

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By DAN HARRINGTON, CHAIR, on April 3, 1991, at  
9:00 a.m.

**ROLL CALL**

**Members Present:**

Dan Harrington, Chairman (D)  
Bob Ream, Vice-Chairman (D)  
Ben Cohen, Vice-Chair (D)  
Ed Dolezal (D)  
Jim Elliott (D)  
Orval Ellison (R)  
Russell Fagg (R)  
Mike Foster (R)  
Bob Gilbert (R)  
Marian Hanson (R)  
David Hoffman (R)  
Jim Madison (D)  
Ed McCaffree (D)  
Bea McCarthy (D)  
Tom Nelson (R)  
Mark O'Keefe (D)  
Bob Raney (D)  
Ted Schye (D)  
Barry "Spook" Stang (D)  
Fred Thomas (R)  
Dave Wanzenried (D)

**Staff Present:** Lee Heiman, Legislative Council  
Lois O'Connor, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**HEARING ON SB 384**

**Presentation and Opening Statement by Sponsor:**

**SEN. LYNCH, Senate District 34, Butte,** said those on the committee who were here last session have seen this bill before. SB 384 requires a 2 mill statewide levy for vocational and technical schools in the state and provides funding for the vocational programs that are vocational-technical programs.

In 1987, the Legislature decided to take the vocational-technical schools from local school districts and give them to the Board of

Regents. There is strong support for vo-tech education in the state. There goals are far different than the university system. The vo-techs put people to work and those people are not affluent. SB 384 is proposed to make sure that the vo-techs have a steady, permanent funding source. The 2 mill levy will raise approximately \$6 million in the biennium for that purpose.

Last session, this bill passed both Houses and was vetoed by Governor Stephens. He can not pledge that it will not be vetoed again. The Governor has not informed him of his intentions one way or the other. The Legislature should do more than provide lip service in support of vocational education.

#### Proponents' Testimony:

Robert Fannon, Citizen, stated he has visited the vo-tech center in Helena and has found that they do a good job. They get jobs and he urged the committee's support.

Ed Sheehy, Retired Federal Employee, stood in support of SB 384.

Brady Vardeman, Montana University System, stated that vo-tech education, particularly at the post-secondary level, is crucial to the economic well being of this or any other state. It exists solely to provide students with the competencies necessary to enter and stay in the work force. By their very nature, vo-techs are equipment intensive programs; therefore, it is imperative that their laboratories are equipped with state of the art technology so that students learn. The vo-tech centers provides an educational opportunity for those who want and need this type of enterprise to improve the quality and security of their lives.

#### Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, stated that vo-tech students are a different type than in the university system. They want to get in, get out, and be trained for a job. Montana ranks 1st in the nation in four year degrees that are earned for per 100,000 population of the work force. We are 48th in the nation for two year degrees. This is an indication that we have neglected vo-techs in the state.

The question with SB 384 is the method of funding. The bill proposes a 2 mill property tax levy to support education. If these mills are approved, it will be a general fund assembly and not go to the vo-tech centers. We will be taking another step in funding state obligations with property tax revenue.

#### Questions From Committee Members:

REP. FOSTER said that on Page 11 and 12, he sees that it is being proposed to strike all of Subsection 3; and asked SEN. LYNCH to explain. SEN. LYNCH said this was done at the Council's request because it did not fit in. We are not worried anymore about

being a property taxpayer within the county where the center is located. Now, we are state and don't have to worry about what county we live. These are state institutions rather than local institutions. Denis Adams, DOR, said that this was a locally imposed levy. The purpose was so, if you lived in the county where the levy was imposed, you paid a certain amount of tax. This is a provision essentially for out-of-state students and no longer applies.

Closing by Sponsor:

SEN. LYNCH said that the cities that have the centers in them will still have there 1 1/2 mills on them. It is a credit to those communities, that even though they are now state institutions, that the 1 1/2 mills be removed. We are unique in that. No university town has an extra mill because the university is there. Vo-tech have the 1 1/2 mill which is continuing. These centers have the support of the people, and he urged the committee's support.

HEARING ON HB 1012

Presentation and Opening Statement by Sponsor:

REP. ELLIOTT, House District HB 51, Trout Creek, stated HB 1012 provides for the collection of a cigarette tax on cigarettes sold to non-Indians on the reservations. It also calls for a study of state tribal taxation issues in the next two years.

The reason for the collection of the tax is because for some time, tribal smoke shops have taken an unfair competitive advantage over the retailers both on and off the reservations. There is also a serious problem in the purchaser of cigarettes avoiding the state tax. These are not Indians who are subject to the state tax, but are not paying it because they go under the tribal smoke shops law. In 1979, this was not much of an issue when 4% of the state cigarette sales were made on the reservations. In 1990, 29% were made; and the DOR estimates that in 1992, it will be a loss of \$1.157 million and in 1993 \$1.389 million.

Federal law precludes the levying of state taxes on members of a tribe, but state law requires the collection of taxes on non-Indians whether they live on or off the reservations. For many years the legal ambiguity has existed, and has stymied previous efforts by the state to collect the tax. A recent Supreme Court decision declares that states may collect taxes on cigarettes sold to non-Indians and Indian smoke shops on reservations. It seems that the time is right to implement a solution to this problem.

The second issue is the study of the state tribal taxation issues. The time is also correct to address the larger question of state and tribal cooperation on taxation in the area of

cigarettes, gasoline, and alcohol. We need to move forward so that we can get some basic understandings.

The bill provides an immediate affective and applicability date of June 30, 1991. If the bill passes, DOR will have time to go on the reservations and negotiate with the tribes on how they want to administer this act. It provides for a penalty on the possession of untaxed cigarettes in the state, and inter-negotiations on the issues of taxation between the DOR and tribes. It also provides for an interim study involving the House Committee on Indian Affairs and the Montana Tribal Chairman. The bill provides for a sunset in two years in anticipation of negotiated agreements.

**Proponents' Testimony:**

Jeff Miller, DOR, provided the committee with amendments requested by DOR and graphs to illustrate the problems. EXHIBIT 1,2,3

He stated that DOR sees HB 1012 as essential legislation to allow them to address what has become a problem of serious magnitude. The problem being cigarette tax evasion. Montana's cigarette tax is currently 18 cents per pack. It is a tax on the consumer and is precollected with the help of the 23 licensed wholesalers in the state. The tax applies to all cigarettes possessed in the state by anyone other than an exempted resident. Native Americans and military people on reservations are the only people who are exempt from the tax.

Cigarette tax collections in 1990 amounted to \$12.2 million. HB 1012 addresses "casual smuggling or leakage" of the sales, consumption, and possession of untaxed cigarettes from people who are not exempt from the tax.

The first exhibit highlights the location of Montana's seven Indian Reservations. The second page illustrates the magnitude of sales on taxed and untaxed reservation sales. Under current law, as the result of the 1979 changes, licensed Montana wholesalers may sell unlimited quantities of untaxed cigarettes to reservations. With this change, we see a steady rise in the quantity of cigarettes sold untaxed on the reservations. This is at a time when national and state per capita consumption is dropping. Of the total 9,634,000 cartons sold in Montana, 2.8 million were sold on the reservation tax free. The third and fourth pages give a visual of the distribution of untaxed cigarettes on the reservations. The fifth page is an attempt to quantify what this means is lost revenues to the state.

Mr. Miller referred to the fiscal note. He stated the tax rate on cigarettes is 18 cents a pack. The reason it is an effective tax rate of \$0.1732 is because we allow the wholesaler a stamping allowance to stamp their cigarettes. The fiscal note indicates that they will collect \$1.1 million in the first year of the

biennium. This is reflecting what we anticipate will be some stockpiling in the anticipation of the change.

Amendments 1,2,3, and 4 amend the title to be consistent with the amendments that follow. Amendment 5 makes clear in the body of the law that all cigarettes sold in the state will be stamped. Amendment 6 makes clear that there will be an exemption to Indians. Amendments 7 and 8 coordinate the inner-workings of the bill and require that wholesalers will follow through with certification. Amendment 9 states that the allocation to the Tribes will be on a monthly quota. DOR will establish the quota and recommended distribution of the quota throughout the reservations. There will also be no transfer of quotas between reservations. Amendment 10 clarifies that we will be working on a monthly quota basis. Amendments 11 and 13 delete the mechanism that he just explained. Amendment 12 requires that DOR and the Tribal Councils will revisit the quota on an annual basis. Amendment 14 ties the certification to the exact same departments that are in current law. Amendment 15 will impose a penalty for the possession of untaxed cigarettes. The penalty being \$250 for the first pack and \$10 per pack there after. It is a serious penalty, but it will give people pause before they choose to consume or buy untaxed cigarettes in the state. Amendment 16 amends the current section of law that is inconsistent with the new requirements and provides for a direct appropriation from future cigarette tax revenues. Amendments 17-20 allows the bill to become affective immediately and still be applicable to all cigarettes sold after June 30, 1991.

Mr. Miller stated that HB 1012 is very timely and is a decent mechanism to address this issue. It is working Washington and its administration will be simple. It also helps insure an even application of the existing Montana tax laws relative to the consumption of cigarettes. He urged the committee's support.

#### Opponents' Testimony:

Eric Kaplan, Attorney, Columbia Falls, provided written testimony. EXHIBIT 4

REP. GERVAIS, Browning, stated the retro-session bill needed to be studied.

Steve Smith, United Truck Lines, stated that every U-haul, Rider truck, or semi-trailer can not be stopped and searched for unstamped cigarettes. The business will still be there for out-of-state wholesalers but not Montana wholesalers. He urged the committee to Do Not Pass HB 1012.

