lines in each county. One of the problems was that once the market value had been arrived at it was classified in the tax system at a lower percentage of market value for tax purposes than the part that was going to be allocated so the situation was that the county appraiser might look at a building owned by a utility and say it was worth \$50,000 and someone else could say it's worth at least \$150,000, the purpose being that the more money you could put into the situs property at a low classification, there would be less value to be allocated at a higher classification so money could be saved by getting the property into the local assessment system rather than the state system. Particularly at the Colstrip situation, valuing that property locally would have taken money away from what was to be allocated and all the counties in the state except Rosebud would have been losers so the system was changed to having it all distributed through the state assessment system and all at the same classification. That preserved value in the counties which felt they had been losing value because they hadn't been

subjected to trending. He said he agreed with the other speakers that trending is not a proper method of allocating value and the equitable way might be compared to assessing two cars. You take your old car and trend it up for inflation so that you would be taxed equitably with your neighbor who has just purchased a new car. The counties and the State of Montana entered into an agreement that they would both abide by the decision of the arbitrator. If the department had come to the legislature and encouraged them to change a decision they didn't like, he didn't think there would be many people agreeing to binding arbitration with the DOR. He said the legislature can make these changes but he didn't think the DOR should be involved in encouraging them to do it. He said there was concern about the amount of money involved and he would point out that as far as Montana Power is concerned, the revenues resulting from trending was paid under protest each year and it did not become a part of the expenditures of the local governments so, when the decision was made to go away from trending and the company agreed to split the money as the result of going into arbitration proceeding, the local governments received a windfall, not a loss as a result of trending because they kept half of the money placed in the protest fund which they would have lost completely if they had gone through a tax appeal and a District Court decision. He said the system of allocating values used in Montana is proper and it is used in other states and he hoped the committee would reject this effort to change the method.

Don Bailey, Rosebud County Commissioner, stated that at the risk of leaving the perception that there was all noise and smoke here, there were a couple of points he would like to point out. Not being covered by the technical testimony of the Montana Power people, one of the positions the DOR assumed when presenting this agreement was that they would require 100% participation by the effected counties. He said it was with a great deal of reluctance that the Commissioners in Rosebud County signed the agreement. In viewing the dollars that were being withheld under protest and the impact it was having on school districts, they gambled. They felt the arbitration process was fair and they would get fair treatment whether they won or lost. The integrity of the process of binding arbitration is at stake and he urged the committee to give the bill a do not pass recommendation.

Roger Knapp, Representative from House District 27, Rosebud and Treasure Counties, stated that Commissioner Bailey had indicated that everyone had signed the agreement in good faith and what is taking place is that the legislature is being asked to circumvent the agreement that all counties signed. He asked that the committee not consider this legislation.

Dennis Lopach, an attorney representing U.S. West Communications said he would like to agree with the other opponents that

the trending method lacks economic merit. The trending method simply produces very poor results. Mr. Lopach's comments are contained in Exhibit 4.

Chris Gallus stated that he was appearing in behalf of Don Peoples, Executive Officer of Butte, Silver Bow County. The testimony is contained in Exhibit 5.

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Questions From Committee Members: Representative Rehberg stated that one of the things that happens in business is that a decision is made that a property is no longer useful and has no value the property is to take it down to get it off the tax roles. He asked Mr. Lahr if this is the kind of property that if this legislation were to be enacted that all the counties might end up being losers because Montana Power or AT&T might make the decision that rather than paying the trended tax rate it would be easier to close the facility down. Mr. Lahr replied that he would ask Mr. Pederson to address the question. Mr. Pederson stated that the opponents and proponents have agreed that the trending issue doesn't change the value of the total company property so there is no way they could change the total value, it is only a shifting of value from county to county that is at issue. The answer to the question was "no".

Representative Rehberg then asked if the tax burden, because of trending you shut a facility down, would it not affect the total dollars coming into that taxing jurisdiction? Mr. Pederson said that if the additional tax caused the company to make that conclusion that you could no longer carry the business investment, this could happen.

Representative Rehberg asked if they couldn't make that decision based solely on the trending legislation that it would in fact, cause an increase. Mr. Pederson said it does have that impact but he couldn't say that they would abandon a piece of property as a result of the additional tax although it would be a part of the process used in making a decision as to what property they would abandon, which they would construct, etc.

Representative Ellison asked Mr. Pederson if there weren't other issues that made them protest the taxes besides this one, one of them being the rate of the taxes. Mr. Pederson said that yes, there were other issues with respect to property taxes, net proceeds tax issues, but all were issues that once settled with the DOR did not carry over into the future. Representative Ellison said what he was getting to was that in coming to a conclusion on the negotiations the total taxes in the State of Montana was a consideration and Mr. Pederson said it was. He asked Mr. Pederson if he didn't think that this piece of legislation was then a breach of faith on the part of the DOR. Mr. Pederson said that he had not asked his attorney whether or not that was the case but the intention of the Director of the DOR and

Montana Power when they signed the agreement was that they would live with the results. They were trying to find a way to settle all the issues and all the counties also participated in the decision.

Representative Giacometto said that there is only about \$4,000 at issue in his poor county but he asked Representative Elliott how it would affect his area. He said that his area would be the single biggest winner in the whole situation and he said he would like to take the opportunity to tell Mr. Bailey of Rosebud County that he knew how he felt because if this bill does not pass the Noxon District in Sanders County will lose \$1.25 million of taxes that has never been protested in the State of Montana by the Washington Water Power Company. Representative Giacometto asked if that wasn't involved in the whole process when they had the arbitration -- to decide what was fair. Representative Elliott said that Washington Water Power did not participate in the tax protest or in the decision.

Representative Giacometto then asked who would be able to identify who participated. Representative Elliott replied that it was Montana Power Company and they received a letter from U.S. West about a specific building in Butte. He said that the arbitration, however, would affect everyone else. He also said that every county in which Montana Power Company protested their taxes was involved in the solution. He did point out that the settlement of those tax dollars had nothing to do with whether the use of trending by the DOR was legal or not.

Representative Giacometto asked Representative Elliott if all of this wasn't a part of the arbitration and would take into consideration what was fair and the way it was done. Representative Elliott said no, they were discreet decisions, and in one sense they were a part of the arbitration process and in another sense they were discreet portions of the process and he then explained the arbitration process because there had been a lot of talk about it.

Representative Elliott explained that there were two issues at stake in the arbitration. One was what would happen to the protested tax dollars. The DOR and the Montana Power Company agreed that the protested tax dollars would be 50% to the taxing jurisdiction and 50% would revert to the Montana Power Company. That was before there was a decision on the legality of trending. This was a pre-condition to the second phase of the arbitration which was asking the arbitrator to decide, does the DOR have the statutory authority to apportion or allocate tax dollars to the counties on a method accounting for inflation which is called trending? The arbitrator was not asked to rule or give his opinion of the trending method per se. He was asked that if he found for trending to say why. If he found

against he didn't have to say why or what his opinion of trending was. He emphasized that the portion of the code read previously by Dr. Nordtvedt did not give the DOR the authority to use trending in determining allocations to the counties. All he said was the statutory language was not there to do it. He did not say they couldn't get it in the future.

Representative Giacometto then asked Commissioner Bailey if they were involved when the arbitration process started. Commissioner Bailey replied that the process had gone forward and it was one of the negotiations between the DOR and the Power Company over an extensive period of time and finally the agreement was presented to the counties. He said that, no, they were not involved in the intimacy of the negotiations. Before the final decree or arbitration settlement was done, Representative Giacometto asked if all the counties had input. Commissioner Bailey said to some degree that was true but pointed out that they found themselves in a rather tenuous position in having the DOR represent their interest.

Representative Good asked if she correctly understood that Montana Power has a dam they can't give away because it has no value to them but they were still being taxed for a trended value of \$3 million. Mr. Pederson said that was correct and they are trying to abandon it. He thought it might be taken over by Granite County at no cost to the county and it may cost Montana Power money to get it transferred.

Representative Patterson asked Mr. Pederson of Montana Power to answer a question about the \$2 million increase in tax liability. He asked if this would be enough for them to go to the Public Service Commission and ask for a general rate increase. Mr. Pederson said it would be a cost decrease to the company and would be reflected in their next rate proceeding.

Representative Patterson then asked the Commissioner of Yellowstone County regarding the \$469,000 the county would receive. Commissioner Bryan stated that the figures presented were Montana Power figures and did not include all the centrally assessed entities. Montana Power is the only one that the county would gain on and they would lose on all others. Representative Patterson asked if Yellowstone County had signed the agreement. The Commissioner replied that his county was one of the last to sign and the reason they signed was because of the amount of pressure that some counties were feeling because of the protest funds that were being held. The funds being held in Yellowstone County were not creating a fiscal disaster for Yellowstone County but there were counties in the state where that was the case.

Representative Stang asked Dr. Nordtvedt if he could get more

information on the taxable value loss or gain for all trending properties in the State of Montana. He said the information was available.

Representative Gilbert asked John Alke if he knew of any way to determine the real impact of this legislation because he felt they were only scratching the surface and he felt there were more losers than winners. Mr. Alke replied that it would depend on whose prospective you wanted to look at the problem from. He said the information he had which was prepared by the DOR shows net gains or losses in taxable value. That would tell who the winners and losers are in the counties. On a taxpayer basis whether they are a winner or loser, the information is not there. You have to take the taxable value and multiply by the mill levy in each county and each school district in which the property is located so the answer to the question depends on whether you are looking at a sheet that shows net gain or loss of taxable value or whether it is the actual computation of taxes per taxpayer. He said he didn't think he had ever seen that information. He said the numbers he had presented were provided by the tax managers of other companies he had contacted for information.

Representative Gilbert said that his little county was a \$162,000 gainer. He asked if, in considering the impact on the taxpayer, and the dollars are in small districts the money could be concentrated in a small area where the majority of the people in the county were losers, and a small minority of the people in the county could be winners as far as tax relief was concerned. Isn't that true? Mr. Alke said he would hesitate to say that because it was centrally assessed property. He said that Dr. Nordtvedt might be able to give a better answer to the question. Dr. Nordtvedt said that in looking at it from the school district's point of view within counties, there will be districts that gain and districts that lose because the property also has site status within specific school districts.

Chairman Harrington reminded the committee that a copy of the decision and the agreement was available and it could be discussed in executive session.

Representative Gilbert asked Dr. Nordtvedt if in reality this major decision could be made on major tax policy with the information currently available. He said that there is no way of telling what the consequences will be. Dr. Nordtvedt stated that he had tried to indicate that the word "trending" is a big red flag because of the confusion in the area of valuation. If this bill fails and he goes back to the statutes as he had read them to the committee, the statute says that if original cost is not a reasonable way to allocate, the department shall do what is proper and just. His intention would be to continue to look for a more contemporary market-oriented way for allocation because

original cost has failed the test of the present statute. The arbitrator's opinion says that trending is not the way to go but he did not say that original cost must be used. He said that it is not just a choice between trending and original cost. Representative Gilbert asked if that wasn't the situation right now. Dr. Nordtvedt said that was correct and if this bill is killed you have killed the ability to use trending which leaves original cost. Representative Gilbert asked if that would preclude the legislature from allowing the DOR during the interim to explore other methods that might be more acceptable rather than making an arbitrary decision as the DOR had done which created the mess to start with. Dr. Nordtvedt stated that if the bill fails, trending cannot be used, and he would go back to the present statute and carry it out to the best of his ability.

Closing by Sponsor: Representative Elliott said, in closing, that he had no idea that this bill would be such a popular bill and he felt almost criminal in taking any time to close. He said there were some issues that Mr. Pederson brought up that he would like to respond to.

He indicated that Mr. Pederson had said that, at best, trending is an experimental method of apportionment but there is no consensus among the states on how best to apportion centrally assessed property. California is the only state that uses a method other than cost and they use the RCLD method which is the replacement cost less depreciation which is the same as what is used in most property in Montana which is not centrally assessed. It is a very expensive method to use and not affordable in Montana. Trending is considered the next best. Mr. Alke talked about trending as a bankrupt policy and in his example he used original cost less depreciation which is not used in trending. Trending does not appreciate the original cost so it is a higher cost but nothing in the formula trending uses depreciates so it is equal throughout. He also said that it gave the DOR the leeway to shift revenue where they want to from county to county and it does not do that. Representative Quilici talked about the pass through on tax rates. It was mentioned that hydropower subsidizes the coal fired generation power and there is no difference in the rates as they are melded. In the same sense the high mill payers in one district are subsidizing the rate of the low millage taxpayers in another district. The tax will be passed through he agreed. He also mentioned in regard to this that the tax equalization issue will go a long way to mitigate any effect of tax increases. He said that Mr. Burr from the Montana Taxpayers Association talked about trending a car and there is no comparison between a car and a dam. A dam is built to last and a car is not.

Representative Elliott said that if he had wanted to present the best scenario for this bill he would not have handed out a

sheet of paper that showed his own county as the biggest single winner if trending went into effect and also showed 35 winners and 2 pushes and a few losers. In conclusion he stated that he believed this was good tax policy for the State of Montana. It doesn't change the market value or the taxable value of a company, it only changes the way the market value is divided between counties. The DOR did not set out to create winners and losers and it did not set out to confuse the Montana Power Company which is a good corporate citizen but it did set out to find good tax policy. He asked the committee in determining how they would vote not to look at just the immediate effects but look at the totality of the picture for taxation in the State of Montana. The more taxation becomes equal in county to county the less will be the burden of disparity on the companies in the state. The cost method has helped to create the problem of school disparity that the legislature is meeting to solve today. Reinstating trending will help solve that to some extent. He urged the committee to pass this bill to the floor where it could have an open debate. If it gets that far, Representative Elliott said he would ask for more complete tax distribution data and for more thorough tax millage data based on whatever school proposal looks most likely to come out of the education and taxation committees.

HEARING ON HOUSE BILL 22

Presentation and Opening Statement by Sponsor:

Mary Ellen Connelly, Representative of House District 8, stated that this bill actually started in January when she was Chairman of the Long Range Planning Committee and during that time the committee spent a lot of time on bonds and bonding in the State of Montana. She had been following in the newspapers some of the discussion about junk bonds and methods of financing. She said that people on the Taxation Committee might be familiar with this but it was all pretty new to her.

She said that corporations are usually financed by one of three methods which are sale of stock in the corporation, sale of bonds in the corporation and loans from banks or other financial institutions and these are the usual methods for start-up financing or ongoing operations. In Montana there are some corporations that purposely finance themselves to a great extent using the sale of bonds of the corporation so that they can avoid paying all or most of its corporate income tax and these are called highly leveraged corporations and often have 80% to 90% of their finances in bonds which the state sells. These are the so-called junk bonds. The interest the corporation pays on these bonds is deductible from the corporate income tax. The total amount of bond interest payment deducted from the income is often equal to the corporation's income so that little or no

income is declared for tax purposes and, as a result, they pay little or no tax. She felt this was an unfair tax loophole that should be closed.

Corporations should not be allowed to finance themselves in a manner that allows them to avoid paying their fair share of income tax and that is the reason she introduced this bill. She referred to the article in the morning's paper where she had been accused of some sort of subversive methods and she said that was not true as the only people she had talked to were local people in her district about how concerned she was about junk bonds. A friend who was a retired economist suggested a way this problem could be taken care of and that is how the bill came about.

Section 16-31-114 of the Montana Code in the corporate license and income tax law states that corporations may deduct from its gross income and it states what it can be used to depreciate and that sort of thing. Sub-section 4 allows the corporation to deduct from its gross income the interest paid on the corporation's indebtedness incurred in the operation of the corporation. She said she used House Bill 22 to close the tax loophole by not allowing a corporation to deduct the interest it pays on its bonds if the total amount of the interest is equal to 80% or more of the total interest the corporation pays on its bonds. In other words, if 80% or more of the corporation's cost of all methods in which they finance themselves comes from interest on the corporation's bonds, that interest cannot be deducted from the gross income for tax purposes.

Also, when she was doing her research, she found that there might be one reason that they would have to use junk bonds and so she included as an exception that the interest paid on the bonds remains deductible if the bonds are sold to get money the corporation uses to fight a hostile attempt to take over the corporation. This is sometimes the only way they can raise money in a hurry in the event they have to protect themselves and she made it very clear that this bill is talking about junk bonds. She included a definition of junk bonds and asked that it be included in the minutes because she wanted it very clear what she was talking about. Junk bonds are high-yielding less than investment grade debt security. These bonds usually are for a high return on investment in order to compensate for the increased level of credit risk. The only difference between junk bonds and other bonds is the lower bond rating given to junk bonds by the various investor services. She said she also wanted to stress that in this bill she had tried to cover only public trade companies and there are only about 2,000 companies in Montana that could potentially be affected by this.

She said it had also been brought to her attention that if a company did meet the 80% threshold, the IRS would probably come in and force them to restructure so this would not

affect any company that borrows from a bank or a lending agency such as an insurance company and would not affect the small mom and pop operations and it would not affect any ongoing operation that would not use junk bonds. She said she had talked with some of the local companies and they are not one way or the other about this bill. There would be no impact on the state.