Evelyn Stevenson, Attorney, Flathead Reservation, said that she has been following the Indian cigarette tax issue for 17 years. She relayed the position of the Tribal Council of the Salish-Kootenai Tribe addressing the sale of cigarettes to non-Indians on the reservation. You can not compare that loss of revenue to

other things--they loss of tourism or loss of jobs. The Salish-Kootenai Tribes have not taken action to address the broad spectrum of taxation with the state; but the Tribal Council believes that it is time to sit down and discuss the whole picture. We no longer feel it sufficient to talk about the trade-offs. We have a number of issues that need to be talked about with the state, and will not to go forward in a piecemeal fashion. There are four groups to look in this issue: the consumer, the state, the tribal government, and the business enterprises. We feel that the sunset portion of the bill should be reversed. We should take the next couple of years to sit down and work with the tribes. She suggested to the state that they come up with an arbitration process.

Al Burgess, East-Mont Enterprises, Sidney; Frank Smith, H&S Smoke Shops and Vending; Stan Feist, Sheehan Majestic; Dave Hardin, Missoula; Bob Noble, Missoula; Randy Walton, Ronan; Jay Bennett, Sheehan Majestic; Margaret Hall, Pablo; and Dorothy Clinkenheard, Joe's Smoke Ring; stood in opposition to HB 1012.

Questions From Committee Members:

REP. STANG asked Jeff Miller if the way he explained it, wouldn't it be illegal to have an unstamped pack of cigarettes in the state. Mr. Miller said yes. REP. STANG said that the attorney from the Salish-Kootenai said that they have tried to contact the state for two years to address this problem but have heard no response. He asked Mr. Miller if he knew anything about this. Mr. Miller said that on this particular issue no. There has been a conscious decision on the part of DOR to wait for the Oklahoma Case to wind its way through the Supreme Court process. Now that that is done, and we are trying to do something. REP. STANG said that one of the reasons that the distributors use to oppose a cigarette tax is that if we increase the tax on cigarettes the sales are going to go down and it will result in less money in the long-range building programs. He asked Steve Buckner if this isn't true. Mr. Buckner said yes. REP. STANG asked if it wasn't also true that the more we increase cigarette taxes on the people of the state; the more they drive to the reservations to buy, therefore, that furthers the demise of the long-range building program. Mr. Buckner said that we have used this and we still believe it. This is a problem that needs to be addressed. With the increase in taxes, people will still decide to purchase non-taxed cigarettes, but those cigarettes are going to be coming from out of state and won't affect the state one bit. REP. STANG said he found it amazing that the retailers who reside off the reservation are losing sales, but yet the distributors, don't seem to be worried about the retailer off the reservation as much as you are the ones on the reservation. He feels that if you tax cigarettes on the reservation, you will not lose sales. They will go back to where they were 15 years ago before the big discrepancy happened. The retailers off the reservation who have lost jobs will concurrently hire people back to work that they have laid off in the past few years. Mr. Buckner said that he

does not believe this is so. His company does not deal with reservation cigarettes, and he believes the Indian reservation cigarettes will still flourish if this bill is passed.

Closing by Sponsor:

REP. ELLIOTT said that the 500,000 cigarettes that come into the state that Eric Caplan said would increase. Under HB 1012, those cigarettes would have to have a stamp on them and be taxed. Mr. Caplan stated that the smoke shops wouldn't be able to sell as many cigarettes and base their business on how many cigarettes they can sell. REP. ELLIOTT read the law--16-11-133. The people who are buying these cigarettes and the people who are selling these cigarettes are guilty of a misdemeanor under the code. This is a bad way to base a business decision.

He originally introduced this bill at the beginning of the session which was modeled after SB 440. These bills were not hastily considered. We waited for the Oklahoma case before bringing this bill forward. Mr. Caplan stated that the rebates go to the Indians. The rebates do not go to the Indians, they go to the wholesalers. The issue is not the taxation of Indians, it is the taxation of non-Indians. There will be a loss of sales in the state because there is this existing leakage going out-of-state. He does not believe it is a casual tourist.

REP. GERVAIS said that the retro-session bill needed to be studied. REP. ELLIOTT said that he voted for the retro-session bill because he felt it didn't need a study. Transportation talks about the increase in the transportation of cigarettes and that there will be a huge influx of out-of-state cigarettes. The Federal Contra-band Cigarette Act and Jenkins Act make the inter-state transportation of contra-band cigarette illegal. HB 1012 give the wholesalers a stamping allowance as a rebate of the tax.

REP. ELLIOTT addressed Evalyn Stevenson. He stated that he has been working with Pat Smith, Confederated Salish-Kootenai Tribes. Mr. Smith has known of this coming legislation, and it was just today the he asked for the bill draft request. There is nothing hasty here. Ms. Stevenson may not have had time to digest the amendments, but Mr. Smith has because he received the amendments yesterday.

REP. ELLIOTT closed by saying that two years ago, something needed to be done; four year ago, something needed to be done; and today, something needs to be done. He thinks they ought to do it.

HEARING ON SB 462Presentation and Opening Statement by Sponsor:

SEN. MAZUREK, Senate District 23, Helena, said that SB 462 would clarify the telephone company license tax. He gave a history of the tax.

He stated that during the interim, on behalf of a private client, he became involved in a dispute involving this tax relating to back taxes as to whether the tax applied to certain businesses. This client was engaged in the sale of tele-communications equipment. He no longer does business in the state and has an ongoing tax dispute with DOR. He was asked to carry SB 462 because he had been involved in this process.

Montana has had a telephone company license tax since 1937 which has been 1.75% on gross revenue of the telephone company for any telephone business in the state. Traditionally, it applies to nine companies, but never to co-ops. When this was enacted, we had a telephone company that owned the whole system of your phone. This tax was applied to the gross company of the telephone company. With the breakup of AT&T in the early 1980's, we have changed the way the telephone business occurs in the state.

SB 462 modernizes the existing telephone company license tax statute for new industry and amends the current statute. It eliminates double taxation of access charges on long distance toll calls. It exempts from taxation customer premises equipment. When the system owned your phone, there was only one supplier of telephones. Currently, K-Mart, Centell, Mini-Mart, and local drug stores are all in the business of selling telephones. The administrative problems in trying to identify what K-Mart's gross percentage is from the sale of telephone equipment would be huge. SB 462 exempts customer access line charges and continues the prohibition against setting forth the tax itemized on the customer's bill. It also raises the rate from 1.75% to 1.8% of gross revenues.

SEN. MAZUREK stated further that the Senate has stricken the provision that says if you don't make your tax payment you pay a penalty and interest. It was taken out primarily for consistency. He closed by saying that SB 462 codifies the existing law and modernizes the statute.

Proponents' Testimony:

Joan Mandeville, Montana Telephone Association, provided written testimony. EXHIBIT 5



**Dennis Lopach, US West Communication,** stated that the effect illustrated in previous testimony is seen in much of our long distance transactions. They have been involved in modernizing the telephone license tax since 1989. He feels that SB 462 is positive legislation in that it modernizes the tax and addresses the problem of double taxation.

**Riley Johnson, Cellular Information Systems Inc.,** stated that there may be an amendment offered that would exclude hotels and motels who are reselling the services. This would open a Pandora's box that will have to be addressed at a future time. CIS does, however, support the bill.

**Leo Berry, MCI Tele-Communications; Gene Phillips, Northwestern Telephone Systems; Kathy Brightwell, AT&T; Tom Hopgood, GTE;** went on record in support of SB 462.

#### Opponents' Testimony:

**SEN. WILLIAMS, Senate District 15, Hobson,** provided the committee with an amendment. EXHIBIT 6

He stated that the word "tax" is used several times in the bill. This tax will be raising \$4.007 million in FY 92, and \$4.164 million in FY 93 according to the fiscal note. He feels that this is a pretty hefty chunk of change. He is 100% for the bill except for the amendment. His objection is not the fiscal note, but what offends him is that SB 462 continues the denial of tax information from the phone customers.

**Roger Tippy, Montana Innkeeper's Association,** provided written testimony and an amendment which asks to define "telephone service providers". EXHIBITS 7,8,9

#### Questions From Committee Members:

**REP. FOSTER** asked **Jeff Miller** when he was figuring the fiscal note which says that it is revenue neutral, did he figure in the types of call--lodging facilities-- that **Mr. Tippy** was referring to. **Mr. Miller** said no. First, we tried to codify what we expected to lose by the exclusion of the access. Secondly, we tried to offset that or compare it to what we expect to gain by finally putting a decent definition on what is a telephone business. **REP. FOSTER** asked if **Mr. Tippy's** amendment is adopted would this still be a revenue neutral situation. **Mr. Miller** said yes, but his concern is that DOR has put a considerable amount of time into defining what is a telephone business. It affects a number of business for the first time. It would be problematic to open the door and carving certain portions of them out. There are all kinds of people in this business. What we are looking at is the essential element of providing a two-way communication for a fee. If in fact there business or any other business is engaged in that basic element, they would be subject to the tax.

REP. FOSTER asked how much the elimination of the double taxation would reduce the tax revenue. Mr. Miller said he would reduce it in the range of \$460,000 a year. The revenue they expect to gain is \$267,000 per year based on codifying the two most recent years and averaging them. If this is the case, then there is a revenue shortfall of \$178,000. We then set the rate that would ensure that we would generate the same amount of taxes which was projected by the Governor's Office. REP. FOSTER asked why it was viewed as a better idea to tax the net revenue as opposed to gross. Mr. Miller said that the DOR took the position in the rule writing process that that was beyond the scope of the rules. They have always viewed this as being a gross receipts tax.

REP. GILBERT asked if telephone co-ops are exempt from the tax. Mr. Miller said yes. They pay a co-op fee based on \$10 per 100 subscribers. REP. GILBERT asked if telephone answering services are exempt. Mr. Miller said that this was an issue throughout the many discussion. We came up with the result that they are basically relaying one-way messages, that portion of the business is not subject. Again we are talking about two-way communication.

REP. COHEN asked SEN. WILLIAMS to identify his business for the committee. SEN. WILLIAMS said he worked 35 years for Rural Electric, retired in 1984, and am involved in about six different businesses one of them being a telephone company in the state.

Closing by Sponsor:

SEN. MAZUREK said that SB 462 is not making someone subject to tax who is not currently subject to it. The tax is already there. This bill does not change that, it just modernizes the statute and insures the definition of telephone business.