Testifying Proponents and Who They Represent:

John Lahr, Montana Power Company

Proponent Testimony:

Mr. Lahr stated that in view of the speculation that was on the front page of the newspapers today, and the subject of a lot of telephone calls. The Montana Power Company had asked him to tell the committee that the company was not aware of the bill until it was placed in their bill box in the mailroom where they pick up their bills. They did not prepare the bill nor did they ask Representative Connelly to submit it for them. He said he did not even know what the impact of the bill would be on the Montana Power Company at this time.

Testifying Opponents and Who They Represent:

Dr. Ken Nordtvedt, Dir. Dept. of Revenue
Bruce MacKenzie, D.A. Davidson Co., Great Falls, MT.

Opponents Testimony:

Dr. Ken Nordtvedt stated that for every bond that is put out and their are interest deductions, there is no stopping a bond holder who is paying interest and paying taxes so he said that they would have to get over the idea that there is a hit to the state treasury for everyone who has big interest deductions. It is not clear it serves positive policy to get involved in trying to prevent hostile takeovers. There is a real debate in the nation as to whether that is positive or negative because they keep management honest in serving their stockholders and serving their public by being competitive and for us to try to prevent so called hostile takeovers probably makes no sense. There are major ramifications to a bill like this and the legislature is not in a position during this special session to really understand all the ramifications and since the first things that occur are negative he urged a do not pass recommendation.

Bruce MacKenzie, a representative of and general counsel for D. A. Davidson Co. of Great Falls, testified that it was not because they offer and sell junk bonds that he was appearing as an opponent. He stated it was because they feel that the adequacy of the explanation Representative Connelly gave is not accurate. The effects are not just on major companies

and he finds nothing in the bill that limits the effect on publicly traded companies and they have a number of small businesses in Montana that issue special purpose revenue bonds when they are permissible under federal tax codes. These are bonds that are bonded debt and they see no distinction between debt whether it is bank debt or bonded debt and why bonded debt would not be deductible versus bank debt which would be deductible. He failed to see why one was good and one was bad. Furthermore, in Congress at the present time there are a number of debates involving the use of leverage buyouts and the use of various bonding mechanisms for corporate finance. At that level, since the taxing structure, especially in the income area is tied to the federal system he would suspect the time would be better spent on discussing other issues facing this state than trying to tackle something that does have national implications. He said they oppose the bill because they feel it is not fair, doesn't protect the mom and pop businesses, and they would be affected by this bill. He urged the committee to not pass this bill.

Questions From Committee Members: Representative Cohen asked Dr. Nordtvedt if a corporation or organization could create a limited partnership or entity to avoid paying taxes at all. The corporation would be losing money and what would have been profit would be paid as interest to out of state bond holders. Without this mechanism could this be used as a technique to avoid paying taxes in the State of Montana? Dr. Nordtvedt said that if you have interest deductions and the holders of the debt are out of state, yes, the holders could be paying taxes elsewhere because there are open markets.

Rep. Cohen asked a further question. Is there any indication that this is the intent of any corporation doing business in Montana at this time? Dr. Nordtvedt said he couldn't say what the intent of corporations would be. Mr. Cohen rephrased his question to ask if there is any indication that this is about to happen in Montana? Again, Dr. Nordtvedt stated that he couldn't speculate on what people are intending or are on the verge of doing. He said they all had the same information and could interpret it however they wanted.

Representative Cohen said that he had noticed that the Vice President of Operations for Plum Creek Lumber was at the hearing and he asked Dr. Nordtvedt if he had any idea what their particular interest was in the bill being discussed. Dr. Nordtvedt said he had been too busy trying to equalize school funding to find out why people attend hearings.

Charley Green, Vice President of Plum Creek, said that his interest was to understand how the bill would impact their company. As he could see it, they have no bonds so there would be no impact.

Rep. Cohen asked Representative Connelly if there was any entity doing business in Montana that she was aware of that was trying to avoid paying taxes in Montana. She said that was originally what she thought and she did some research and looked into it and they are restructuring at the present time to a limited partnership so, in the short run, they would pay less taxes but in the long run they will probably pay the same taxes because the partners will be paying taxes. What this bill does is not allow a company to use a horrendous amount of debt in order to get out of paying tax. That is the reason she included the 80% threshold. At that point the IRS will look into it and probably force them to restructure.

Representative Rehberg asked if a fiscal note was available and Representative Connelly said there was one but there was no indication that it would change anything one way or the other. Representative Rehberg said the reason for his question was that he couldn't see how there couldn't be any fiscal impact because corporations around the state would be paying more taxes because they could no longer deduct their interest. Dr. Nordtvedt said he did not have a copy of the fiscal note and asked if it said that it was zero or did it say that they had no way of estimating. Representative Rehberg clarified that they had no way of estimating. Dr. Nordtvedt stated that it is such a vague open-ended concept that any guess they would try to make would be so imprecise that it wouldn't be credible to put it out. Representative Rehberg agreed that was how he understood it.

Representative Giacometto asked Dr. Nordtvedt if, in his reading of the bill, wouldn't it affect almost anyone who was in debt? He replied that if it is indeed airtight and limited to bonded debt, the other kind of bank debt, etc., wouldn't apply. However, there is a policy decision there as to why you would want to distinguish between the kinds of debt. He said that he had not studied the bill in enough detail but he took Representative Connelly's word that it was limited to bonded debt and everyone would have to look at their own situation to know whether their debt is bonded debt or bank debt. Dr. Nordtvedt said this was a major kind of change in tax law and should not be debated during the current special session.

Representative Patterson asked about a rancher who takes out a loan through the Federal Land Bank and actually buys stock in that company and that secures the loan for the mortgage on the land. Would that be a bond debt? Dr. Nordtvedt said it didn't sound like it but he didn't know.

Closing by Sponsor: Representative Connelly said that she had talked with Mr. Chenoweth who had worked with her on the bill and it seemed strange to her that there is this conflict with the department because she had him doing things she wanted done which are not the things that people

are concerned about. He assured her that the bill did it and it was very clear and straight forward. She said she wondered if he had talked with Dr. Nordtvedt.

Dr. Nordtvedt asked if he could make a statement and permission was granted. He said that they offer the services of the department to anyone to help with drafting of any bill. They do not endorse any of the bills, they only supply the resources for drafting.

Representative Connelly said the reason she brought the bill forward was because it appeared to her that some companies did use a high level of debt to get out of paying state taxes and she was concerned about that because the tax base in Montana is eroding and they are losing money. She asked what would happen if another recession came along? Is the capital structure in Montana stable? When a company is not too highly leveraged they would be in a better position to stand a recession. If there are rising interest rates there is less demand for their products so it seemed to her that this would be helpful in that respect to keep interest levels down. If industry is being operated for the benefit of junk paper holders rather than for its shareholders or the taxpayers then there is a lot less room to maneuver during the hard times that have been happening in Montana. She said she thought the profits of a company should go to the benefit of the stockholders or to the rebuilding of Montana and they should not go to junk paperholders and that is why she introduced this bill. She felt it was an important bill and did close a loophole in Montana tax law.

ADJOURNMENT

Adjournment At: 12:45 p.m..



REP. DAN HARRINGTON, Chairman

DH/dg

150623a.min

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

DATE: *June 23, 1989*

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington. Chairman	✓		
Bob Ream, V. Chairman	✓		
Ben Cohen			
Jerry Driscoll	✓		
Jim Elliott	✓		
Orval Ellison	✓		
Leo Giacometto	✓		
Bob Gilbert	✓		
Susan Good	✓		
Ed Grady	✓		
Marian Hanson	✓		
Robert Hoffman	✓		
Mike Kadas			
Francis Koehnke	✓		
Mark O'Keefe	✓		
John Patterson	✓		
Bob Raney			
Dennis Rehberg	✓		
Ted Schye	✓		
Barry Stang	✓		
Jessica Stickney	✓		
Chuck Swysgood	✓		

EXHIBIT 1
DATE 6-23-89
HB 27

**TESTIMONY BEFORE THE TAXATION COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES
51ST LEGISLATURE - JUNE 1989 SPECIAL SESSION**

On House Bill No. 27,

a bill to apportion centrally assessed property
valuation based on trended installed costs

SUBMITTED ON BEHALF OF

Lewis and Clark County Board of Commissioners
City-County Administrative Building
Helena, MT 59601

BY

James H. Nybo
Consulting Economist
P.O. Box 1687
Helena, MT 59624
442-9873

June 23, 1989

I. THE PURPOSE OF HB 27

HB 27 deals with the allocation of taxable value of centrally assessed properties in Montana to taxing jurisdictions across the state. The subject property includes such property as electrical power generating facilities, natural gas pumping stations, and some elements of telephone systems.

HB 27 is designed to correct both past and future inequities in how the centrally appraised value (which is not in dispute) should properly be apportioned to various taxing jurisdictions across the state. Current state law (§ 15-23-105, MCA) calls for apportionment based on the original installed cost of the capital items. Current state law does not provide for recognition of the changing value of the dollar where improvements were installed at different times. HB 27 provides for adjusting original installed costs to reflect the changing value of the dollar for different installation dates.

II. RELEVANT STATUTORY LANGUAGE

Section 15-23-105 currently reads as follows:

15-23-105. Apportionment among counties. The department shall apportion the value of property assessed under 15-23-101, 15-23-202 or 15-23-403 among the counties in which such property is located. Apportionment shall be on a mileage basis or on the basis of the original installed cost of the centrally assessed property located in the respective counties. If the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage or on the basis of the original installed cost of the centrally assessed property located in the respective counties, the department may adopt such other method or basis of apportionment as may be just or proper.

III. LEWIS AND CLARK COUNTY'S POSITION

Lewis and Clark County supports the passage of HB 27.

Lewis and Clark County's position is that it is unfair, unreasonable and not consistent with the character of centrally assessed situs properties to base the apportionment on unadjusted original installed costs. Doing so heavily and unreasonably discounts the importance of facilities built prior to major inflationary periods, including World War II and the decade of the 1970's. Failure to correct this statutory defect will also compound future problems which will most assuredly arise when new facilities are installed.

Lewis and Clark County supports the apportionment of this centrally assessed valuation based on indexed original installed costs, where such indexing constitutes a simple adjustment to reflect the changing value of the dollar for properties installed at different times over the past century.

IV. CHARACTER OF THE SITUS PROPERTIES

The debate on this issue has focused on Montana Power Co., although a number of other taxpayers also have centrally assessed situs properties. The arguments raised here with respect to MPC properties also apply to properties of other taxpayers. Some of the important nuances in understanding how and why some property is centrally assessed can be better understood by looking at the character of generating components of Montana Power Company's electrical system in Montana--in particular, hydroelectric dams and coal-fired power plants.

1. Hydroelectric dams and coal-fired power plants are part of an integrated power supply system. Both types of facilities produce electricity which enters the power grid

and loses its identity. Not only do the individual electrons lose their physical identity, but they also are all rolled in together in terms of the establishment of rates charged to utility customers. At various times, every Montana Power Company electrical customer in Montana enjoys the benefits of both coal-fired and hydroelectric power--as a source of power supply as well as a factor in determining the rates which are paid for that power. Both types of generation are part of an integrated electrical supply system, both are used to meet both scheduled and unscheduled outages, and both are part of an integrated system management approach for meeting peak demands and serving the utility's base loads.

2. **Montana's dams and thermal plants were not installed at the same time.** If all of the centrally assessed facilities had been constructed at the same time, then there would be no dispute over indexing for inflation. The fact is, however, the centrally assessed situs properties of Montana's major electrical utility date back to as far as 1901 and as recent as 1984. MPC's most recent hydroelectric facility is Cochrane dam, constructed in 1958. All MPC thermal facilities currently in use were constructed since that time, with the Corrette plant in 1968, Colstrip 1&2 in 1975 and Colstrip 3 in 1984.

3. **Hydroelectric facilities have a very long expected life.** While there is no certainty as to the length of the useful life of a hydroelectric facility, it is widely recognized and agreed that they have a very long life. Their federal licensing under FERC is generally for 50 years. MPC has publicly stated it will be seeking to re-license these facilities when their licenses are up.

4. **Hydroelectric facilities generate a significant share of Montana's total power.** Figures from the Montana Department of Revenue indicate that in 1985, MPC's thermal generation accounted for 53.61% of the company's net generation and the hydro facilities accounted for 46.37%.

Furthermore, another aspect of hydropower is its suitability to serve peak loads, responding to one of the major economic and operational challenges facing electrical power system managers, and making it even more valuable to the system as a whole.

5. Hydropower generation is capital intensive and offers low production costs. Analysis from the Montana Department of Revenue ("Analysis of Montana Power Company Electric Generation Costs and Revenues") confirms that MPC's hydroelectric facilities contribute a very significant share of the utility's total system generation, and further demonstrate that hydropower is produced at a cost which is significantly less than the cost of Colstrip power.

A final and very significant difference in the character of hydropower facilities is that their costs are dominated by the initial investment. Once built, these plants do not require fuel, boilers, air pollution equipment, and very large operating staffs. They must of course be monitored and protected, and they do require periodic maintenance. Information from the Department of Revenue indicates that the total production expenses of MPC's coal-fired plants account for 81.9% of total production expenses for all generation.

6. The "book" or "resale" value of a utility's hydroelectric facilities grossly understates their contribution to the system. At a recent arbitration hearing, MPC presented evidence and testimony which suggested that MPC's hydroelectric facilities have a combined "resale value" of \$58,454,963 for tax year 1988, which is a value depreciated from original costs of \$95,289,852. This is in the context of a 1986 total undepreciated cost of thermal plants of \$474,295,852. In cross-examination at that same arbitration hearing, MPC witness Jerry Pederson testified that MPC had recently entered into an agreement with the Confederated Salish and Kootenai Tribes as part of the re-licensing of Kerr Dam just below Flathead Lake. Mr. Pederson testified that MPC agreed to pay the Tribes rent for the land on which the dam and reservoir sit in the amount of \$9,267,000 per year, which will be adjusted upward for inflation.

This amount for rent compares with the reported "resale value" of Kerr Dam at \$12,896,336, from an MPC exhibit introduced at the hearing.

Mr. Pederson testified that this "resale value" had particular meaning should MPC decide to sell these facilities at relicensing. He also testified, however, that he expects the company to seek to retain them for its system when the licenses come due.

While the reported "resale" values of MPC hydro facilities may well have meaning in the regulatory environment of FERC, under a hypothetical resale situation, they are not a reasonable reflection of the relative importance of these facilities to MPC's electrical system in the generation of either electricity or utility revenues.

7. The Department's approach applies equally well to other centrally assessed properties. Many of the arguments made here have been directed primarily toward existing properties of MPC, because MPC has been the principal party objecting to indexing for inflation. It is true, however, that the rationale applies equally well to centrally assessed situs properties of other parties as well as to unknown future properties of MPC or others. If, for example, a pipeline company had centrally assessed tank farms and pump stations, there would basically be no difference if they were all constructed at the same time. If individual installations were built at different times during a period when the economy experienced substantial inflation, then there would be an opportunity for similarly unreasonable apportionments as described above. As with the descriptions above, these unreasonable apportionments would be substantially mitigated through adoption of a practice of indexing original installed costs to allow comparisons of all improvements based on a constant dollar value. It should also be noted that as time passes and MPC adds additional generation to its system, the tax bases of those jurisdictions which are home to the recent coal-fired plants that predominate under MPC's current situation would also be buffered from unreasonable erosion due to economic inflation.

8. Given the character of these properties, the original installed cost, not indexed for the changing value of the dollar, is not a reasonable yardstick for apportioning their value back to the counties. A mile today is 5,280 feet, as it was in 1930, but a dollar today only purchases what \$0.10 would purchase in 1930. If it is just and proper to diminish that dollar down to 10 cents today, then under that logic it would also be just and proper to reduce that 5,280 feet down to 528 feet today--which of course is absurd. This entire dispute boils down to using a consistent measuring stick for apportioning the taxable valuation of situs properties built at different times during this century.

V. DE-CONFUSING THIS ISSUE

1. There is no issue here with respect to appraisal of properties. The apportionment issue is totally separate from the matter of how the property is appraised. There has been no dispute over the method of appraising these properties, which is consistent with how the properties are valued for inclusion in the utility's rate base by the Public Service Commission. The sole issue being addressed in HB 27 is the apportionment of the value of situs properties (for example, coal-fired generators and hydroelectric facilities) among the counties in which these properties are located.

2. In the taxation environment in Montana today, the precise impacts of this policy on individual taxpayers and taxing jurisdictions are highly uncertain, and likely to change, but the public policy should not be based on short-term winners and losers. Estimates of the effects of this bill on individual counties are biased towards overstating the impact, given that millage rates in high valuation districts tend to be lower and millage rates in low valuation districts tend to be higher. When taxable valuation is moved from higher valuation districts to lower, there are economic forces at work which tend to drive the

millage rates down in the district receiving the valuation and which tend to drive the millage rates up in the district losing the valuation.

But the factor presenting the greatest uncertainty in 1989 is the yet unresolved substantial legislative reform of school taxation in Montana, driven by the Loble decision which was affirmed by the State Supreme Court. It appears that this major tax reform will take the form of a significant increase in statewide property taxation for funding much of the school foundation program, with offsetting reductions of differing amounts in local school districts. This will have the effect of equalizing local property tax millage rates.

Neither the Department of Revenue nor anyone else has fully performed all the computations necessary for calculating the total effects of using the trending methodology, considering the impacts on local mill levies after gaining or losing valuation, combined with the effects on mill levies resulting from school funding equalization.

HB 27's language to index the original installed costs of situs properties embodies a principal that is fundamentally both just and proper. It is proper because it establishes a consistent yardstick for measuring these properties--a yardstick not subject to the erratic and unpredictable changes in the purchasing power of the dollar over long periods of time. But it is also just because it consciously recognizes and addresses the inherent inequities in trying to apportion taxable valuation based on dollars which vary in value by more than a factor of ten.

This important public policy issue should not be decided simply based on who appears to win and who appears to lose in the summer of 1989. It should be based on establishing a public policy which is reasonable, just, and proper now and into Montana's second century.

3. The use of indexed original costs provides a basis for apportionment which is both just and proper into the future. As time passes, properties will age, the value of the dollar will change, and new properties will be built. HB 27, which calls for using indexed original installed costs, offers a simple, rational, and replicable means of adjusting these values that allows all elements of a pool of centrally assessed situs properties to be treated on a comparable basis. By passing HB 27, the legislature will be contributing to a rational and stable procedure that is both just and proper.

4. The use of indexed original costs is consistent with the spirit of Section 15-23-105. It should be recognized that if this nation had experienced no inflation in this century, then the unadjusted original costs would be exactly the same as the adjusted or "trended" costs which are only indexed to compensate for inflation. HB 27 does nothing more than take the original installed costs and adjust them for inflation. There is no attempt to depreciate these numbers, or to develop a special industry-specific index, or to estimate replacement costs, or to develop any other measure of their respective contribution to the central system. HB 27 is consistent with the spirit of the current language by relying on the original installed costs of these properties--adjusted only for inflation.

VI. SUMMARY AND CONCLUSIONS

In summary, the legislature is urged to act favorably on HB 27 and affirm the use of indexed original installed costs as the basis for apportioning the valuation of centrally assessed situs properties.

To do so is consistent with the language in Section 15-23-105 for the following reasons.

It is reasonable given the character of the properties, including:

1. Hydroelectric facilities and thermal plants are part of an integrated power supply system.
2. The facilities were not installed at the same time.
3. The hydroelectric facilities have a very long expected life.
4. Hydroelectric facilities generate a significant share of Montana's total power.
5. Hydropower generation is capital intensive and offers low production costs.
6. The "book" or "resale" value of a utility's hydroelectric facilities grossly understates their contribution to the system.
7. HB 27's "trending" approach applies equally well to other centrally assessed properties.
8. Given the character of these properties, the original installed cost not indexed for the changing value of the dollar, is not a reasonable yardstick for apportioning their value back to the counties.

It is both just and proper for the following reasons:

1. There is no injustice here with respect to appraisal of properties. "Trending" does not affect appraisal whatsoever--it only affects the apportionment of that appraised value back to individual taxing jurisdictions.
2. In the taxation environment in Montana today, the precise impacts of this policy on individual taxpayers and taxing jurisdictions are highly uncertain, but the decision should not be based on short-term winners and losers.
3. The use of indexed original costs provides a basis for apportionment which is both just and proper into the future.
4. The use of indexed original costs is consistent with the spirit of Section 15-23-105.

Conclusions.

This entire dispute boils down to using a consistent measuring stick for apportioning the taxable valuation of situs properties built at different times during this century.

A decision to index the original installed costs of situs properties embodies a principle that is fundamentally both just and proper. It is proper because it establishes a consistent yardstick for measuring these properties--a yardstick not subject to the changes in the purchasing power of the dollar over long periods of time. But it is also just because it consciously recognizes and addresses the inherent inequities in trying to apportion taxable valuation based on dollars which vary in value by more than a factor of ten.

The legislature should not decide this matter based on who appears to win and who appears to lose in the summer of 1989, but rather should base a decision on what is reasonable, just, and proper, now and into the future.

Lewis and Clark County very much appreciates the opportunity given by the committee to share our views with you on this important public policy issue.

EXHIBIT 2
DATE 6-23-89
HB 27

June 22, 1989

Dear Legislators:

At the present time, the Department of Revenue apportionments or allocates the value of all centrally assessed taxpayers' situs property by using the original installed cost of the asset. The current method of allocating the situs property (i.e. buildings, dams and other structures) was authorized by the 1979 Legislature. Previously, situs property was locally assessed by the counties in which it was located. The current method of apportionment is the generally accepted method used to allocate utility property to local taxing jurisdictions.

The DOR consistently followed the method of allocation authorized by the 1979 Legislature in the years 1980 through 1985, but introduced and changed to the "trending" method for the years 1986 through 1988. The impact of the change to "trending" on Montana Power was to increase our property tax payments by more than \$2,000,000 in each of the three years. Montana Power protested this tax increase in each year because we were convinced that the change in methodology was unjust, improper and illegal. We know of no jurisdiction where the "trending" method has been or is being used.

By a binding settlement agreement dated November 7, 1988, Montana Power and the DOR agreed to submit the proper allocation method issue to binding arbitration. A term of the settlement agreement provided that "...the arbitrator's decision shall apply to 1989 and future tax years." Since Montana Power has centrally assessed property in 42 counties, officials from each of the affected counties were required to endorse the settlement agreement prior to it becoming effective. All counties did, in fact, execute the settlement agreement. Further, both Montana Power and the DOR encouraged all counties to participate in the arbitration process.

The arbitrator, after hearing both sides of the issue, made his decision on April 24, 1989, and found that the allocation method authorized by the 1979 legislature must be followed in the future because it continued to be a reasonable method to allocate centrally assessed utility property. The arbitrator specifically found that there had been no showing that the authorized method is unreasonable, i.e., excessive, irrational, intolerable or not sensible.

Having agreed to binding arbitration, some of the counties adversely affected by the arbitrator's decision are now attempting to nullify the arbitrator's decision by introducing legislation which would require the Department of Revenue to adopt the "trending" method. There have been two ill-fitted reasons

given for changing to "trending." First it has been submitted that the construction of new facilities in some counties has drawn taxable value from other counties. We have closely analyzed this contention and it is false. In fact, under the current method the opposite is true. That is, the value of old property is maintained or enhanced only if the Company invests in new property additions. The second assertion is that older generating units should have a taxable value similar to newly constructed generating units. This contention is also false because it ignores the fact that the value of hydroelectric generating units is set by the terms of the federal licenses under which they were built and are operated. Accordingly, all "trending" does is place unrealistically high values on older properties and unrealistically low values on newly constructed property.

"Trending" does not cause the overall market value of utility property to change. What it does is shift value away from some counties into other counties. The "trending" method would shift \$2,000,000 of property taxes paid by Montana Power away from 31 counties in which we operate to 9 other counties in which we operate. Further, Montana Power would pay to those nine counties an additional \$2,000,000 of property tax with no increase in property values and with no additional property being installed. The additional tax would in turn be included in the bills to our utility customers. Attached for your information is a set of charts with some explanation which we hope will be useful in understanding these shifts.

In summary, MPC is against the proposed bill on "trending" because "trending" is inequitable, unfair and not fiscally sound. Further, it was the intent of the parties involved in the arbitration that the arbitrator's decision would be the final word on the "trending" issue. But now, the legislature is being asked to ratify a previous misjudgment by the DOR, and to circumvent the intent and the decision that resulted from arbitration. Further, you are being asked to invoke an allocation method that is not generally used, that has not been studied or analyzed, that subjects a company doing business in Montana to a \$2,000,000 yearly tax increase, that unfairly reduces the property taxes we pay to 31 counties in the State of Montana and results in all of our customers having higher utility bills.

The Montana Power Company urges you to reject House Bill 27.

Respectfully,

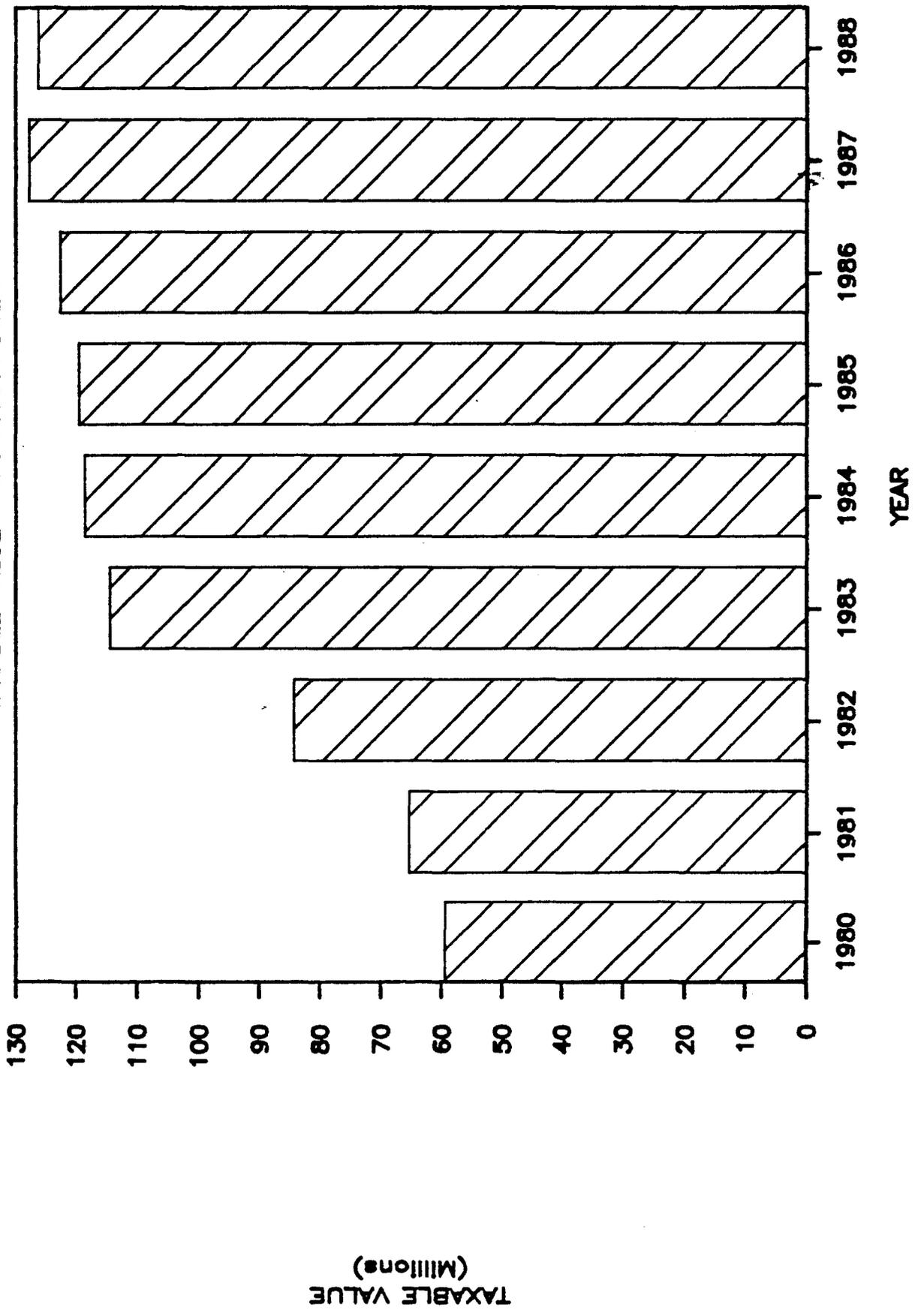

J. P. Pederson
Controller

JPP/ph

attachments - as stated

THE MONTANA POWER COMPANY

TAXABLE VALUE - MONTANA POWER



THE MONTANA POWER COMPANY
TAXABLE VALUE - MONTANA POWER

BACKGROUND

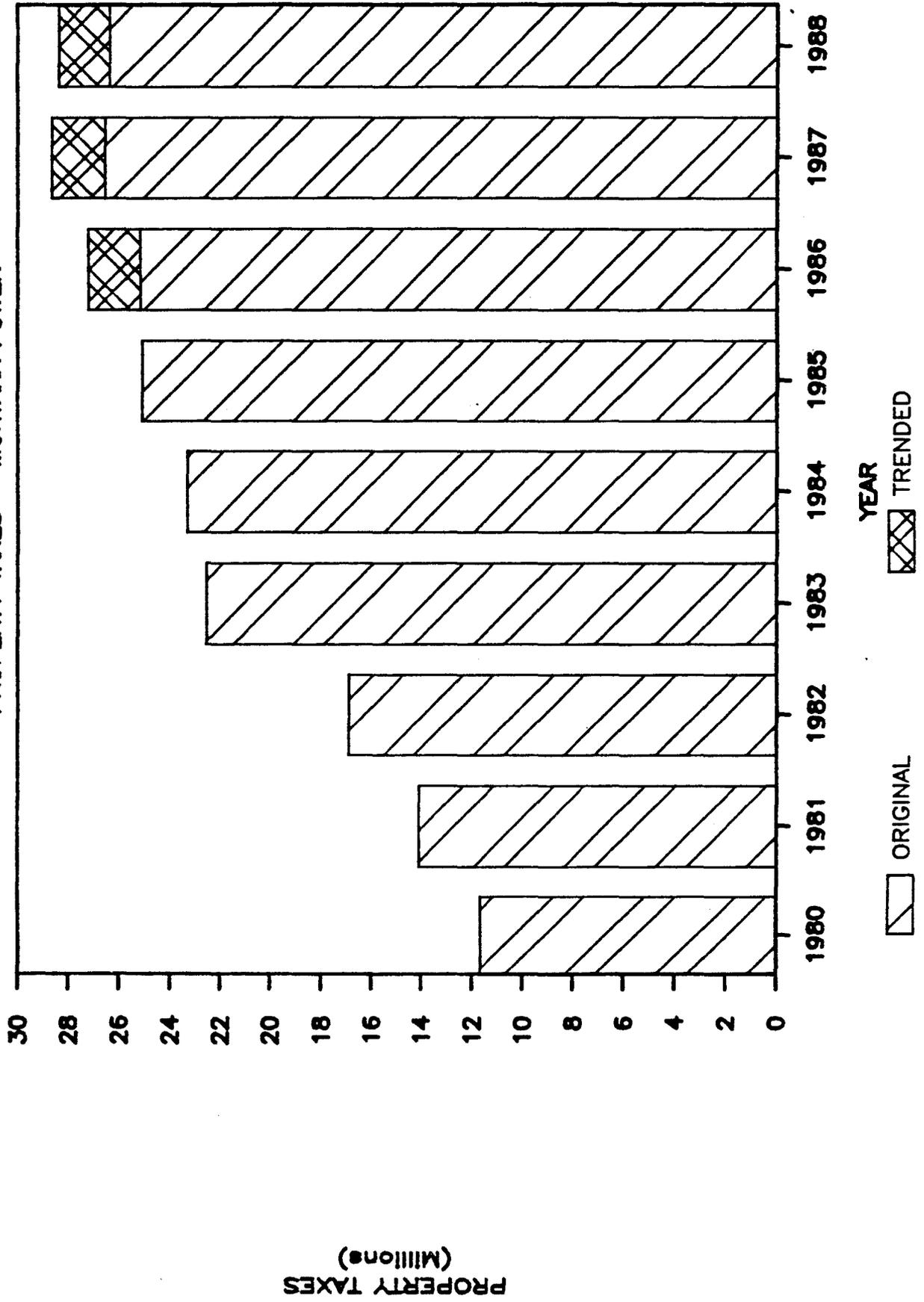
The Taxable Value (Market Value x 12%) of MPC utility property excluding Net Proceeds has more than doubled during the 1980's. MPC's taxable value is a significant part of the total taxable value of property in Montana. There is no disagreement over the computation of Taxable Value.

	TOTAL MONTANA TAXABLE VALUE (000)	✓ MPC TAXABLE VALUE (000)	PERCENT OF TOTAL
1980	\$1,845,009	\$59,524	3.20%
1981	2,020,631	65,397	3.20%
1982	2,204,492	84,325	3.80%
1983	2,233,385	114,543	5.10%
1984	2,330,883	118,615	5.10%
1985	2,370,133	119,605	5.00%
1986	2,308,229	122,654	5.30%
1987	2,000,745	127,876	6.40%
1988	1,942,950	126,281	6.50%

✓ Does not include Net or Gross Proceed Taxes paid by MPC or its Subsidiaries.

THE MONTANA POWER COMPANY

PROPERTY TAXES -- MONTANA POWER



THE MONTANA POWER COMPANY
PROPERTY TAXES - MONTANA POWER

BACKGROUND

Similarly, the Property Taxes MPC has been assessed during the 1980's has grown. This growth would have been significant even if the DOR had not changed the method of allocating MPC's property to counties.