HEARING ON SB 226

Discussion:

CHAIR HARRINGTON STATED THAT PEOPLE HAVE TRAVELED A LONG DISTANCE THINKING THAT SB 226, THE RETIREMENT BILL, WOULD BE HEARD TODAY. HE ALLOWED THEM A FEW MINUTES TO TESTIFY.

Opponents' Testimony:

Lester Sunderson stated that he has a delegation of people who are on federal retirement from Livingston. They opposed SB 226. They think that they should be taxed the same way as social security.

William Biastock, National Association of Federal Retired Employees, Livingston, stated that they are opposed to the ceiling that SB 226 puts on and that federal retirees should be taxed the same way as social security.

Questions from the Committee:

REP. RANEY asked William Biastock if most people on federal pension have other pension income or social security. Mr. Biastock said some people might, but he does not. REP. RANEY asked if his only income was his retirement. Mr. Biastock said yes and it is currently being tax in California. His wife also has a pension which is taxed. Mrs. Biastock said that if anything should happen to her husband, she will only get 55% of his retirement. All they have is his retirement and the little she gets from working 13 years in California. If she had to pay income tax on her full retirement, she would have very little to live on.

EXECUTIVE ACTION ON HB 1012

Motion: REP. ELLIOTT MOVED HB 1012 DO PASS.

Motion/Vote: REP. ELLIOTT moved to amend HB 1012. Motion carried unanimously. EXHIBIT 10

Motion: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 1012 DO PASS AS AMENDED.

Announcement:

CHAIR HARRINGTON STOPPED THE DISPOSITION OF HB 1012 TO BEGIN THE HEARING ON SB 412.

HEARING ON SB 412Presentation and Opening Statement by Sponsor:

SEN. CRIPPEN, Senate District 45, Billings, provided written testimony. EXHIBIT 11

Proponents' Testimony:

Denis Adams, DOR, said that when the Montana Supreme Court rules that HB 703 was unconstitutional, it had several options which provided relief for an acceptable solution to the problem. Some of the options were: (1) it could have said that the harm to taxpayers was greater than the inconvenience caused to local governments for redoing their budgets and require that all adjustment be rolled back to the previous year; (2) they could have said that all sales assessment options were illegal and could not be used in the future, but because of the inconvenience to local governments, it could be implemented in 1990; and (3) it could have said that no further adjustments could be made during the current reappraisal cycle unless the state does a complete appraisal of the property. The court did state that the Legislature be given the opportunity to resolve these issues during this session. That is why we are here supporting SB 412. He provided the committee with testimony on the property tax

system and graphs on the sales assessment ratio study which would be used in his testimony. EXHIBITS 12,13

Mr. Adams stated further that SB 412 addresses two major issues. (1) how to get through the current reappraisal cycle; and (2) how to approach future reappraisal cycles. The reappraisal cycle we are in now is scheduled to end on December 31, 1992. 1993 is the year that taxpayers have to review the new values that are going to be placed on their property. The values would go on the tax roles in 1994. Mr. Adams used the sales assessment ratios (Exhibit 13) as a visual aid for the duration of his testimony.

How does SB 412 replace HB 703? First, there would be a new reappraisal of all residential properties in an area. Each piece of property would be receiving its own adjustment. It would removed trailer houses from the study. Trailer houses tend to depreciate in value. SB 412 also changes the appeal rights. Under HB 703, a person could not appeal their percentage adjustments. SB 412 says that all taxpayers should have the right to appeal based on the current market value. There would be a three year reappraisal cycle starting in the tax year 1994 under SB 412. He urged the committee's support.

Dennis Burr, Montana Taxpayers Association, stated that the state can not collect property taxes unless the system has been approved. In the case of Great Falls, the court did not say that you couldn't make annual adjustments according to the sales ratio studies. They said that the current values are so out of whack in that area, that making the adjustments made things worse instead of better. Some properties were tremendously under-appraised and some were over 100% of market value. You must look at the bill and determine whether it is a fair plan to get things fixed in a reasonable period of time.

Kay Foster, Billings Chamber of Commerce, said that SB 412 is the best answer that they have seen to the Supreme Court mandate and we haven't seen anything else that is going to work.

Opponents' Testimony: None

Announcements:

REP. COHEN stated that SB 412 would be taken up in the Property Tax Subcommittee at 7:00 a.m. tomorrow morning. He invited all interested parties to attend.

Questions From Committee Members:

REP. DOLEZAL said that he has a serious concern with what the sales ratio study does to Cascade County. From what he reads, in tax year 1990, the tax rate increased 30% and in 1991, it will go up another 20%. This is a 50% increase. Denis Adams, DOR, said that in that area it will mostly the 20% increase. All individual property will have an adjustment. You will have

properties going up and down. CHAIR HARRINGTON said that the reassessment of Great Falls property is very important to them.

Closing by Sponsor:

SEN. CRIPPEN made no closing statement.

EXECUTIVE ACTION ON HB 1012

Discussion:

Disposition of HB 1012 was resumed. CHAIR HARRINGTON REMINDED THE COMMITTEE THAT THE MOTION ON HB 1012 WAS DO PASS AS AMENDED.

Motion: REP. COHEN moved to further amend HB 1012. To amend the Title and Statement of Intent. To strike "section 2" and just have the study left in the bill.

Discussion:

REP. COHEN said that the bill leaves many holes. It seems to him that an out-of-state distributor can haul cigarettes onto the reservation and they can be sold. There is nothing in the bill that would stop this. Jeff Miller said that he does not agree. That would be a violation of the law as this bill is written and a violation of inter-state commerce and federal laws. He thinks that the cigarettes being imported untaxed and unstamped would be subject to the penalties and he does not see that as a hole in the bill.

REP. ELLIOTT spoke against the amendments. It was not his intent to have only a study. That was discussed and they felt that the time was proper and right to get what rightfully belongs to the state. We should go ahead and enter into negotiation and agreement with the Tribes.

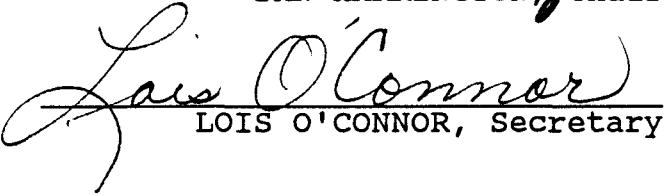
Vote: Motion to further amend HB 1012 failed 8 to 12 on a roll call vote. EXHIBIT 14

Vote: Motion that HB 1012 Do Pass As Amended carried 12 to 8 on a roll call vote. EXHIBIT 15

ADJOURNMENT

Adjournment: 11:55 a.m.

  
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DAN HARRINGTON, Chair

  
\_\_\_\_\_  
LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 4/3/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

HOUSE STANDING COMMITTEE REPORT

APR 11 1991  
April 3, 1991

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Mr. Speaker: We, the committee on Taxation report that House Bill 1012 (first reading copy -- white) do pass as amended .

Signed: \_\_\_\_\_  
Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 5.

Strike: "TO APPLY"

Insert: "APPLYING"

2. Title, line 9.

Following: "MEMBERS;"

Insert: "PROVIDING AN INCREASE IN THE APPROPRIATION TO THE DEPARTMENT OF REVENUE FOR FISCAL YEARS 1992 AND 1993 TO ADMINISTER COLLECTION OF CIGARETTE TAXES; PROVIDING A CIVIL PENALTY FOR THE POSSESSION OF UNSTAMPED CIGARETTES;"

3. Title, line 10.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

4. Title, line 11.

Following: "16-11-111,"

Insert: "16-11-113, 16-11-119, 16-11-131, AND 16-11-133,"

Following: "AN"

Insert: "IMMEDIATE"

Following: "DATE"

Insert: ", AN APPLICABILITY DATE,"

5. Page 2.

Following: line 23

Insert: "NEW SECTION. Section 2. Stamps affixed on all cigarettes -- exception. Except for cigarettes sold on military reservations, all cigarettes sold in Montana must have a Montana cigarette tax stamp affixed prior to sale."

Renumber: subsequent sections

6. Page 2, line 25.

Following: "tax"

Insert: "-- exemption for sales to Indians"



7. Page 3, line 20.

Following: "(4)"

Strike: "Wholesalers"

Insert: "Pursuant to the procedure provided in subsection (5),  
wholesalers"

8. Page 3, line 24 through page 4, line 3.

Following: "made." on line 24

Strike: remainder of line 24 through "retailer." page 4, line 3

9. Page 4.

Following: line 3

Insert: "(5) The distribution of tax-free cigarettes to Indians must be implemented through a system of preapproved, wholesaler shipments. Licensed Montana wholesalers shall contact the department for approval prior to shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota for that particular service area has been met. If the sale is authorized as tax exempt, the wholesaler, upon providing proof of order and delivery to an exempt retailer, must be provided a credit or a refund. Once the allocation for the particular service area has been filled, the department shall immediately notify all wholesalers that all further sales on that reservation must be taxed and that claims for refund or credit will not be honored for the remainder of the month. Allocations are not transferrable between months or between Indian reservations."

Renumber: subsequent subsections

10. Page 4, line 6.

Following: "any"

Strike: "reporting period"

Insert: "month"

11. Page 4, lines 8 and 9.

Following: "cigarettes"

Strike: remainder of line 8 through "rule," on line 9

12. Page 4, line 10.

Following: "made."

Insert: "The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using population estimates and other data issued by the United States government."