	TOTAL TAXES LEVIED (000)	\1 TAXES THAT WOULD HAVE BEEN LEVIED ON MPC USING THE ORIGINAL COST METHOD (000)	PERCENT OF TOTAL
1980	\$418,462	\$11,698	2.80%
1981	462,122	14,125	3.10%
1982	486,255	16,929	3.50%
1983	505,040	22,565	4.50%
1984	539,249	23,335	4.30%
1985	572,047	25,112	4.40%
1986	586,658	25,187	4.30%
1987	558,500	26,575	4.80%
1988	526,707	26,381	5.00%

\1 Does not include Net or Gross Proceed Taxes paid by MPC or its Subsidiaries.

As the chart shows beginning in 1986 the DOR made changes from the established method that caused MPC's tax to increase over \$2,000,000 per year or about 8%. We believed that the changes made by the DOR were unlawful and thus we protested the tax increase.

THE MONTANA POWER COMPANY 1986 MARKET VALUE COMPARISON

YEAR 1986	COUNTY	ORIGINAL COST MARKET VALUE	TRENDED COST MARKET VALUE	MARKET VALUE INCREASE (DECREASE)
	CASCADE	49,748,266	96,570,881	46,822,615
	LEWIS AND CLARK	41,130,570	62,083,165	20,952,595
	LAKE	14,300,395	33,311,842	19,011,447
	YELLOWSTONE	85,373,815	98,718,419	13,344,604
	SANDERS	7,692,192	16,411,480	8,719,288
	STILLWATER	15,078,398	20,626,384	5,547,986
	MADISON	10,076,600	12,912,434	2,835,834
	DEER LODGE	8,230,537	9,730,450	1,499,913
	GRANITE	3,034,548	3,217,536	182,988
	PETROLEUM	0	0	118,917,271
	TREASURE	3,053,821	3,053,821	(1,708)
	BEAVERHEAD	5,328,689	5,270,813	(57,876)
	GOLDEN VALLEY	5,068,928	4,840,587	(228,341)
	JUDITH BASIN	4,126,615	3,827,741	(298,874)
	WHEATLAND	8,349,276	7,956,846	(392,430)
	BROADWATER	7,527,026	7,088,557	(438,469)
	MEAGHER	7,926,023	7,481,676	(444,347)
	MINERAL	2,198,471	1,746,356	(452,115)
	SWEET GRASS	4,464,582	3,947,034	(517,548)
	MUSSELLSHELL	2,863,072	2,307,089	(555,983)
	PHILLIPS	2,617,043	1,997,816	(619,227)
	VALLEY	2,919,360	2,246,394	(672,966)
	BIG HORN	7,625,360	6,927,335	(698,025)
	PARK	11,231,265	10,472,440	(758,825)
	JEFFERSON	12,694,625	11,932,039	(762,586)
	POWDERA	5,572,874	4,609,156	(963,718)
	FLATHEAD	5,916,149	4,794,915	(1,121,234)
	TETON	6,154,906	5,014,543	(1,140,363)
	FERGUS	5,380,212	4,164,511	(1,215,701)
	TOOLE	15,137,649	13,884,622	(1,253,027)
	GALLATIN	28,169,587	26,795,182	(1,374,405)
	LIBERTY	7,998,983	6,527,311	(1,471,672)
	CHOTEAU	10,400,525	8,812,967	(1,587,558)
	RAVALLI	10,626,281	8,959,476	(1,666,805)
	BLAINE	9,409,174	7,529,422	(1,879,752)
	CARBON	10,938,497	8,862,096	(2,076,401)
	POWELL	15,843,226	13,701,704	(2,141,522)
	HILL	10,766,215	8,478,465	(2,287,750)
	SILVER BOW	42,180,744	39,493,935	(2,686,809)
	MISSOULA	31,336,151	28,422,464	(2,913,687)
	GLACIER	18,722,566	15,164,960	(3,557,606)
	ROSEBUD	521,032,455	438,347,970	(82,684,485)
	TOTALS	1,078,247,379	1,078,242,834	(118,921,816)

1986 PROPERTY TAX COMPARISON

COUNTY	ORIGINAL COST PROPERTY TAX	TRENDED COST PROPERTY TAX	PROPERTY TAX INCREASE (DECREASE)
CASCADE	2,170,677	4,110,481	1,939,804
LEWIS AND CLARK	1,636,306	2,340,371	704,065
LAKE	399,527	923,567	524,040
YELLOWSTONE	2,776,714	3,220,529	443,816
SANDERS	214,257	448,979	234,722
STILLWATER	397,171	518,535	121,364
MADISON	290,168	369,356	79,188
DEER LODGE	431,211	498,903	67,692
GRANITE	117,119	124,833	7,714
PETROLEUM	0	0	4,122,404
TREASURE	76,520	76,520	0
BEAVERHEAD	192,763	188,541	(4,222)
GOLDEN VALLEY	139,557	133,343	(6,214)
JUDITH BASIN	124,151	115,181	(8,971)
WHEATLAND	239,170	225,712	(13,458)
BROADWATER	199,032	187,085	(11,948)
MEAGHER	186,275	173,932	(12,343)
MINERAL	92,645	73,623	(19,021)
SWEET GRASS	153,856	135,609	(18,247)
MUSSELLSHELL	54,137	43,265	(10,872)
PHILLIPS	74,259	56,353	(17,906)
VALLEY	107,003	81,635	(25,368)
BIG HORN	132,217	119,412	(12,805)
PARK	387,261	349,907	(37,354)
JEFFERSON	495,831	464,785	(31,046)
POWDERA	179,795	148,129	(31,666)
FLATHEAD	237,959	189,803	(48,155)
TETON	184,907	150,522	(34,385)
FERGUS	275,509	210,603	(64,907)
TOOLE	288,157	262,071	(26,086)
GALLATIN	1,056,041	990,111	(65,930)
LIBERTY	173,957	141,695	(32,262)
CHOTEAU	295,916	250,099	(45,818)
RAVALLI	335,549	283,149	(52,400)
BLAINE	184,400	146,819	(37,581)
CARBON	337,663	272,043	(65,620)
POWELL	548,370	474,945	(73,425)
HILL	356,635	277,461	(79,174)
SILVER BOW	2,209,470	2,068,610	(140,860)
MISSOULA	1,413,795	1,253,695	(160,100)
GLACIER	491,532	398,446	(93,086)
ROSEBUD	5,529,654	4,744,978	(784,676)
TOTALS	25,187,137	27,243,635	2,056,498

NET PROPERTY TAX INCREASE *****
2,056,498

THE MONTANA POWER COMPANY
 COMPARISON OF IMPACTS CAUSED BY THE TRUMP ACT
 YEAR 1987

EXHIBIT # 2
 6/23/89 HB 27

1987 PROPERTY TAX COMPARISON

1987 MARKET VALUE COMPARISON

YEAR 1987	COUNTY	ORIGINAL COST MARKET VALUE	TRENDED COST MARKET VALUE	MARKET VALUE INCREASE (DECREASE)	COUNTY	ORIGINAL COST PROPERTY TAX	TRENDED COST PROPERTY TAX	PROPERTY TAX INCREASE (DECREASE)
	CASCADE	52,243,261	101,953,326	49,710,065	CASCADE	2,284,079	4,338,074	2,053,995
	LEWIS AND CLARK	38,244,952	61,937,468	23,692,516	LEWIS AND CLARK	1,588,953	2,403,784	814,832
	LAKE	14,573,620	34,990,492	20,416,872	LAKE	403,978	964,295	560,317
	YELLOWSTONE	88,856,062	103,442,599	14,586,537	YELLOWSTONE	2,872,374	3,356,460	484,086
	SANDERS	7,930,232	17,245,200	9,314,968	SANDERS	218,894	467,484	248,590
	STILLWATER	15,785,278	21,782,346	5,997,068	STILLWATER	401,238	529,726	128,488
	MADISON	10,896,382	13,848,713	2,952,331	MADISON	313,549	396,169	82,620
	DEER LODGE	8,258,502	9,937,398	1,678,896	DEER LODGE	399,529	469,679	70,150
	GRANITE	3,421,190	3,582,783	161,593	GRANITE	126,770	131,493	4,723
	PETROLEUM	0	0	128,510,846	PETROLEUM	0	0	0
	TREASURE	3,103,189	3,102,300	(889)	TREASURE	79,082	79,082	0
	BEAVERHEAD	5,567,790	5,489,375	(78,415)	BEAVERHEAD	200,910	195,712	(5,199)
	GOLDEN VALLEY	5,194,906	4,943,399	(251,507)	GOLDEN VALLEY	134,285	127,700	(6,585)
	JUDITH BASIN	4,266,057	3,916,621	(349,436)	JUDITH BASIN	127,108	116,673	(10,435)
	BROADWATER	7,541,761	7,053,420	(488,341)	BROADWATER	209,350	195,427	(13,923)
	MEAGER	8,105,335	7,613,637	(491,698)	MEAGER	180,897	168,029	(12,868)
	MINERAL	2,334,539	1,824,235	(510,304)	MINERAL	85,337	66,723	(18,614)
	SWEET GRASS	4,879,539	4,283,365	(596,174)	SWEET GRASS	168,204	147,114	(21,089)
	MUSSELLSHELL	2,951,986	2,341,681	(610,305)	MUSSELLSHELL	77,509	61,172	(16,337)
	WHEATLAND	9,397,932	8,744,325	(653,607)	WHEATLAND	259,942	239,106	(20,836)
	PHILLIPS	2,772,024	2,073,006	(699,018)	PHILLIPS	80,348	59,704	(20,644)
	BIG HORN	7,923,550	7,151,674	(771,876)	BIG HORN	149,625	133,946	(15,679)
	VALLEY	3,193,549	2,402,454	(791,095)	VALLEY	127,289	94,999	(32,290)
	JEFFERSON	13,348,038	12,394,149	(953,889)	JEFFERSON	452,676	418,710	(33,966)
	PARK	12,352,529	11,387,039	(965,490)	PARK	413,373	368,369	(45,004)
	PONDERA	6,199,168	5,071,313	(1,127,855)	PONDERA	202,069	164,330	(37,739)
	POMELL	13,038,144	11,774,924	(1,263,220)	POMELL	484,068	435,734	(48,334)
	FERGUS	5,672,903	4,326,462	(1,346,441)	FERGUS	250,523	186,571	(61,952)
	FLATHEAD	7,252,599	5,773,189	(1,479,410)	FLATHEAD	300,101	235,368	(64,733)
	TETON	7,850,745	6,233,665	(1,625,080)	TETON	245,421	193,804	(51,617)
	TOOLE	17,955,248	16,238,412	(1,716,836)	TOOLE	359,927	321,760	(38,167)
	LIBERTY	9,202,563	7,432,901	(1,769,662)	LIBERTY	206,317	166,317	(40,000)
	CHOTEAU	11,733,821	9,835,832	(1,897,989)	CHOTEAU	332,092	277,812	(54,280)
	RAVALLI	11,423,659	9,484,504	(1,939,155)	RAVALLI	361,324	300,667	(60,657)
	GALLATIN	31,133,718	28,978,365	(2,155,353)	GALLATIN	1,152,960	1,053,728	(99,233)
	BLAINE	10,910,288	8,609,810	(2,300,478)	BLAINE	238,764	187,348	(51,416)
	CARBON	12,388,245	9,885,456	(2,502,789)	CARBON	330,191	261,230	(68,961)
	HILL	12,196,913	9,440,786	(2,756,127)	HILL	419,633	320,934	(98,699)
	SILVER BOW	47,555,413	44,266,744	(3,288,669)	SILVER BOW	2,636,201	2,454,734	(181,467)
	MISSOULA	35,837,734	31,664,405	(4,173,329)	MISSOULA	1,598,619	1,382,940	(215,679)
	GLACIER	23,319,839	18,543,277	(4,776,562)	GLACIER	691,721	551,168	(140,553)
	ROSEBUD	524,429,578	440,259,628	(84,169,950)	ROSEBUD	5,410,113	4,646,482	(763,632)
	TOTALS	1,121,250,778	1,121,260,678	(128,500,946)	TOTALS	26,575,343	28,672,558	2,097,214

NET PROPERTY TAX INCREASE
 =====
 2,097,214
 =====

1988 PROPERTY TAX COMPARISON

1988 MARKET VALUE COMPARISON

THE MONTANA POWER COMPANY

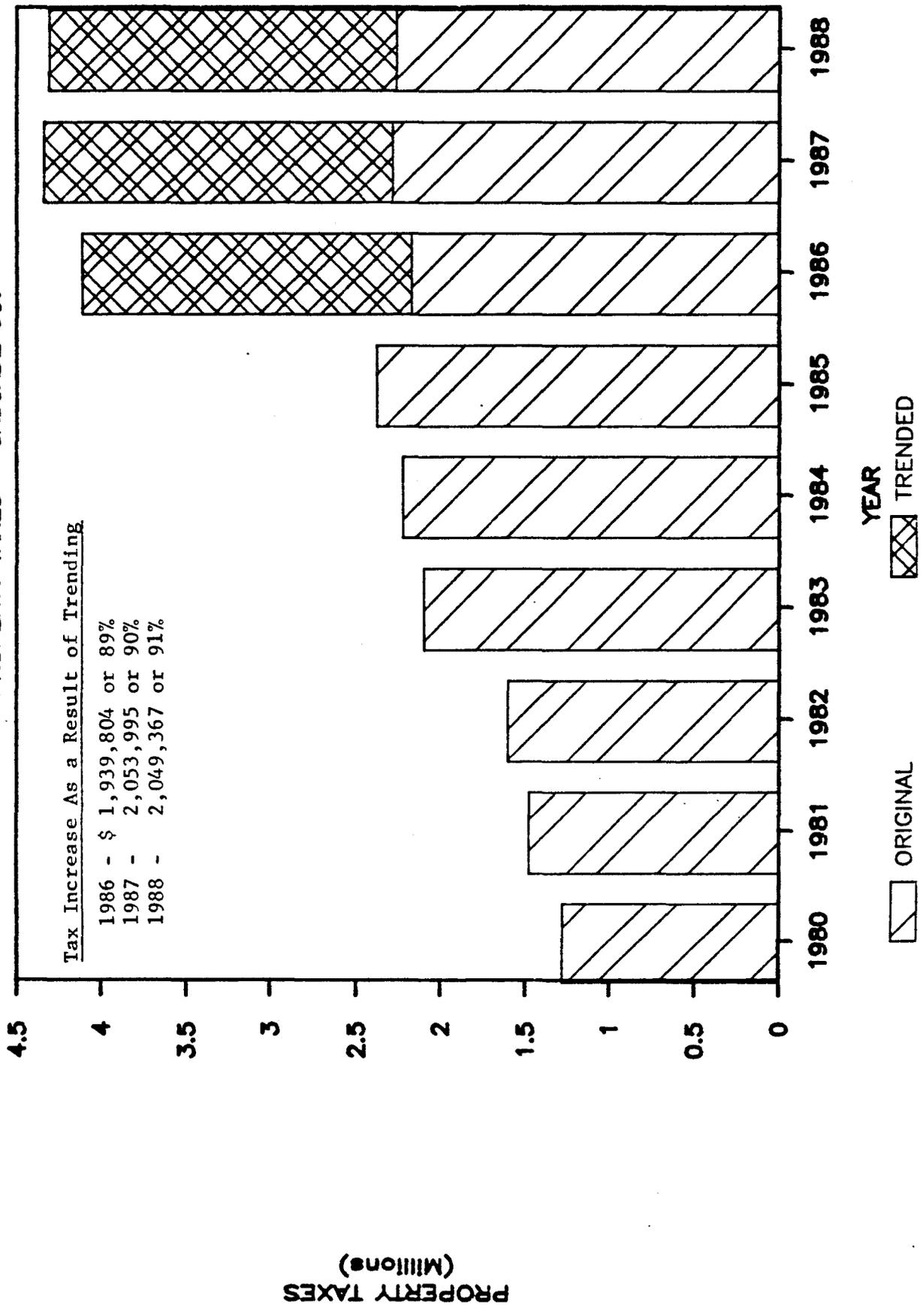
YEAR 1988	COUNTY	ORIGINAL COST MARKET VALUE	TRENDED COST MARKET VALUE	MARKET VALUE INCREASE (DECREASE)	COUNTY	ORIGINAL COST PROPERTY TAX	TRENDED COST PROPERTY TAX	PROPERTY TAX INCREASE (DECREASE)
	CASCADE	52,554,046	102,731,133	50,177,087	CASCADE	2,259,521	4,308,888	2,049,367
	LEWIS AND CLARK	39,400,347	63,126,851	23,726,504	LEWIS AND CLARK	1,618,291	2,418,500	800,209
	LAKE	14,510,584	35,147,160	20,636,576	LAKE	405,442	977,150	571,708
	YELLOWSTONE	88,707,233	102,821,844	14,114,611	YELLOWSTONE	2,933,723	3,402,931	469,208
	SANDERS	8,127,183	17,467,008	9,339,825	SANDERS	239,321	503,471	264,149
	STILLWATER	15,888,072	22,020,264	6,132,192	STILLWATER	424,506	564,920	140,414
	MADISON	12,873,136	15,778,054	2,904,918	MADISON	369,106	443,179	74,073
	DEER LODGE	8,362,809	10,078,358	1,715,549	DEER LODGE	427,228	503,787	76,558
	GRANITE	3,601,275	3,910,019	108,744	GRANITE	144,291	145,586	1,295
	TREASURE	3,079,195	3,079,332	137	TREASURE	89,649	89,649	0
	PETROLEUM	0	0	0	PETROLEUM	0	0	4,446,981
	BEAVERHEAD	5,530,442	5,472,985	(57,457)	BEAVERHEAD	192,872	188,556	(4,315)
	JUDITH BASIN	4,224,042	3,868,798	(355,244)	JUDITH BASIN	133,705	122,392	(11,313)
	GOLDEN VALLEY	5,699,281	5,291,521	(407,760)	GOLDEN VALLEY	149,211	136,417	(12,794)
	BROADWATER	7,276,720	6,787,374	(489,346)	BROADWATER	198,651	184,931	(13,721)
	MEAGHER	7,966,245	7,474,013	(492,232)	MEAGHER	175,916	163,291	(12,625)
	MINERAL	2,404,597	1,874,369	(530,228)	MINERAL	95,619	74,582	(21,037)
	SWEET GRASS	5,158,936	4,545,702	(613,234)	SWEET GRASS	178,258	156,408	(21,850)
	MUSSELLSHELL	2,985,287	2,360,594	(624,693)	MUSSELLSHELL	61,832	48,519	(13,314)
	WHEATLAND	9,425,431	8,753,584	(671,847)	WHEATLAND	262,840	241,399	(21,442)
	TETON	5,705,119	5,024,853	(680,266)	TETON	176,075	154,043	(22,032)
	PHILLIPS	2,835,025	2,116,357	(718,668)	PHILLIPS	78,315	58,032	(20,284)
	PONDERA	5,699,004	4,936,545	(762,459)	PONDERA	172,886	147,444	(25,441)
	BIG HORN	7,909,518	7,141,593	(767,925)	BIG HORN	171,588	153,572	(18,016)
	VALLEY	3,274,657	2,458,600	(816,057)	VALLEY	133,265	99,186	(34,079)
	JEFFERSON	12,994,841	12,032,104	(962,737)	JEFFERSON	413,078	380,315	(32,763)
	PARK	15,214,772	14,221,380	(993,392)	PARK	481,411	435,575	(45,835)
	POWELL	13,040,954	11,812,025	(1,228,929)	POWELL	494,328	444,842	(49,486)
	FERGUS	5,560,854	4,265,465	(1,295,389)	FERGUS	262,655	198,289	(64,366)
	TOOLE	18,285,822	16,824,055	(1,461,767)	TOOLE	357,819	325,972	(31,847)
	FLATHEAD	7,699,741	6,182,302	(1,517,439)	FLATHEAD	313,597	246,748	(66,849)
	LIBERTY	9,299,479	7,621,696	(1,677,783)	LIBERTY	215,100	175,782	(39,319)
	CHOTEAU	12,260,180	10,366,858	(1,893,322)	CHOTEAU	365,697	308,183	(57,513)
	RAVALLI	11,707,946	9,727,186	(1,980,760)	RAVALLI	348,324	290,195	(58,129)
	BLAINE	11,174,659	8,907,765	(2,266,894)	BLAINE	252,466	199,726	(52,740)
	GALLATIN	32,487,843	30,196,719	(2,291,124)	GALLATIN	1,195,846	1,096,393	(99,452)
	CARBON	13,156,722	10,582,607	(2,574,115)	CARBON	381,897	304,093	(77,804)
	SILVER BOW	46,558,981	43,905,559	(2,653,422)	SILVER BOW	2,553,060	2,407,968	(145,092)
	HILL	12,433,847	9,675,800	(2,758,047)	HILL	417,970	347,149	(70,821)
	MISSOULA	38,005,557	33,634,949	(4,370,608)	MISSOULA	1,708,431	1,485,433	(222,999)
	GLACIER	26,186,751	21,032,094	(5,154,657)	GLACIER	698,767	562,533	(136,233)
	ROSEBUD	517,952,721	432,156,275	(85,796,446)	ROSEBUD	4,828,454	3,890,585	(937,869)
	TOTALS	1,127,419,854	1,127,411,750	(8,104)	TOTALS	26,381,012	28,388,611	2,007,599

(128,864,248)

NET PROPERTY TAX INCREASE 2,007,599 *****

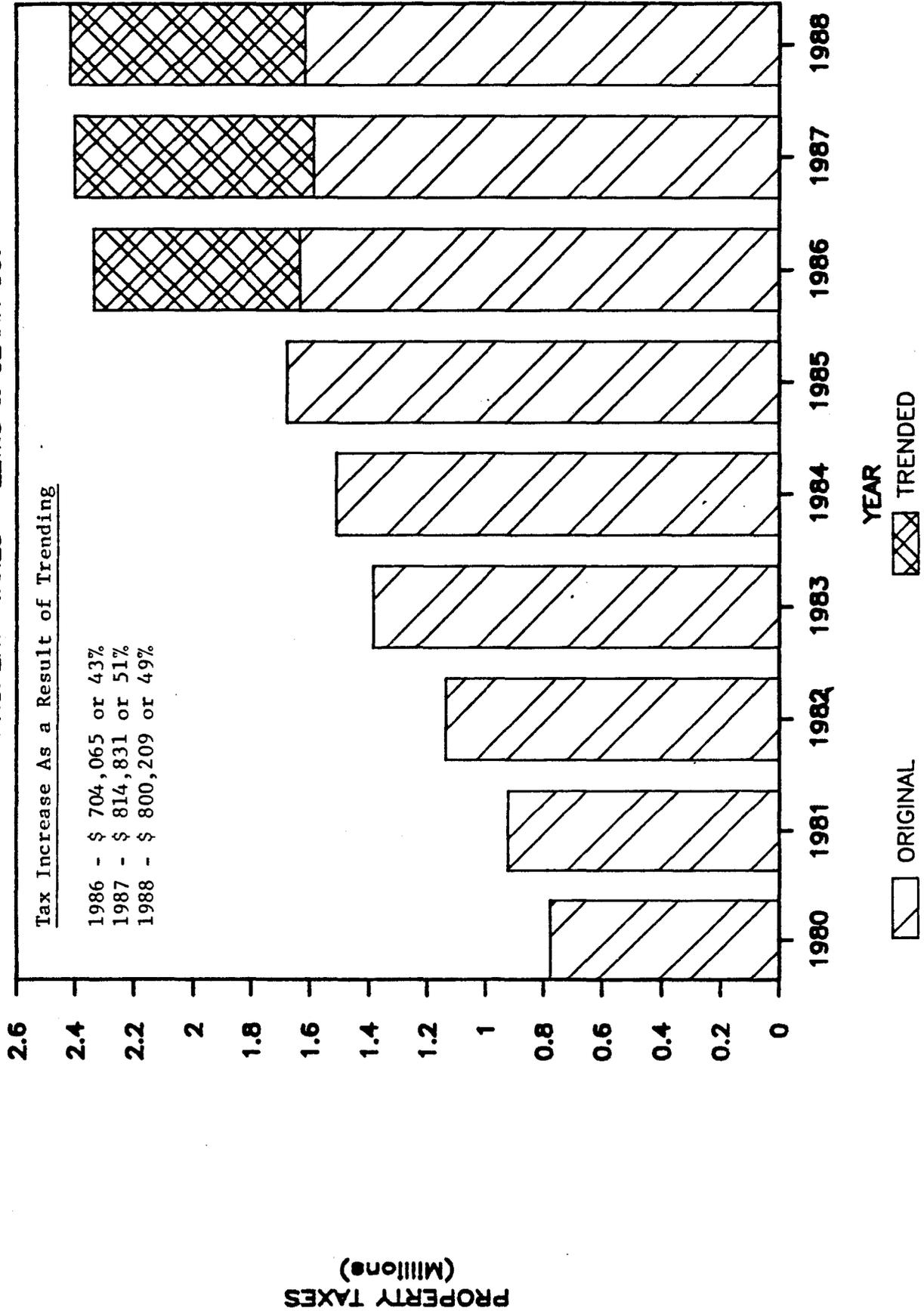
THE MONTANA POWER COMPANY
EXAMPLES OF IMPACT
ON COUNTIES CAUSED BY
TRENDING APPORTIONMENT METHOD

THE MONTANA POWER COMPANY PROPERTY TAXES - CASCADE CO.



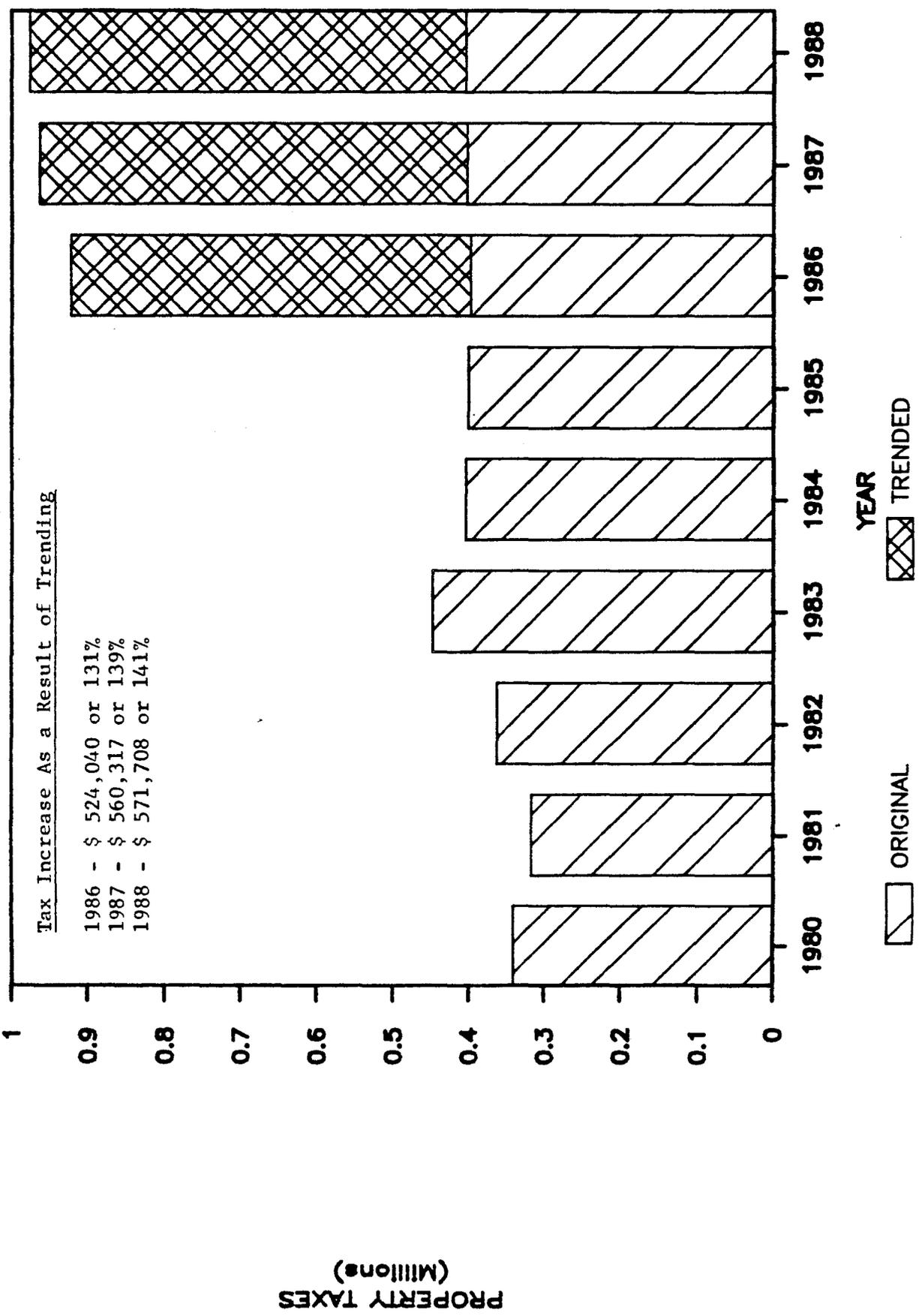
THE MONTANA POWER COMPANY

PROPERTY TAXES - LEWIS & CLARK CO.