13. Page 4, lines 11 through 16.

Strike: lines 11 through 16 in their entirety

14. Page 4, line 18.  
Following: "department"  
Insert: "pursuant to 16-11-132(2)"

15. Page 4, line 22.  
Following: line 21  
Insert: "NEW SECTION. Section 4. Civil penalty for possession of unstamped cigarettes. In lieu of the criminal penalties provided in Title 16, chapter 11, part 1, the department may assess a person possessing unstamped cigarettes a civil penalty of \$250 for the first full or partial pack of unstamped cigarettes and \$10 for each additional full or partial pack of unstamped cigarettes."  
Renumber: subsequent sections

16. Page 6, line 6.  
Following: line 5  
Insert: "Section 6. Section 16-11-113, MCA, is amended to read:  
"16-11-113. Tax insignia. (1) Within 72 hours after receipt by the distributor or dealer of any cigarettes, except as hereinafter provided, he shall cause to be securely affixed thereto the required insignia denoting the tax thereon. ~~A person specifically exempted under the provisions of 16-11-132(2) may not be considered to be acting unlawfully under this section.~~  
(2) Said insignia shall be properly canceled prior to sale or removal for consumption, under such regulations as the department may prescribe.  
(3) Each package shall have the required insignia to affix thereto in such a manner that the insignia will be destroyed when the package is opened.  
(4) Wholesalers and retailers licensed under this part may buy, sell, or have in their possession only cigarettes which have the insignia provided for in this part on each package. The insignia provided for in this part shall be sold to and affixed by licensed wholesalers and licensed retailers only.  
(5) Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer, or other person without the insignia affixed and canceled or not marked as having been received by the unlicensed wholesaler, retailer, or person within the preceding 72 hours, the presumption shall be that such cigarettes are kept therein in violation of the provisions of this part."

Section 7. Section 16-11-119, MCA, is amended to read:  
16-11-119. Disposition of taxes -- retirement of bonds.  
All (1) Except as provided in subsection (2), all moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said

section, shall be paid to the state treasurer and deposited as follows: 70.89% in the long-range building program fund in the debt service fund type and 29.11% in the long-range building program fund in the capital projects fund type.

(2) The following money, collected pursuant to 16-11-111, is appropriated to the department:

<u>Fiscal year 1992</u>	\$ 64,272
<u>Fiscal year 1993</u>	<u>56,872"</u>

Section 8. Section 16-11-131, MCA, is amended to read:  
"16-11-131. Transporting cigarettes without insignia a misdemeanor. It shall be unlawful for any person to transport into, receive, carry, or move from place to place within this state, except in the course of interstate commerce, any cigarettes which do not bear the insignia required by this part, ~~except for a person specifically exempted in 16-11-132(2)~~. Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished as hereinafter provided."

Section 9. Section 16-11-133, MCA, is amended to read:  
"16-11-133. Sale and use of cigarettes without insignia unlawful. Every person who sells any package of cigarettes which does not bear the insignia required by this part and every person who uses or consumes a cigarette within this state, taken from a package which does not bear the required insignia, is guilty of a misdemeanor and shall be punished as hereinafter provided, ~~except that a person specifically exempted under the provisions of 16-11-132(2) may not be considered to be acting unlawfully under this section.~~"

Renumber: subsequent sections

17. Page 6, line 7.  
Strike: "[Section 1] is"  
Insert: "[Sections 1, 2, and 4] are"

18. Page 6, line 10.  
Strike: "[section 1]"  
Insert: "[sections 1, 2, and 4]"

19. Page 6, line 10.  
Following: "date"  
Insert: "-- applicability"

20. Page 6, line 11.  
Following: "effective"  
Strike: "July 1, 1991"  
Insert: "on passage and approval and applies to sales made by a wholesaler after June 30, 1991"

Amendments to House Bill No. 1012  
First Reading Copy

Requested by the Department of Revenue  
For the House Committee on Taxation

Prepared by Eddy McClure  
April 1, 1991

1. Title, line 5.  
Strike: "TO APPLY"  
Insert: "APPLYING"
2. Title, line 9.  
Following: "MEMBERS;"  
Insert: "PROVIDING AN INCREASE IN THE APPROPRIATION TO THE  
DEPARTMENT OF REVENUE FOR FISCAL YEARS 1992 AND 1993 TO  
ADMINISTER COLLECTION OF CIGARETTE TAXES; PROVIDING A CIVIL  
PENALTY FOR THE POSSESSION OF UNSTAMPED CIGARETTES;"
3. Title, line 10.  
Following: "AMENDING"  
Strike: "SECTION"  
Insert: "SECTIONS"
4. Title, line 11.  
Following: "16-11-111,"  
Insert: "16-11-113, 16-11-119, 16-11-131, AND 16-11-133,"  
Following: "AN"  
Insert: "IMMEDIATE"  
Following: "DATE"  
Insert: ", AN APPLICABILITY DATE,"
5. Page 2.  
Following: line 23  
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Following: "made." on line 24  
Strike: remainder of line 24 through "retailer." page 4, line 3

Ex. 1  
4-3-91  
HB 1012

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Following: line 3

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(2) Said insignia shall be properly canceled prior to sale or removal for consumption, under such regulations as the department may prescribe.

(3) Each package shall have the required insignia to affix thereto in such a manner that the insignia will be destroyed when the package is opened.

(4) Wholesalers and retailers licensed under this part may buy, sell, or have in their possession only cigarettes which have the insignia provided for in this part on each package. The insignia provided for in this part shall be sold to and affixed by licensed wholesalers and licensed retailers only.

(5) Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer, or other person without the insignia affixed and canceled or not marked as having been received by the unlicensed wholesaler, retailer, or person within the preceding 72 hours, the presumption shall be that such cigarettes are kept therein in violation of the provisions of this part."

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<u>Fiscal year 1992</u>	<u>\$ 64,272</u>
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"16-11-133. **Sale and use of cigarettes without insignia**

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Insert: "[sections 1, 2, and 4]"

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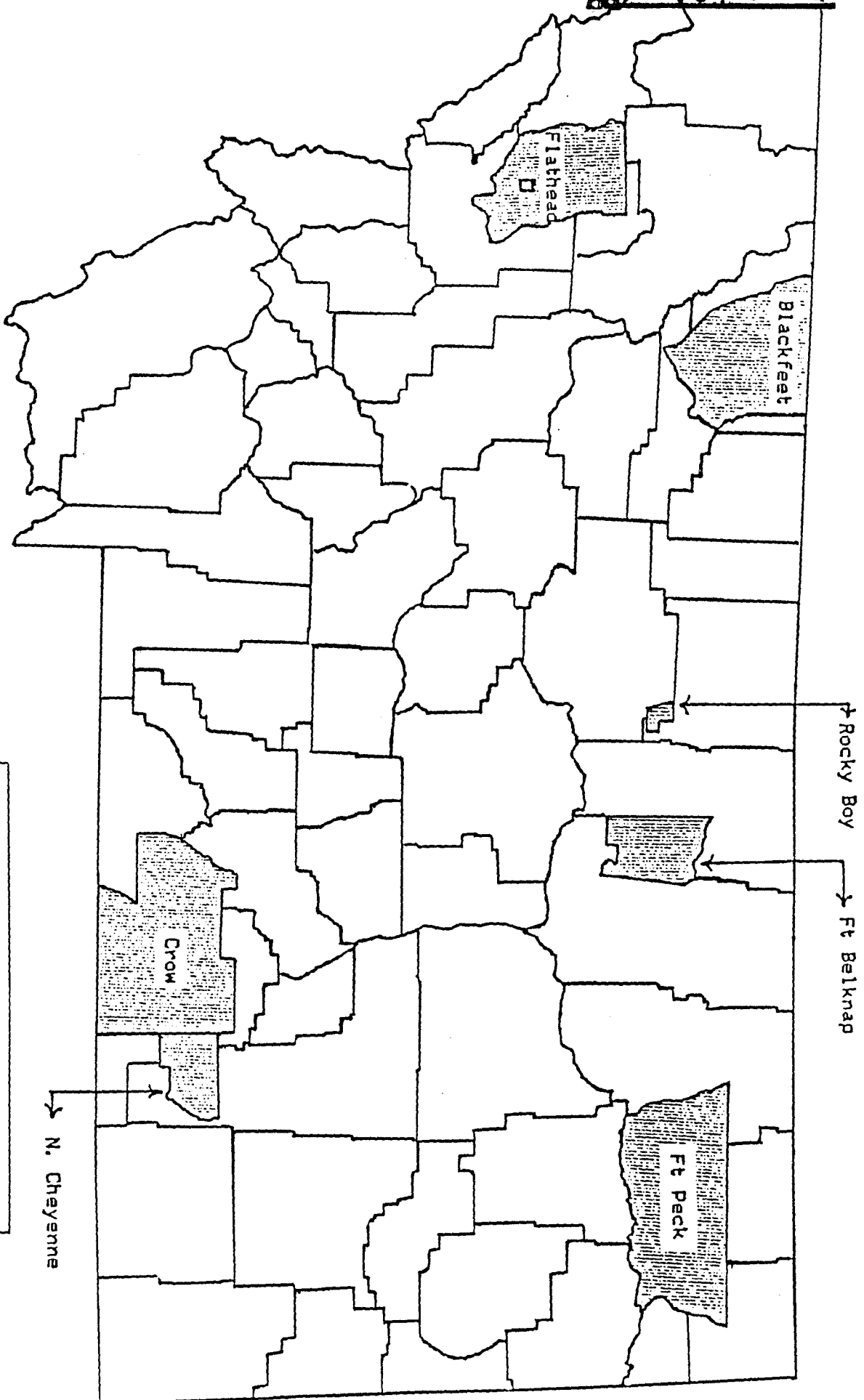
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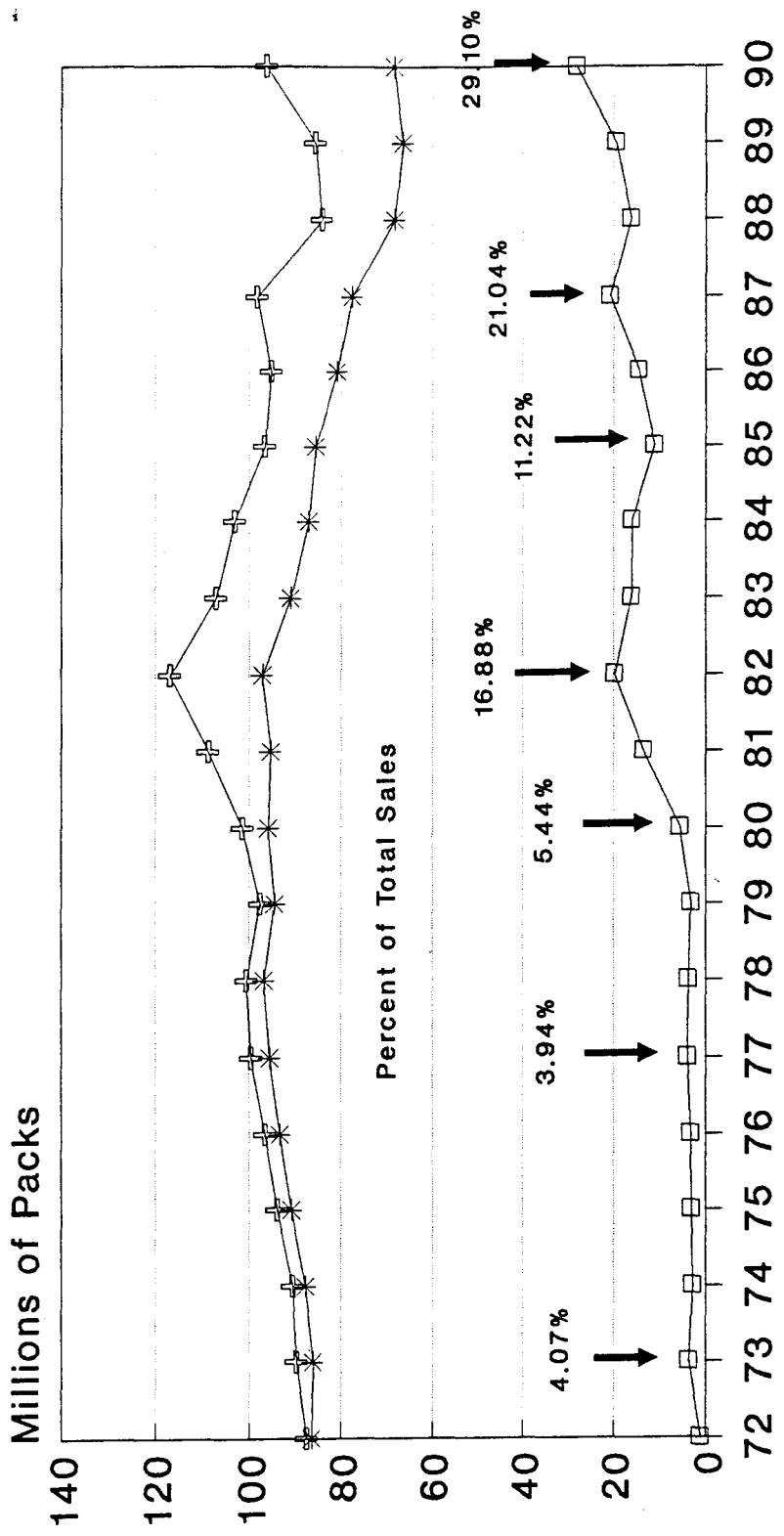
STATE OF MONTANA  
INDIAN RESERVATIONS