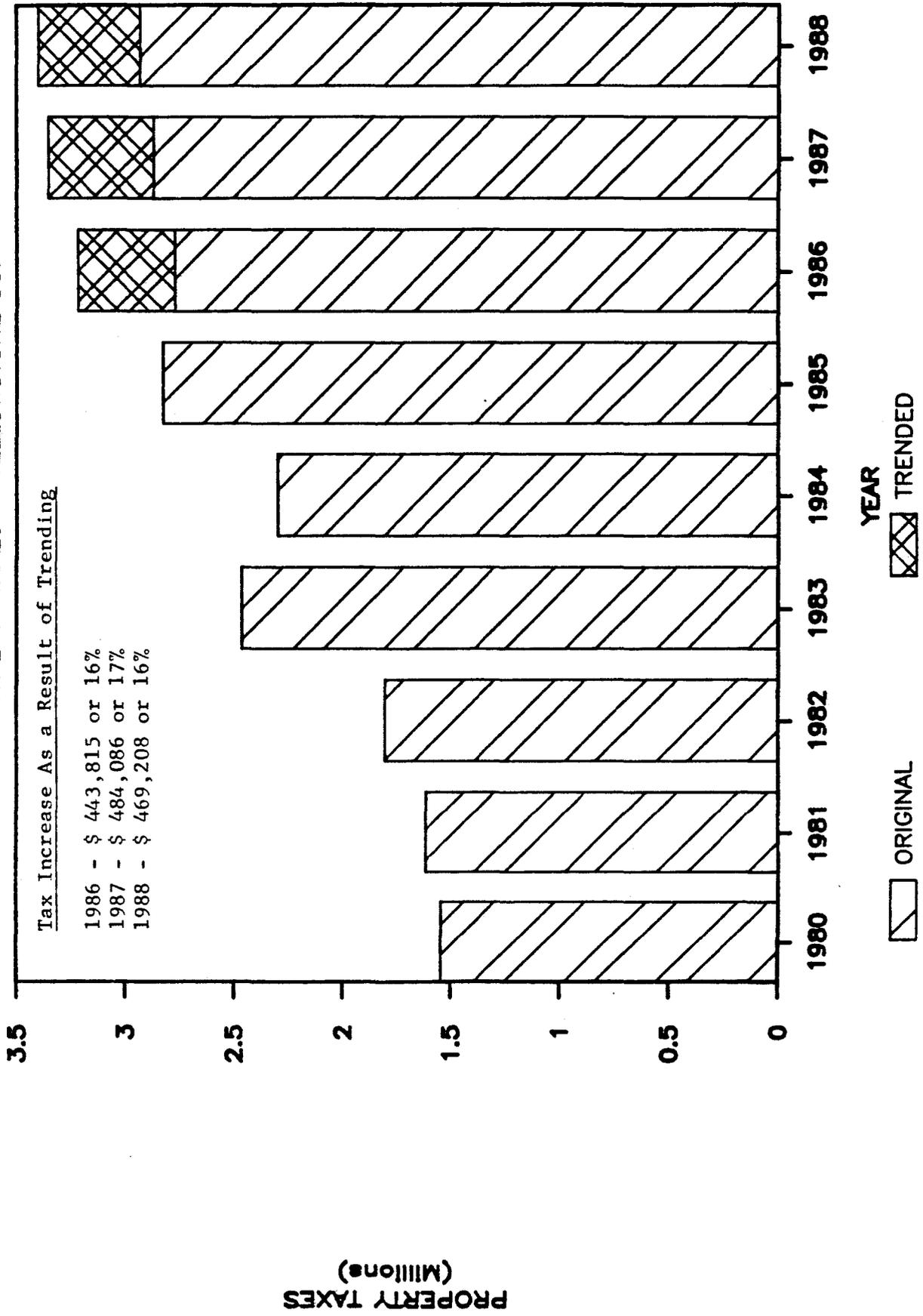


THE MONTANA POWER COMPANY

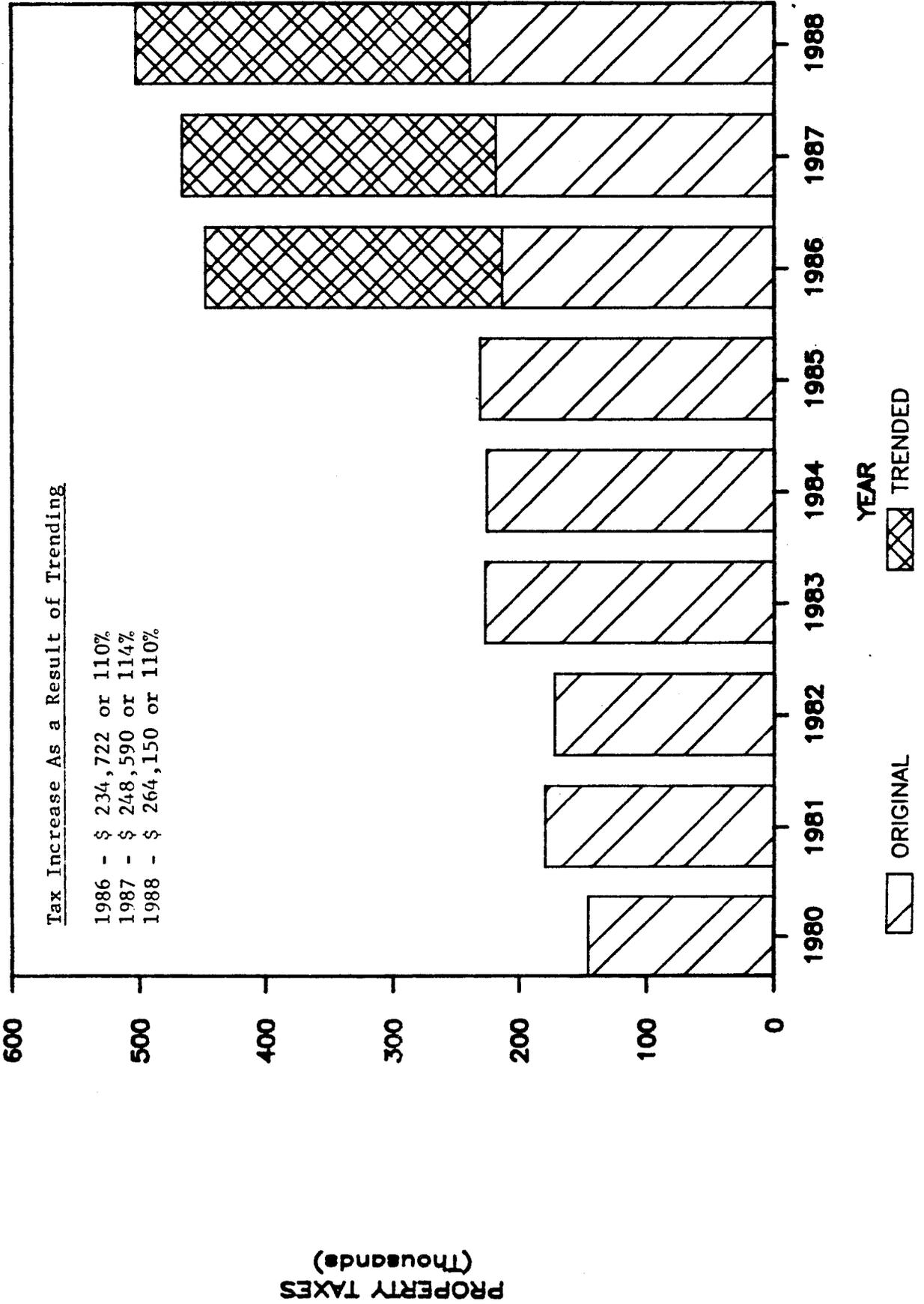
PROPERTY TAXES - LAKE CO.



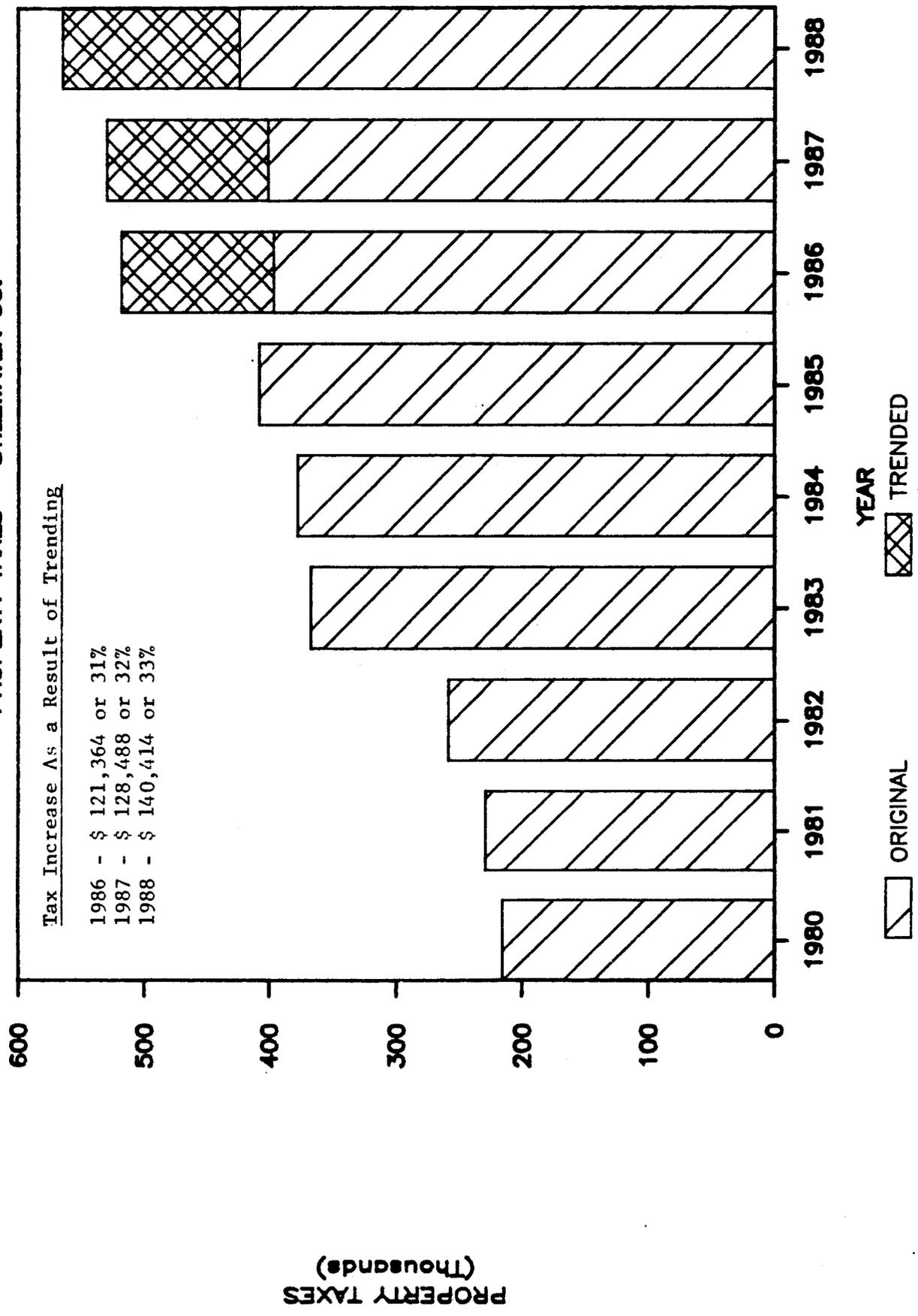
THE MONTANA POWER COMPANY
PROPERTY TAXES -- YELLOWSTONE CO.



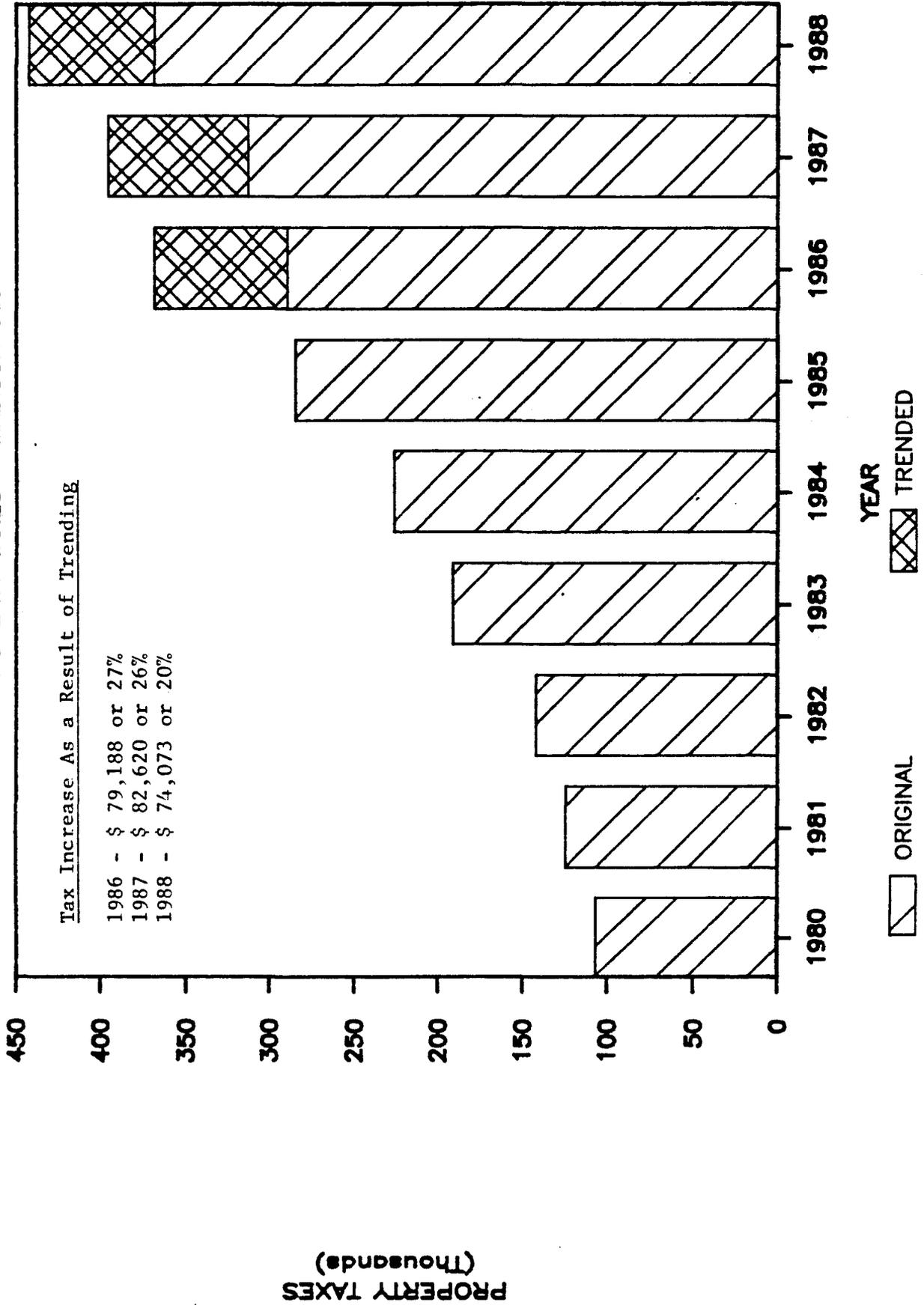
THE MONTANA POWER COMPANY PROPERTY TAXES - SANDERS CO.



THE MONTANA POWER COMPANY
PROPERTY TAXES - STILLWATER CO.

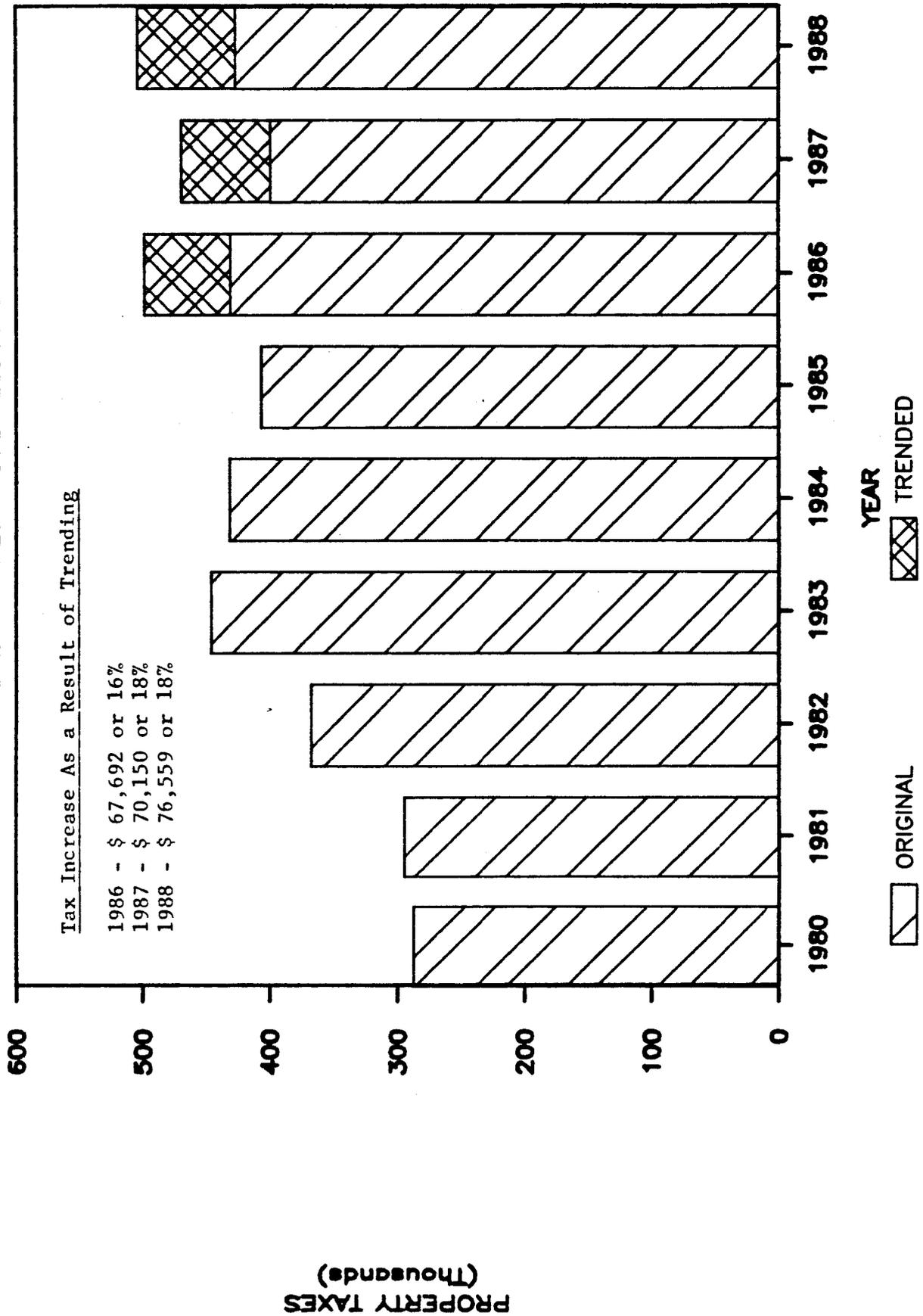


THE MONTANA POWER COMPANY PROPERTY TAXES - MADISON CO.



THE MONTANA POWER COMPANY

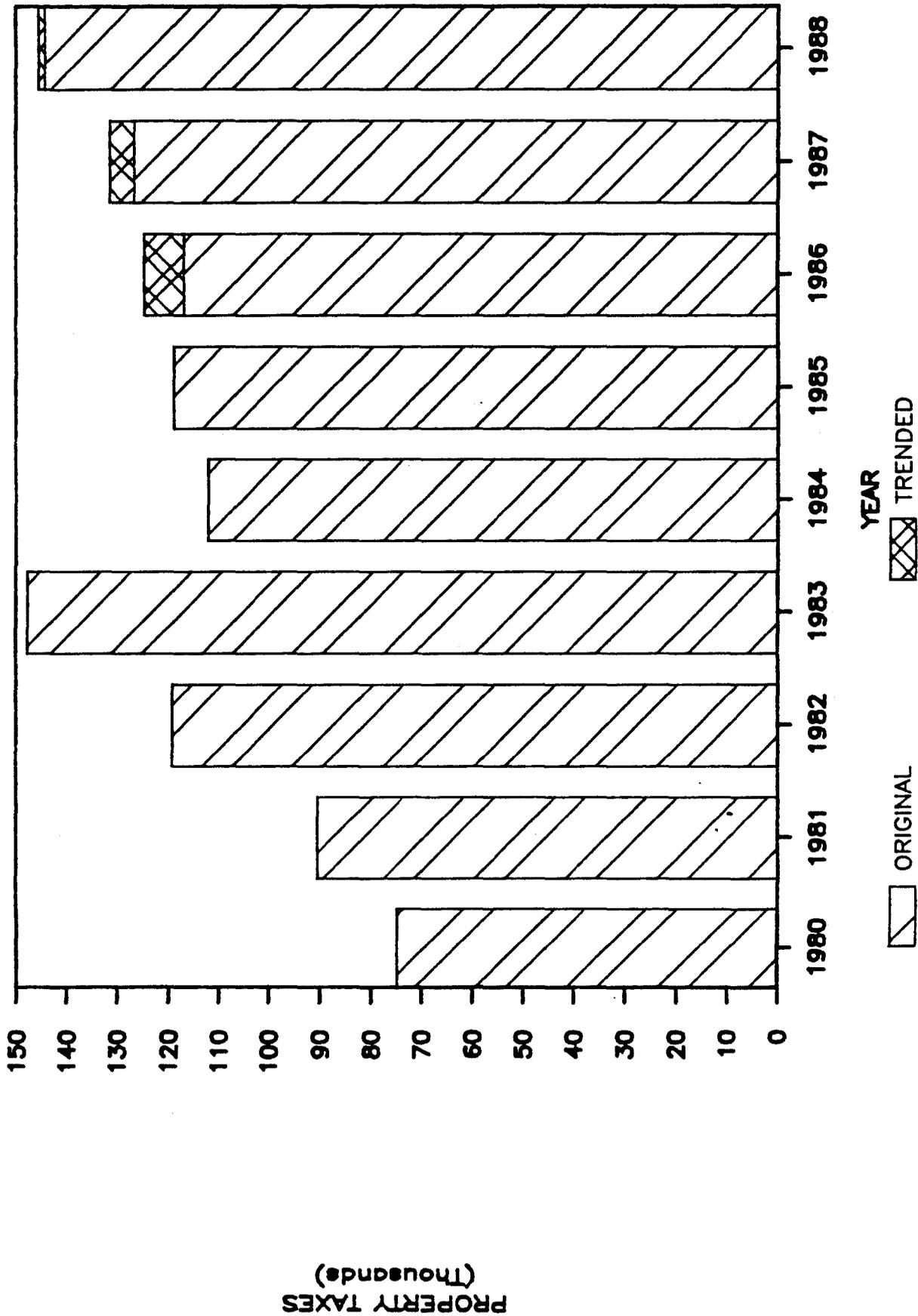
PROPERTY TAXES - DEER LODGE CO.