→ N. Cheyenne



Ex. 2  
4-3-91 HB 1012

# Total Cigarette Sales Taxed and Untaxed

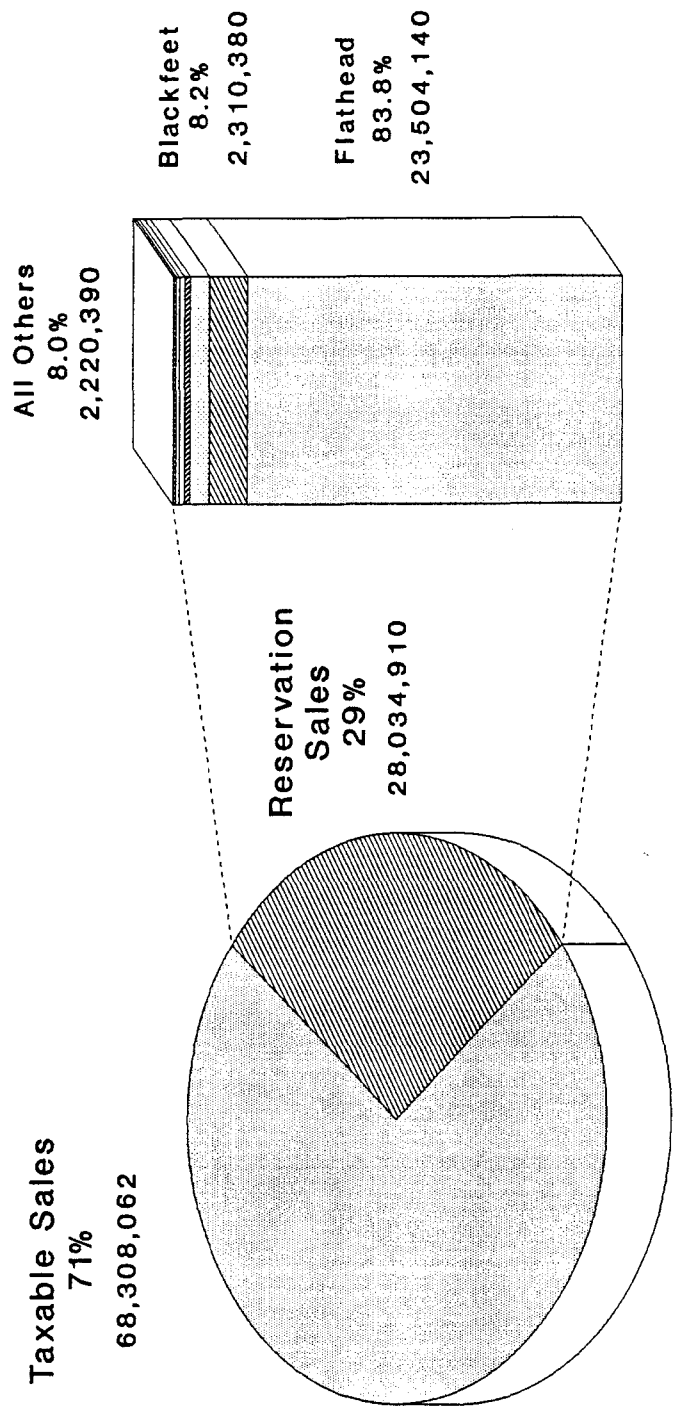


Reservation Sales  
 Taxed Sales  
 Total Sales  
 Non Taxed

Ex 2 HB 1012

4-3-91

# 1990 Distribution of Cigarette Sales Total Packs Sold

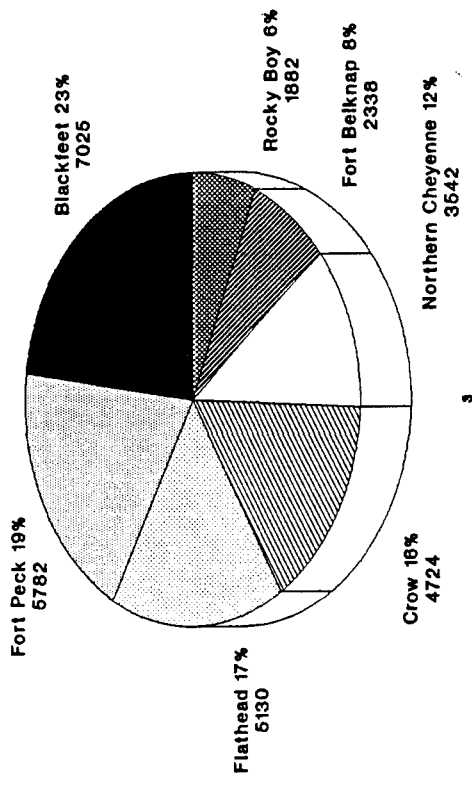


Sales Breakdown To Reservations

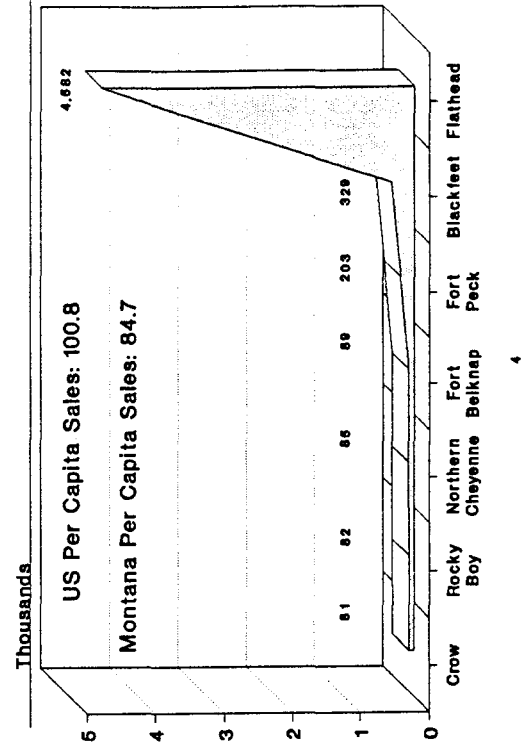
Total Sales  
96,343,530

EX. 2 HB 10/2  
4-3-91

### Reservation Population Source: US Census



### Reservation Per Capita Consumption Packages of Cigarettes Per Person



4-3-91

EXHIBIT 2  
DATE 4-3-91  
HB 1012

**Additional Cigarette Tax Collections**  
Resulting From Per Capita Allocations

FY90 Total Sales To Reservations:	28,034,910
Less - Estimated Out-of-State Exports:	17,280,000
Less - Per Capita Allocation:	2,738,070
Total Additional Taxable Packages:	8,016,840
Effective Tax Rate: 17.3214%	
Additional Cigarette Tax Collections:	\$1,389,000

3  
4-3-91  
1012

STATE OF MONTANA - FISCAL NOTE  
Form BD-15  
In compliance with a written request, there is hereby submitted a Fiscal Note for HB1012, as introduced.

EXHIBIT  
DESCRIPTION OF PROPOSED LEGISLATION:

An act to apply the cigarette sales tax to all use and consumption of cigarettes on an Indian reservation except by members of an Indian tribe on an Indian reservation; providing for a refund of or credit for taxes paid on cigarettes sold to tribal members; requiring a report to the 53rd legislature; and providing an effective date and a termination date.

ASSUMPTIONS:

1. The effective cigarette tax rate is \$0.1732 per package.
2. Under current law, cigarette tax receipts will be \$11,316,000 in FY92 and \$11,037,000 in FY93 (OBPP).
3. Currently, 28,034,910 packages of cigarettes are being sold annually to Indian reservations in Montana.
4. In 1990, per capita cigarette consumption in the United States was 100.8 packages; in Montana per capita consumption was 84.7 packages (Tobacco Institute).
5. The average annual quota per reservation, under the proposal, will be 90 packages per capita.
6. Total Indian population on reservations in Montana is 30,423 (U.S. Bureau of the Census, 1990).
7. The total number of tax-free packages of cigarettes for all reservations will be 2,738,070 for each year of the biennium.
8. Of the 28,034,910 packages currently being sold to reservations, only 2,738,070 will be sold tax free under the proposal. Of the remaining 25,296,840 packages, it is assumed that 17,280,000 packages are currently being exported out of state. It is assumed that these packages would no longer be purchased or exported. This leaves an increase in taxable packages of 8,016,840.
9. There would be collections for 10 months in FY92 due to inventory reserves leftover from FY91.
10. The potential increase in taxes would be \$1,157,000 in FY92, and \$1,389,000 in FY93.
11. The proposal would require 2.00 FTE (grade 13) field auditors for each year of the biennium at a cost of \$51,672. The operating costs associated with these positions would be \$5,200 in each year of the biennium and equipment costs would be \$7,400 in FY92 only.

FISCAL IMPACT:

see next page

NOT FOR

DISTRIBUTION

  
4-1-91

ROD SUNDSTED, BUDGET DIRECTOR  
Office of Budget and Program Planning  
DATE

JIM ELLIOTT, PRIMARY SPONSOR  
DATE

FISCAL IMPACT:

Department of Revenue:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
FTE	0.00	2.00	2.00	0.00	2.00	2.00
Personal Services	0	51,672	51,672	0	51,672	51,672
Operating Costs	0	5,200	5,200	0	5,200	5,200
Equipment Costs	0	7,400	7,400	0	0	0
Total	0	64,272	64,272	0	56,872	56,872
<u>Funding:</u>						
General Fund	0	64,272	64,272	0	56,872	56,872
<u>Revenues:</u>						
Cigarette Tax	11,316,000	12,473,000	1,157,000	11,037,000	12,426,000	1,389,000
<u>Funding Distribution:</u>						
Debt Service (05)	8,022,000	8,842,000	820,000	7,824,000	8,809,000	985,000
Capital Projects (05)	3,294,000	3,631,000	337,000	3,213,000	3,617,000	404,000
Total	11,316,000	12,473,000	1,157,000	11,037,000	12,426,000	1,389,000
Impact to General Fund (decrease)			(64,272)			(56,872)

TESTIMONY OF ERIC F. KAPLAN, ATTORNEY  
BEFORE THE HOUSE TAXATION COMMITTEE  
ON APRIL 3, 1991  
REGARDING HOUSE BILL 1012

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE: MY NAME IS ERIC KAPLAN. I AM AN ATTORNEY IN COLUMBIA FALLS. PRIOR TO MOVING TO MONTANA 6 YEARS AGO, I WAS AN ATTORNEY WITH THE U.S. DEPARTMENT OF JUSTICE IN WASHINGTON, D.C. FOR 12 YEARS. I HAVE SPENT CONSIDERABLE TIME ANALYZING HB 1012. I HAVE RESEARCHED THE RELEVANT LAW, TALKED WITH MEMBERS OF SEVERAL TRIBES, REVIEWED STATISTICS AND HAVE DISCUSSED THE BILL WITH AN OFFICIAL OF THE DEPARTMENT OF REVENUE. I AM HERE TODAY ON BEHALF OF SEVERAL SMOKE-SHOP OWNERS AND WHOLESALERS WHO OPPOSE HB 1012.

I WISH TO MAKE FOUR POINTS IN OPPOSITION TO THIS BILL. FIRST, THE BILL WILL HAVE ADVERSE EFFECTS ON SEGMENTS OF THE MONTANA ECONOMY. SECOND, THE BILL RAISES AS MANY QUESTIONS AND UNCERTAINTIES AS IT SEEKS TO ADDRESS. THIRD, IT IS HIGHLY UNLIKELY THE BILL WILL RAISE ANY MONEY FOR THE STATE OF MONTANA AND WILL LIKELY COST THE STATE REVENUE. FINALLY, AS THE BILL ITSELF POINTS OUT, NEGOTIATION IS PREFERABLE SO THAT ALL INVOLVED PARTIES COME OUT AHEAD.

IF THIS BILL PASSES, ONE OF TWO VERY UNDESIRABLE SCENARIOS WILL DEFINITELY OCCUR, BOTH OF WHICH WILL HAVE NEGATIVE EFFECTS ON PORTIONS OF MONTANA'S ECONOMY. UNDER THE FIRST, IN-STATE SMOKE-SHOPS WILL SIMPLY OBTAIN THEIR CIGARETTES FROM OUT-OF-STATE. ACCORDING TO THE DEPARTMENT OF REVENUE, APPROXIMATELY 500,000 CARTONS OF UNTAXED CIGARETTES CAME INTO MONTANA LAST YEAR FROM OUT-OF-STATE. IF THIS BILL PASSES, THESE SHIPMENTS WILL CERTAINLY INCREASE AND MONTANA WHOLESALERS WILL SUFFER SIGNIFICANT LOSSES. IN FACT, THE AMENDMENTS TO THE BILL SEEM TO EXPRESSLY EXEMPT INTERSTATE SHIPMENTS FROM THE TAXING REQUIREMENTS.

THE ALTERNATE SCENARIO WILL ARISE IF THOSE SHIPMENTS ARE STOPPED, IN WHICH CASE NOT ONLY WILL THE WHOLESALERS SUFFER BUT ALSO THE MANY MONTANA SMOKE-SHOP OWNERS AND THEIR EMPLOYEES. OBVIOUSLY, THEY WILL NO LONGER BE ABLE TO SELL NEARLY AS MANY CIGARETTES AS THEY DO NOW, WHICH WILL LEAD TO LESS EMPLOYMENT, AND LESS TAXES FOR THE STATE. ONE OR THE OTHER OF THESE VERY UNDESIRABLE OUTCOMES WILL DEFINITELY TAKE PLACE IF HB 1012 BECOMES LAW.

IN ADDITION TO THESE LOST CIGARETTE SALES, SALES OF ADDITIONAL MERCHANDISE THAT IS FREQUENTLY SOLD TO TOURISTS WHO STOP TO PURCHASE TAX-FREE CIGARETTES WOULD ALSO BE LOST. THESE ITEMS INCLUDE GASOLINE, FOOD AND BEVERAGES, SOUVENIRS, AND RELATED ITEMS. THE AMOUNT OF THESE LOST SALES IS LIKELY TO BE CONSIDERABLE.

THE SECOND POINT I WISH TO MAKE IS THAT THE BILL CONTAINS A GREAT MANY AMBIGUITIES AND UNCERTAINTIES. THIS IS NOT SURPRISING IN LIGHT OF THE FACT THAT THIS BILL, WHICH DEALS WITH A VERY COMPLEX SUBJECT, WAS DRAFTED VERY QUICKLY TO MEET THE TRANSMITTAL DEADLINE. INDEED, YESTERDAY AFTERNOON I RECEIVED 4 PAGES OF AMENDMENTS, WHICH IS LONGER THAN THE SUBSTANTIVE PORTIONS OF THE BILL ITSELF. THE BILL IS STILL VERY UNCLEAR. FOR EXAMPLE, THE BILL DOES NOT SPECIFICALLY ADDRESS THE QUESTION OF OUT-OF-STATE SHIPMENTS INTO MONTANA, ALTHOUGH IT SUGGESTS THAT THEY ARE EXEMPT. ALSO, IT IS UNCLEAR WHETHER OR NOT THE RETAILER IS EXPECTED TO CHARGE THE TAX TO THE INDIAN PURCHASER OR NOT. SEVERAL SECTIONS OF THE BILL ARE INCONSISTENT ON THIS POINT. IF HE IS SUPPOSED TO CHARGE THE TAX, NOT ONLY IS THIS ILLEGAL, IT WILL RESULT IN AN ADMINISTRATIVE NIGHTMARE IF THOUSANDS OF INDIVIDUALS MUST BE LOCATED IN ORDER TO FORWARD A TAX REBATE. IF THE RETAILER IS NOT SUPPOSED TO COLLECT THE TAX, THEN HE APPARENTLY MUST "FRONT" OR "LOAN" THE TAX MONEY TO THE STATE BECAUSE HE IS REQUIRED TO PAY IT TO THE WHOLESALER, BUT HE WILL NOT BE ALLOWED TO OBTAIN IT FROM THE CONSUMER. THE BILL DOES NOT DISCUSS HOW OR WHEN THIS MONEY WILL BE REFUNDED TO THE RETAILER.

ADDITIONALLY, THE BILL WILL CREATE A GREAT DEAL OF CONFUSION AND UNCERTAINTY FOR THE RETAILERS. FOR EXAMPLE, THE RETAILER WILL NOT EVEN KNOW IF HIS ORDER WILL BE ALLOWED WHEN HE PLACES IT AND WILL HAVE DIFFICULTY IN MANAGING HIS INVENTORY AND BUSINESS. SIMILARLY, THE SCHEME THAT THE BILL ENVISIONS WILL LIKELY CAUSE THE RETAILERS TO CALL AND MAKE ORDERS ON THE FIRST DAY OF EACH MONTH IN AS LARGE A QUANTITY AS POSSIBLE IN ORDER TO OBTAIN THE TOTAL "SERVICE AREA" QUOTA. PRESUMABLY, THEY WILL PLACE LARGE ORDERS BECAUSE THE BILL DOES NOT IMPOSE ANY TIME LIMIT UPON THEM IN WHICH TO SELL THESE TAX-FREE CIGARETTES. THE BILL REFERS TO SUCH CONCEPTS AS "SERVICE AREA" AND "EXEMPT RETAILERS", BUT DOES NOT DEFINE OR EXPLAIN THEM. THE BILL SAYS THE DEPARTMENT "MAY" AUTHORIZE SALES BASED ON THE QUOTA, APPARENTLY GIVING THE DEPARTMENT THE DISCRETION TO REFUSE TO AUTHORIZE SALE. ON WHAT



GROUNDS MAY THE DEPARTMENT REFUSE TO AUTHORIZE SALES?