1986 - \$ 1,714 or 7%
 1987 - \$ 4,723 or 4%
 1988 - \$ 1,295 or 1%

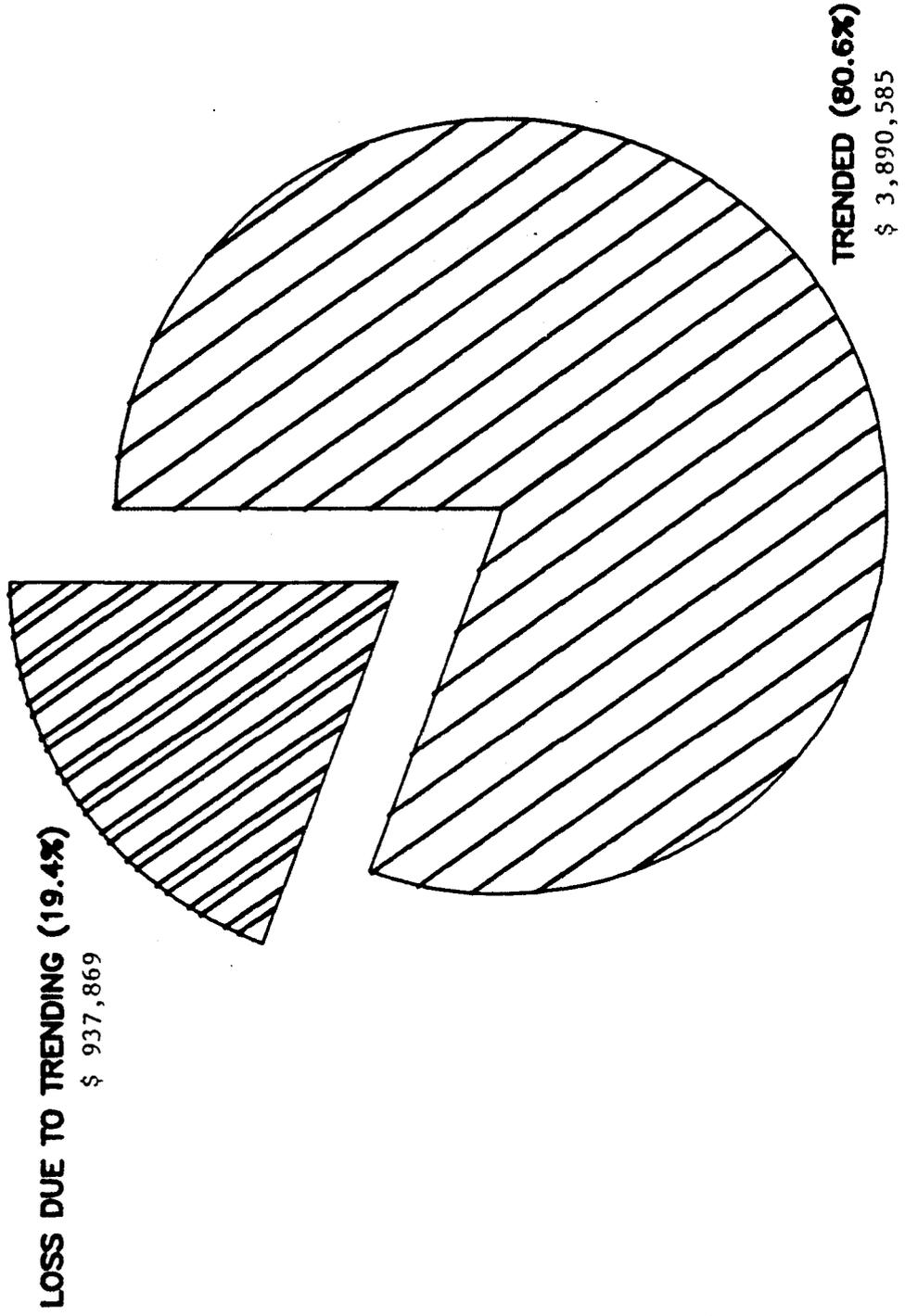
THE MONTANA POWER COMPANY

PROPERTY TAXES - GRANITE CO.



THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAXES - ROSEBUD

1988

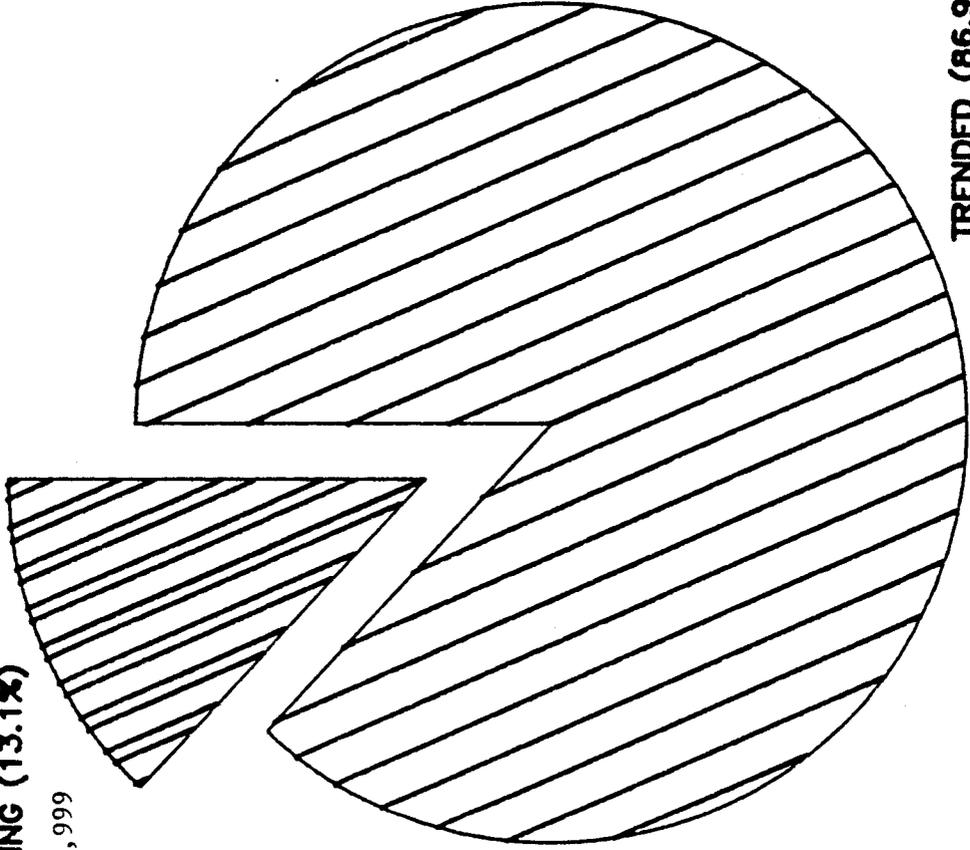


**THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAXES - MISSOULA**

1988

LOSS DUE TO TRENDING (13.1%)

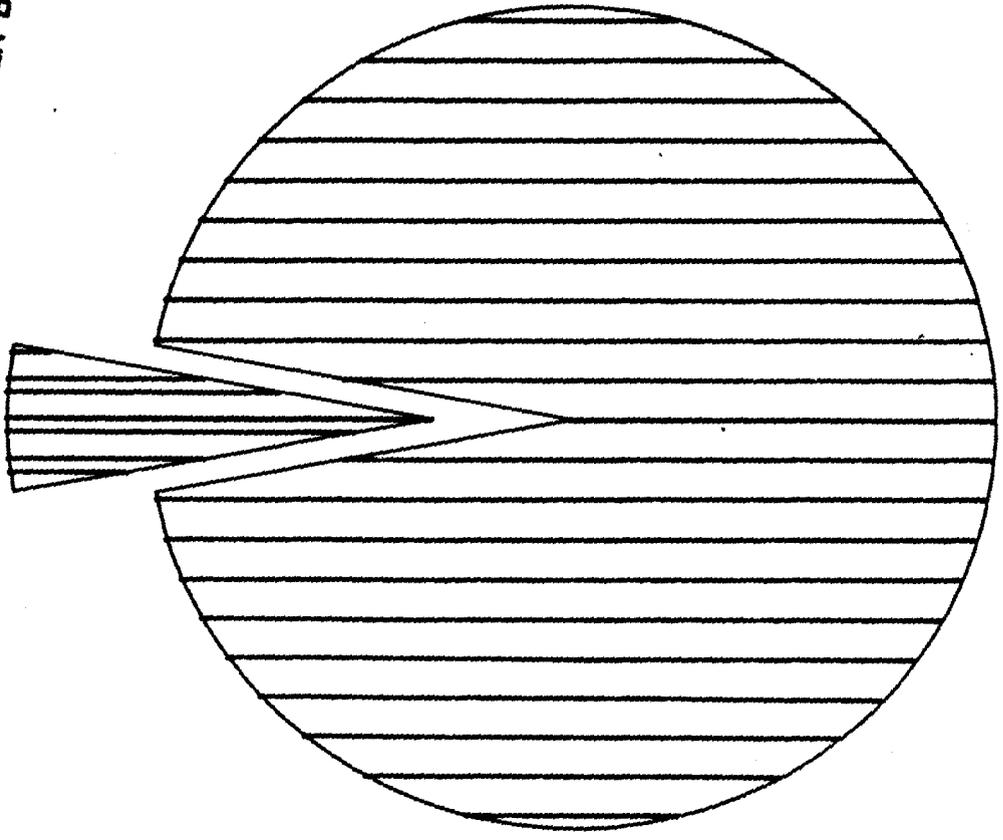
\$222,999



TRENDED (86.9%)

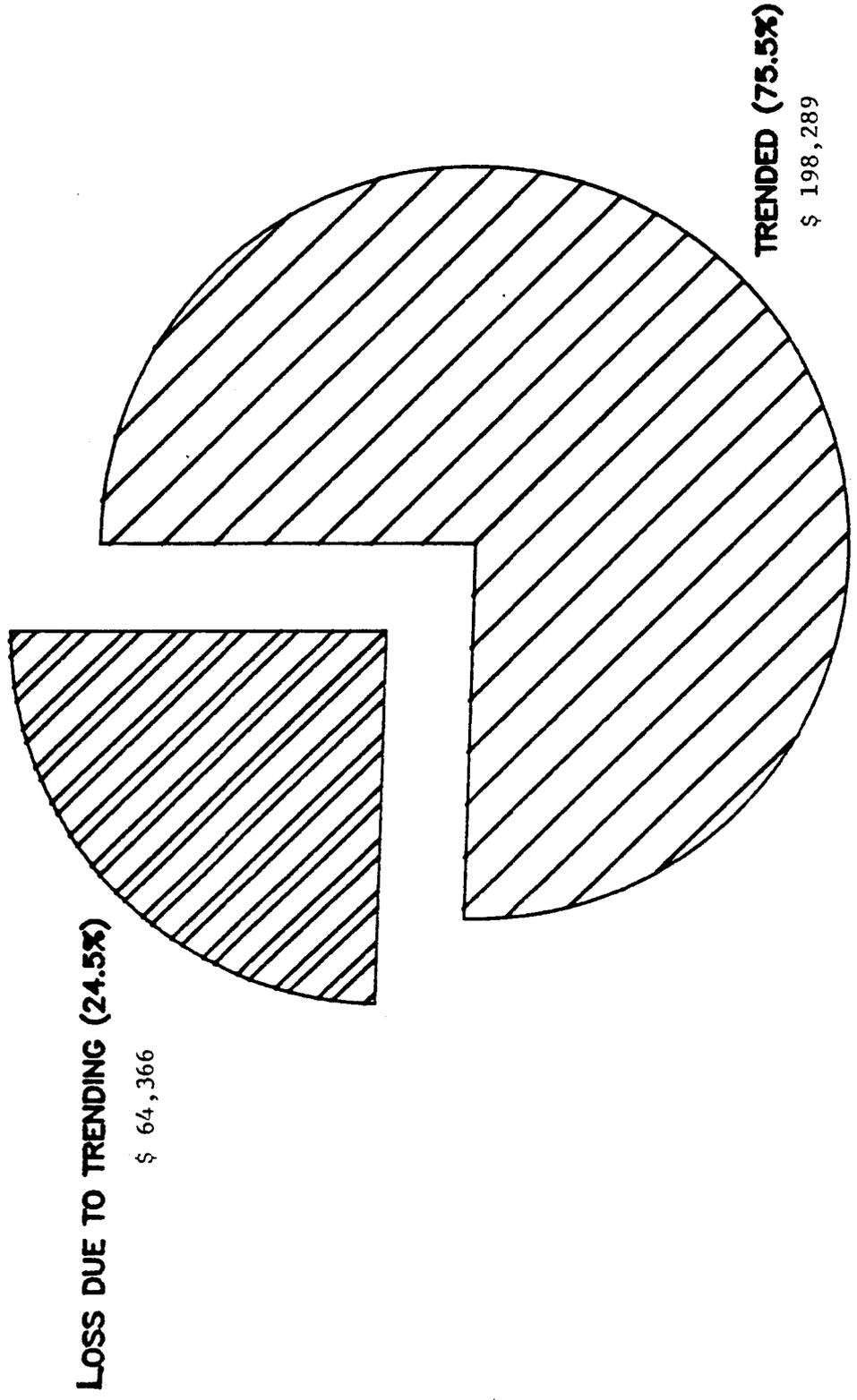
\$ 1,485,433

THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAXES—SILVER BOW
1988
LOSS DUE TO TRENDING (5.7%)
\$145,092