THE BILL ATTEMPTS TO ERECT AN ELABORATE SYSTEM OF TAX-FREE COLLECTIONS AND REBATES BUT LEAVES MANY QUESTIONS UNANSWERED. IF THE WHOLESALER COLLECTS THE TAX UPON DELIVERY TO THE RETAILERS, DOES THIS MEAN THE RETAILER HAS TO ADVANCE THE MONEY EVEN IF THE SALES WILL BE TAX-FREE? HOW QUICKLY WILL THE WHOLESALER BE REIMBURSED? SIMILARLY, HOW AND WHEN WILL THE RETAILER BE REIMBURSED?

A MAJOR COMPONENT OF THE BILL IS A FORMULA WHICH WILL BE DEVELOPED TO DETERMINE HOW MANY TAX-FREE CIGARETTES CAN BE SOLD. HOWEVER, THE ENTIRE QUESTION OF DETERMINING HOW THAT FORMULA IS DERIVED IS LEFT TO THE DEPARTMENT OF REVENUE, WHICH IS AN EXTREMELY BROAD AND UNCERTAIN DELEGATION OF AUTHORITY.

IN ADDITION TO THESE ADMINISTRATIVE AND INTERPRETIVE PROBLEMS, THE BILL RAISES SERIOUS CONSTITUTIONAL QUESTIONS. WHILE THE SUPREME COURT HAS SAID THAT, UNDER CERTAIN CIRCUMSTANCES, A STATE MAY TAX SALES BY INDIANS TO NON-INDIANS, THE COURT HAS EXPRESSLY STATED THAT THE STATE CAN ONLY DO SO ONLY IF IT IMPOSES "MINIMAL BURDENS" ON THE PARTIES.

I AM AWARE OF THE RECENT POTAWATOMI DECISION OF THE UNITED STATES SUPREME COURT. HOWEVER, THAT CASE HAS LITTLE RELEVANCE TO THE ISSUES AT HAND. THAT CASE DEALT WITH SALES OF CIGARETTES BY A TRIBE, NOT INDIVIDUAL SMOKE-SHOPS. ALTHOUGH IT IS TRUE THAT THIS CASE REAFFIRMED THE RULE THAT STATES MAY TAX INDIAN SALES TO NON-INDIANS, IT ALSO REAFFIRMED THE COLVILLE AND MOE CASES WHICH HAVE MADE IT CLEAR THAT THE STATE CAN ONLY DO SO IF IT ENACTS CONSTITUTIONAL LEGISLATION. INDEED, NEITHER THE COURT IN POTAWATOMI NOR IN ANY OTHER DECISION HAS EVER CONSIDERED A SCHEME SIMILAR TO THE ONE BEING PROPOSED HERE. IN FACT, IN BOTH MOE AND COLVILLE THE SCHEME UNDER CONSIDERATION SIMPLY INVOLVED THE INDIAN RETAILER CHARGING THE TAX TO NON-INDIANS AND NOT CHARGING IT TO INDIANS. THERE WERE NO QUOTAS, FORMULAS, ALLOTMENTS, REBATES, OR OTHER PROVISIONS SUCH AS WE HAVE HERE.

APPROXIMATELY FOUR MONTHS AGO, HOWEVER, THE NEW YORK SUPREME COURT, BASED ON DECISIONS OF THE U.S. SUPREME COURT AND DECISIONS OF NEW YORK'S HIGHEST COURT, STRUCK DOWN AS UNCONSTITUTIONAL AN INDIAN CIGARETTE TAX THAT APPEARS TO BE IDENTICAL TO HB 1012. THE COURT FOUND THAT THE REQUIREMENTS PLACED BY THE LAW ON THE WHOLESALERS WAS UNCONSTITUTIONAL. A COPY OF THAT

DECISION IS ATTACHED HERETO.

THE THIRD POINT I WISH TO MAKE IS THAT THIS BILL WILL NOT RAISE ANY SIGNIFICANT REVENUES FOR THE STATE. THE VAST MAJORITY OF SALES THAT ARE NOW MADE ON THE RESERVATIONS ARE ONLY MADE BECAUSE THEY ARE TAX-FREE. THOSE SALES WILL NOT BE MADE IF THEY ARE TAXED. FOR EXAMPLE, TOURISTS DRIVING THROUGH MONTANA WILL HAVE ABSOLUTELY NO INCENTIVE TO BUY SIGNIFICANT QUANTITIES OF CIGARETTES IF THEY ARE NOT TAX-FREE. ATTACHED HERETO ARE TWO CHARTS WHICH SHOW THE SALES THAT WILL BE LOST IF THIS BILL PASSES. THESE CHARTS USE DIFFERENT STATISTICS AND METHODOLOGY, BUT BOTH SHOW THAT APPROXIMATELY 1.7 MILLION LESS CARTONS OF CIGARETTES WILL BE SOLD IN MONTANA IF THIS BILL PASSES. NOT ONLY WILL THIS HAVE A VERY ADVERSE EFFECT ON THE ECONOMY, AS DISCUSSED ABOVE, IT ALSO MEANS THE STATE IS NOT LIKELY TO GENERATE SIGNIFICANT ADDITIONAL REVENUE AS A RESULT OF THIS BILL. SIMPLY STATED, THE HYPOTHETICAL SALES FROM WHICH THAT REVENUE MIGHT BE GENERATED WILL NOT TAKE PLACE.

THE FINAL POINT I WISH TO MAKE IS THAT A NEGOTIATED APPROACH TO THIS ISSUE IS PREFERABLE TO THIS HASTILY-DRAFTED BILL. INDEED, THE BILL ITSELF IN SEVERAL PLACES MAKES THAT VERY POINT. IN SECTION 3(b), THE PARTIES ARE DIRECTED TO "DISCUSS AND NEGOTIATE ALTERNATIVES FOR THE COLLECTION OF CIGARETTE TAXES". IT DOES NOT SEEM PRUDENT TO GAMBLE WITH THE FUTURE OF A LARGE NUMBER OF MONTANA'S BUSINESSES, THEIR EMPLOYEES AND THEIR FAMILIES WHILE THE PARTIES ARE NEGOTIATING ALTERNATIVE METHODS. THE MORE SENSIBLE APPROACH WOULD BE NOT TO TAKE THAT GAMBLE, BUT INSTEAD TO DIRECT THE PARTIES TO NEGOTIATE AND ARRIVE AT A PROPOSAL PRIOR TO THE NEXT LEGISLATURE.

IN CONCLUSION, WE BELIEVE STRONGLY THAT THE BILL SHOULD NOT PASS, THAT IT IS NOT IN THE INTEREST OF THE CITIZENS OF THIS STATE AND THAT IT WILL HAVE SERIOUS ECONOMIC CONSEQUENCES ON THE PEOPLE OF MONTANA. THANK YOU FOR YOUR CONSIDERATION.

EXHIBIT 4  
DATE 4-3-91  
HB 1012

SUPPLY AND DEMAND OF TAXED CIGARETTES

MONTANA'S NON-INDIAN POPULATION .....	760,000
AVERAGE MONTANA CIGARETTE CONSUMPTION (D.O.R. FIGURES) .....	84.7
TOTAL NON-INDIAN CIGARETTE CONSUMPTION (IN CARTONS) .....	6,437,200
TOTAL TAXED CARTONS SOLD .....	6,533,487

CIGARETTE SALES THAT WILL BE LOST UNDER HOUSE BILL 1012

(BASED ON 1987 DEPARTMENT OF REVENUE STATISTICS)

Total cigarettes sold on Montana Reservations .....	2,067,162 cartons
Total cigarettes sold for Indian consumption .....	344,774 cartons
Sales that will be lost under House Bill 1012 .....	1,722,388 cartons

CIGARETTE SALES THAT WILL BE LOST UNDER HOUSE BILL 1012

Total Indians in Montana (1990 census)	47,679
Total Indians that smoke (Based on national average of 25%)	11,920
Total annual cigarette sales to Indians (Based on national average of one carton per week)	619,840 cartons
Actual cartons shipped to Reservation (1990 Department of Revenue statistics)	2,317,568 cartons
Sales that will be lost under House Bill 1012	1,697,728 cartons

Exhibit # 4  
4-3-91 HB 1012

NEW YORK SUPREME COURT—  
APPELLATE DIVISION  
THIRD JUDICIAL DEPARTMENT

MILHELM ATTEA & BROTHERS, INC. v.  
DEPT. OF TAXATION & FINANCE OF THE  
STATE OF NEW YORK, et al.

No. 60199 (N.Y. Sup. Ct., App. Div., Dec. 6, 1990)

Summary

Plaintiffs, wholesale dealers of cigarettes, challenge cigarette sales tax regulations promulgated by the state of New York which: (1) allow wholesalers to purchase, tax free, a quantity of cigarettes determined by the State Department of Taxation and Finance to be the amount needed to supply the personal needs of Indian consumers, (2) impose record-keeping requirements on wholesalers, and (3) may require applications for refunds for exempt sales upon which tax was prepaid; and seek a declaratory judgment that the regulations are invalid and an injunction against their enforcement. The court granted plaintiffs' motion for a preliminary injunction restraining enforcement of the regulations and plaintiffs' motions for summary judgment. Defendants appealed.