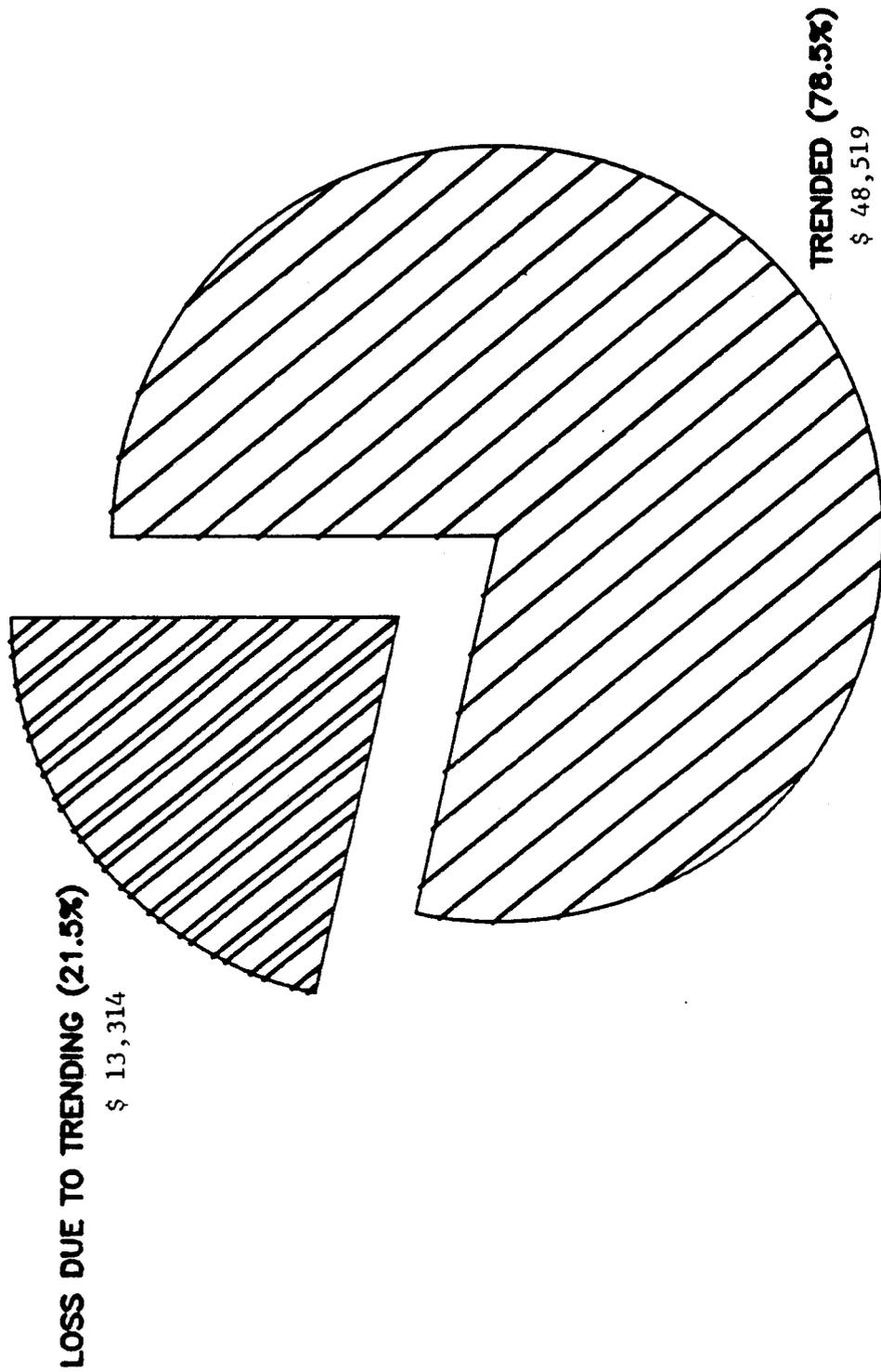
TRENDED (94.3%)
\$ 2,407,968

THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAXES - FERGUS
1988



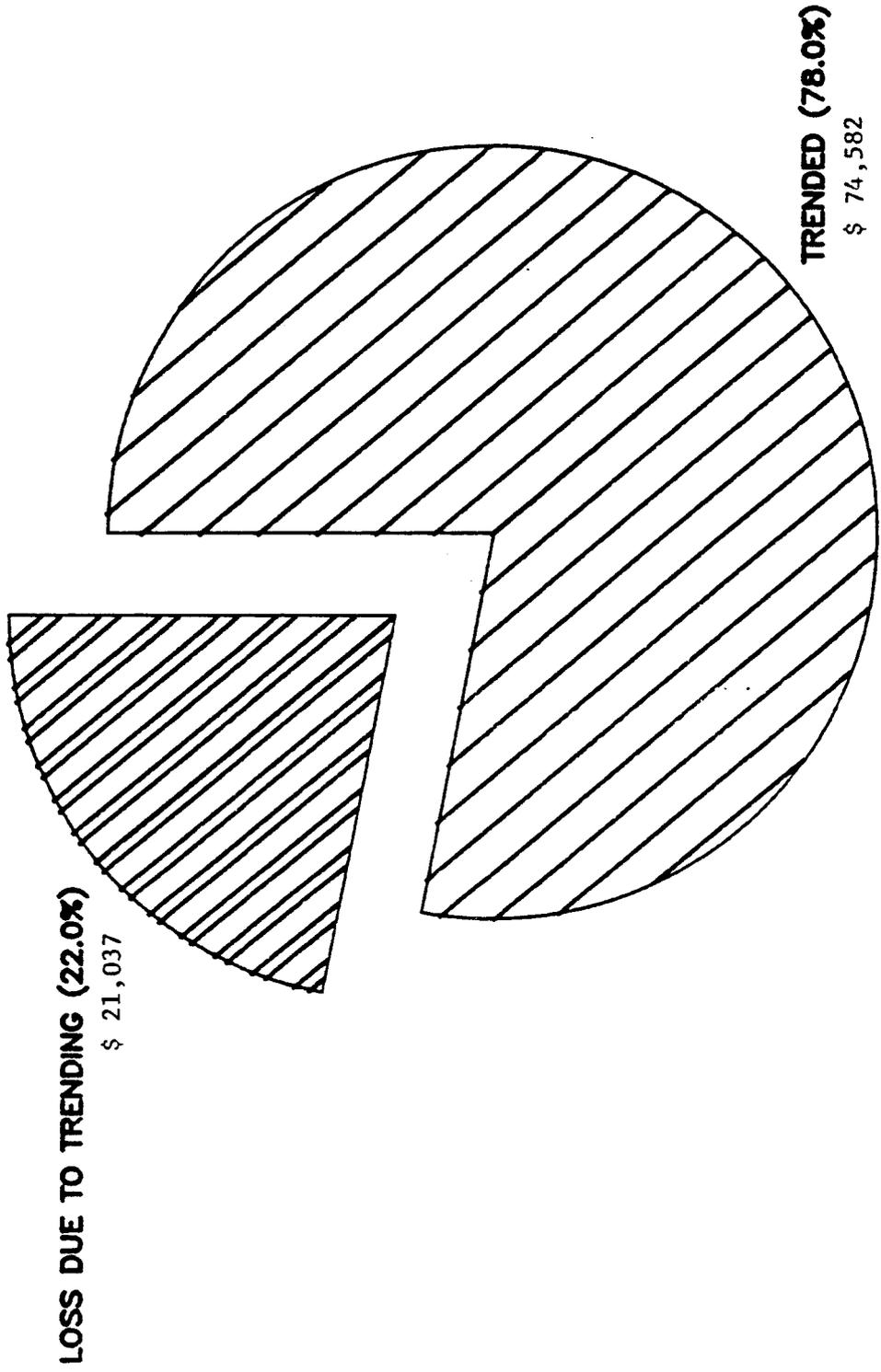
THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAX—MUSSELLSHELL

1988



**THE MONTANA POWER COMPANY
ORIGINAL COST PROPERTY TAXES - MINERAL**

1988



M

EXHIBIT 3
 DATE 6-23-89
 HB 27

COUNTY	County Mills	Schools Mills	Total Change in TV	Impact to Counties	Impact to Schools	Total Impact
18 Beaverhead	79.45	182.54	15,951	1,267	2,912	4,179
22 Big Horn	40.21	75.36	(6,355)	(256)	(479)	(734)
24 Blaine	55.40	120.82	(282,982)	(15,676)	(34,189)	(49,865)
43 Broadwater	60.49	130.62	(57,519)	(3,479)	(7,513)	(10,993)
10 Carbon	57.35	140.67	(350,622)	(20,108)	(49,323)	(69,431)
42 Carter	86.00	119.77	(306)	(26)	(37)	(63)
2 Cascade	88.32	234.84	6,162,540	544,276	1,447,186	1,991,461
19 Chouteau	81.54	160.85	(240,365)	(19,599)	(38,663)	(58,263)
14 Custer	93.98	300.74	(131,874)	(12,393)	(39,660)	(52,054)
37 Daniels	105.91	230.84	(35,405)	(3,750)	(8,173)	(11,922)
16 Dawson	76.73	210.37	(202,966)	(15,574)	(42,698)	(58,272)
30 Deer Lodge	165.38	229.15	213,997	35,391	49,037	84,428
39 Fallon	17.39	81.44	3,952	69	322	391
8 Fergus	74.45	222.57	(139,295)	(10,370)	(31,002)	(41,373)
7 Flathead	100.65	208.15	(196,317)	(19,758)	(40,863)	(60,621)
6 Gallatin	68.41	199.28	(303,008)	(20,729)	(60,385)	(81,114)
50 Garfield	74.30	97.46	0	0	0	0
53 Golden Valle	63.64	155.04	(618,417)	(39,356)	(95,878)	(135,234)
46 Glacier	55.22	148.77	(55,084)	(3,042)	(8,195)	(11,236)
12 Hill	92.46	190.63	12,802	1,184	2,441	3,624
51 Jefferson	71.08	188.82	(308,927)	(21,959)	(58,331)	(80,290)
36 Judith Basin	56.48	184.81	(63,706)	(3,598)	(11,773)	(15,371)
15 Lake	89.30	154.34	(54,972)	(4,909)	(8,484)	(13,393)
5 Lewis & Clar	79.25	148.22	2,467,979	195,587	365,803	561,391
48 Liberty	84.47	245.50	2,817,784	238,018	691,753	929,771
56 Lincoln	55.33	123.71	(201,334)	(11,140)	(24,906)	(36,046)
25 Madison	42.03	204.67	0	0	0	0
26 Madison	65.72	152.59	345,988	22,738	52,795	75,534
41 McCone	102.62	148.02	10,929	1,121	1,618	2,739
47 Meagher	71.09	107.10	(74,079)	(5,266)	(7,934)	(13,200)
54 Mineral	86.88	225.05	(69,054)	(5,999)	(15,541)	(21,540)
4 Missoula	98.61	216.88	(455,525)	(44,919)	(98,795)	(143,714)
23 Musselshell	54.52	88.92	(85,128)	(4,641)	(7,570)	(12,211)
49 Park	66.34	166.31	(114,516)	(7,597)	(19,045)	(26,643)
55 Petroleum	21.75	156.10	0	0	0	0
11 Phillips	42.35	110.46	(115,703)	(4,900)	(12,780)	(17,680)
26 Pondera	88.68	153.41	(84,566)	(7,499)	(12,973)	(20,473)
9 Powder River	34.47	98.24	(8,533)	(294)	(838)	(1,132)
28 Powell	81.05	216.65	(138,098)	(11,193)	(29,918)	(41,111)
45 Prairie	106.39	123.72	(24,255)	(2,580)	(3,001)	(5,581)
13 Ravalli	75.69	148.29	(265,617)	(20,105)	(39,388)	(59,493)
27 Richland	36.59	99.59	1,192,473	43,633	118,753	162,385
17 Roosevelt	44.18	126.41	(149,249)	(6,594)	(18,866)	(25,460)
29 Rosebud	7.91	76.13	(16,968,616)	(134,205)	(1,291,808)	(1,426,013)
35 Sanders	61.10	139.13	7,896,343	482,467	1,098,626	1,581,092
34 Sheridan	28.84	112.81	(76,128)	(2,196)	(8,588)	(10,784)
1 Silver Bow	121.10	289.12	(218,737)	(26,489)	(63,241)	(89,730)
32 Stillwater	74.32	155.96	766,892	56,995	119,602	176,597
40 Sweet Grass	88.29	177.86	(67,042)	(5,919)	(11,924)	(17,843)
31 Teton	89.21	159.40	(87,648)	(7,819)	(13,971)	(21,790)
21 Toole	44.64	109.27	(113,577)	(5,070)	(12,411)	(17,481)
33 Treasure	79.50	152.55	7,701	612	1,175	1,787
20 Valley	59.30	177.61	(199,707)	(11,843)	(35,469)	(47,312)
44 Wheatland	83.88	143.31	(81,465)	(6,833)	(11,675)	(18,508)
52 Wibaux	44.26	74.01	(23,697)	(1,049)	(1,754)	(2,803)
3 Yellowstone	78.18	181.52	754,479	58,985	136,956	195,942
			=====	=====	=====	=====
			(582)	1,133,610	1,810,933	2,944,543

Note:

* Does not include
 Trending of all
 Properties for
 all Companies.

* Does not reflect
 School tax
 equalization.

June 23, 1989

EXHIBIT 4
DATE 6-23-89
HB 27

TO: House Taxation Committee Members
FROM: Dan Walker, Government Relations Director
U S WEST Communications
RE: HB 27 (Trending)

At today's hearing on this bill, Dennis Lopach referred to examples in our Company's operations of illogical valuations as a result of the trending process. What follows is an example that was brought to the attention of the arbitrator in March of this year.

A prime example of what happens is our building at 226 W. Broadway in Butte. The original cost of this building, plus all improvements, is \$1,014,034. We have a depreciation reserve of approximately \$770,000 and therefore our Net Book for this building is \$245,000. We have recently agreed to sell this building to Butte-Silver Bow for \$285,000. The market value of this building under the trending method for tax purposes, as calculated by the Department of Revenue, is \$2,012,275. This is over eight times the Net Book of the building and over seven times the Market Value as established by our sale to Butte-Silver Bow. Under the original cost method utilized by the Department of Revenue, the Market Value of this building for tax purposes would be \$635,790.

Like other comparisons to market value that you have heard, the Butte building illustrates the distortions produced by trending. This example is unique, however, in that it is continued beyond valuation and appraisal to a sale between a willing buyer and a willing seller.

We ask that you carefully consider the impact of trending when this bill is acted upon.

BUTTE-SILVER BOW

COURTHOUSE
BUTTE, MONTANA 59701

EXHIBIT 5
DATE 6-23-89
HB 27

OFFICE OF
CHIEF EXECUTIVE

AREA CODE 406
PHONE 723-8262

TESTIMONY OF BUTTE SILVER BOW CHIEF EXECUTIVE DONALD PEOPLES Against HB 27 before (H) Taxation 6/23/89

My testimony presented to this body is as an opponent of House Bill 27. As Chief Executive for Butte-Silver Bow, I am always concerned when my county loses taxable value because loss of taxable value obviously means a commensurate decrease in dollars to provide necessary services expected by my constituents. The trending experiment itself has already cost Silver Bow County valuable tax dollars which can never be recouped. House Bill 27, if enacted as law, will cost Silver Bow County substantial tax dollars in the future. I believe I could swallow the loss of tax dollars if someone could give me a legitimate reason for the loss. Unfortunately, I cannot perceive and no one has been able to articulate any legitimate need for Montana to adopt a trending methodology.

In my opinion, trending is not necessary, fair or well conceived. All trending does is shift tax value and tax dollars away from some counties and places the taxable value and resulting tax dollars in other counties. In my estimation, trending is a vehicle which raids taxable value from my county and deposits it in other counties. Trending should not be embraced by this committee because:

- (1) All it is is an arbitrary way of allocating centrally assessed tax value to the counties;
- (2) The DOR admits candidly that trending is not the best methodology for apportionment;
- (3) The DOR admits candidly that trending is merely an experiment they conceived in 1984;
- (4) The DOR admits that trending is not used by any other taxing jurisdiction;
- (5) The DOR admits that it can and has apportioned property value based on the original installed cost basis;
- (6) The DOR admits, as it must, that trending bears no relationship to FMV or to replacement cost.

Ex #5
6-23-89
HB 27

Conversely, the old method of apportionment, which the DOR would continue to use if this bill is rejected, has much to commend it:

- (1) First, it has been used effectively by the DOR and has stood the test of time;
- (2) The current method is not artificially driven - - the figures used come directly from the Company's books; and
- (3) The arbitrator found that the results achieved by the current method of apportionment are reasonable.

In summary, the old way of apportionment worked - - why must we tinker with something that works. And when we have something that works, why would we replace it with something that has the effect of creating 31 loser counties and 9 winner counties. That simply doesn't make sense to me.

In closing, I would also like to point out one thing which I think is very germane to these proceedings. When I was first contacted about the settlement agreement between DOR, MPC and the counties and of the planned arbitration process, I was told that MPC, DOR and the counties would all be bound by the results of the arbitration. That is, Silver Bow County, if the DOR won, would be bound to the decision and we would be forced to live with trending and the loss of tax dollars. On the other side of the coin, if trending were rejected by the arbitrator, I was led to believe that that the other signatory counties would be equally bound. But that isn't what has taken place. The ink is hardly dry on the arbitrator's decision and I am being forced to testify against attempt to nullify the arbitrator's well reasoned opinion. I don't think that is fair and I don't think trending is fair. I would hope that Legislature and this Committee recognize that inherent unfairness of the situation and the unfairness of this bill. Please kill this bill in committee.

Thank you for your time and attention.

VISITORS' REGISTER

Taxation

COMMITTEE

BILL NO. HF 27

DATE 6-23-89

SPONSOR Elliot

NAME (please print)	REPRESENTING:	SUPPORT	OPPOSE
Wan Bailey	Rosebud County		X
John Lahr	Montana Power		X
Jerry Pederson	Montana Power		X
Dennis Lofsch	US West Communications		X
Kevin Buys	Yellowstone City	X	
DICK BASVODA	CASCADE CITY	X	
Dick Muckelwitz	Cascade County	X	
Harry Mitchell	✓ ↓	X	
Jim Campbell	Lewis & Clark County	X	
JAMES NYBO	"		
Rep Larry Grundge	House Dist. 30		X
J Lahr	MPC		X
John Alke	MOU		
GENE PHILLIPS	P P & L		X
CHRIS GALLUS	BATTLE SILVER BOW		X
Willie Duffield			X
Milton Markuson	Carter County		X
Gordon Morris	MALB		
Paul T. Fleming	MPC		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.