Citing its reasoning in *Herzog Bros. Trucking v. State Tax Commission*, 69 N.Y.2d 536, and again considered (72 N.Y.2d 720) upon remand from the U.S. Supreme Court (*State Tax Comm'n of State of New York v. Herzog Bros. Trucking*, 487 U.S. 1212), the court of appeals affirms the grant of plaintiffs' motion for summary judgment.

Full Text

Before WEISS, Presiding Justice, and MIKOLL, LEVINE,  
MERCURE and HARVEY, Associates Justices

MIKOLL, Associate Justice

Plaintiff in action no. 1, Milhelm Attea & Brothers, Inc. (hereinafter Attea Brothers), a wholesale dealer of cigarettes licensed under Tax Law § 480, is a New York corporation with its principal place of business in Erie County. Almost 75 percent of its sales are to Indians on Indian reservations in New York. Plaintiff in action no. 2, Elias H. Attea, Jr., also sells cigarettes wholesale to Indians on Indian reservations in New York.

The Tax Law imposes a cigarette tax on all cigarettes possessed in this state for sale "except that no tax shall be imposed on cigarettes sold under such circumstances that this state is without power to impose such tax" (Tax Law § 471[1]). Sales of cigarettes on Indian reservations to Indians for personal consumption are exempt from state taxation (20 NYCRR 335.5[2]). Pursuant to regulations applicable to sales made after January 1, 1989, a tax is imposed on cigarettes sold at wholesale to Indians on Indian reservations for retail sale to non-Indians (*see* 20 NYCRR 331.4, 331.5, 331.6, 331.7, 331.8, 331.9, 331.10, 335.5). Wholesalers may purchase, tax free, a quantity of cigarettes determined by defendant Department of Taxation and Finance (hereinafter the Department) to be the amount needed to supply the personal needs of the Indian consumers (20 NYCRR 335.5). Thus, the quantity of tax-free cigarettes which may be sold by the wholesalers is limited (20 NYCRR 335.5[e]). Further, record-keeping requirements are imposed on the wholesalers (*see, e.g.*, 20 NYCRR 337.3) and applications for refunds for exempt sales upon which the tax was prepaid may be necessary (*see, e.g.*, 20 NYCRR 340.1).

Plaintiffs commenced the instant declaratory judgment actions seeking to have the new regulations declared invalid and to enjoin their enforcement. Subsequently, both plaintiffs moved for a preliminary injunction restraining enforcement of the new regulations. The motions were granted. Thereafter, motions were made by the respective parties for summary judgment. Supreme court granted plaintiffs' summary judgment motions for the relief demanded in the complaint and denied defendants' cross-motions. The court also permanently enjoined defendants from, *inter alia*, enforcing the regulations. This appeal by defendants ensued.

The issues presented here are similar to those considered by the court of appeals in *Herzog Bros. Trucking v. State Tax Comm'n* (69 N.Y.2d 536 [14 Indian L. Rep. 5051]) and again considered by that court (72 N.Y.2d 720 [16 Indian L. Rep. 5003]) upon remand from the United States Supreme Court (*State Tax Comm'n of State of N.Y. v. Herzog Bros. Trucking*, 487 U.S. 1212). As here, the plaintiff in *Herzog* was a wholesaler selling a product, in that case motor fuel, to Indians on a reservation who then sold it at retail to Indian and non-Indian consumers. There, the wholesaler was to collect the fuel tax upon the first sale and the tax was then included in the retail price and passed on to the ultimate consumer (*see Herzog Bros. Trucking v. State Tax Comm'n*, 72 N.Y.2d 720, 723, *supra*). A refund or credit was made where the ultimate consumer was an Indian (*id.*). When the court of appeals initially heard the case, it reversed this court's decision which had found the tax scheme valid (*Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, *supra*, *rev'g*, 122 A.D.2d 518). The court of appeals at that time held that:

... Congress has preempted the field of regulating trade with Indians on reservations and has left "no room" for the application of supplementary State tax laws, such as the one here at issue, that impose "additional burdens" on Indian traders. . . . Thus, no matter how minimal the burden imposed on the motor fuel taxation scheme on [the plaintiff], as a trader to the Seneca Nation, such regulation is preempted by the Federal Indian trader laws. . . (*id.*, at 546 [citation omitted]).

EXHIBIT 4  
 DATE 4-3-91  
 HB 1012

When the first *Herzog* case went to the United States Supreme Court, the case was remanded (*State Tax Comm'n of State of N.Y. v. Herzog Bros. Trucking*, 487 U.S. 1213, *supra*) to the court of appeals to consider the effect of the motor fuel tax scheme contained in newly enacted regulations effective November 30, 1988 and applicable to sales made after January 1, 1989. Those regulations differed from the regulations originally in issue (*Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, *supra*), but are substantially similar to those at issue in the instant case. The regulations originally in issue in *Herzog* required the wholesaler to prepay sales tax on all fuel sold and apply for a refund or credit of tax paid where the ultimate sale was tax exempt. During the pendency of *Herzog*, the Department published for comment new regulations which, like the regulations now before the court, provided for preapproval of tax-free sales to Indians by registered dealers. No tax was to be paid on fuel designated for such sales at any point in the transaction (20 NYCRR 414.7[a][3]). The amount of fuel which would be preapproved for tax-free sale was set by the Department based on projected Indian consumption (20 NYCRR 414.7[a][2]; [b]). On remand from the United States Supreme Court for consideration of the case in light of the newly published regulations, the court of appeals refused to review the constitutionality of those regulations, reasoning that to do so would be to render an advisory opinion (*Herzog Bros. Trucking v. State Tax Comm'n*, 72 N.Y.2d 720, 725, *supra*).

This court is now called upon to address the constitutionality of similar regulations. When the court of appeals heard *Herzog* on remand, it referred to its analysis of the case law on the issue in the first *Herzog* case and opined that "[i]n the absence of a reversal by the Supreme court, we assume that our interpretation of those decisions and our application of them to the facts before us represents the present state of the law on the subject" (*id.* at 724-25). Accordingly, the tax scheme under review here fails because it imposes some burden, although only minimal, on the Indian trader contrary to the court of appeals' interpretation of the applicable Supreme Court decisions (*see id.*, *see also Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U.S. 685, 690; *Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, 546, *supra*).

We note that this court's decision in *Matter of De Loronde v. New York State Tax Comm'n* (142 A.D.2d 90, *appeal dismissed, lv denied*, 73 N.Y.2d 986) [16 Indian L. Rep. 5001] was rendered November 23, 1988 without the benefit of the decision on remand in *Herzog*, which was rendered December 22, 1988.

Opinion by MIKOLL, J., in which WEISS, J.P., LEVINE, MERCURE and HARVEY, JJ., concur.

Order and judgment affirmed, with costs.

*Counsel for appellants:* Robert Abrams, Att'y Gen., Albany, New York

*Counsel for respondent:* Kavinoky & Cook, Buffalo, New York; Williams, Stevens, McCarville & Frizzell, Buffalo, New York

TESTIMONY OF THE MONTANA TELEPHONE ASSOCIATION

SENATE BILL 462

Good Morning Mr. Chairman, members of the Committee. My name is Joan Mandeville. I am employed by the Montana Telephone Association. A large part of my job is billing U S WEST, AT&T, and other long distance companies for a portion of long distance telephone calls on behalf of the small independent telephone companies in Montana. This is accomplished through a rather complicated system known as carrier access charges, the subject addressed by SB 462.

Ten years ago, the good old days to most people who don't want to spend their lives trying to figure out how their telephone works, all of your long distance services were provided by the Bell system. Local service was handled by either the Bell system or an independent telephone company. I've put together an example of a telephone call between Ms. Smith, in Helena, and Mr. Jones who lives in Worden and gets his local phone service from a small independent telephone company called Project Telephone.

The telephone system generally has two types of switches. The first type is your local switch. It can receive any local call and route it to the correct party. The vast majority of all calls are handled by local switches. Long distance calls are more complex because the system must figure out how to route calls to other cities or states and must handle operator calls and 800 calls. Long distance calls are given to more sophisticated long distance switches. In Montana U S WEST has one of these switches in Helena and one in Billings.

In our example, Ms. Smith picked up her phone and dialed 1+967-1234. Her local switch here in Helena saw the 1+ and



sent it on to the Helena long distance switch. That switch sent the call to Billings. The Billings long distance switch received it and sent it on to the local switch in Worden where it was sent to Mr. Jones. Mountain Bell billed Ms. Smith and shared a portion of the revenue with Project Telephone Company. One bill was issued and the Department of Revenue assessed the telephone license tax only once on the call.

OLD DAYS

Mountain Bell bills Ms. Smith	\$5.00
Mountain Bell gives Project	\$1.00
Mountain Bell pays tax on	\$4.00
Project pays tax on	\$1.00
	-----
Tax paid on	\$5.00
	=====

In 1984 the Bell system was broken up. A new system was designed to allow for multiple long distance companies. The industry was required to revise its methods of sharing long distance revenues.

Today, Ms. Smith still dials the same number she always did to reach Mr. Jones. Now however, the call is handled a little differently. The call is still routed through the local switch and through the long distance switch. Today, instead of placing the call onto the Bell system facilities, the long distance switch hands off long distance calls to various long distance companies. AT&T, MCI, Sprint, and Touch America are only a few of companies available.

In my example Ms. Smith has selected AT&T to carry her call. AT&T sends the call to Billings and hands it off to U S WEST's Billings long distance switch. The long distance switch reads the 967 prefix and routes the call to Worden where the local switch sends it along to Mr. Jones.

EX 5  
4-3-91  
SB 462

The path of the call is really not that much different today than it was 10 years ago. However, in our new competitive world, we no longer issue one bill and share revenues. Instead, U S WEST bills AT&T for the first portion of the call and for the using the Billings long distance switch. The Department of Revenue assesses the telephone license tax on this revenue. Project Telephone sends a bill to AT&T for completing the call and the Department of Revenue assesses the telephone license on Project's revenue. The amounts paid by AT&T to U S WEST and Project Telephone are called carrier access charges.

AT&T sends Ms. Smith a bill for the entire call. That bill recovers the costs, including tax, of all U S WEST and Project Telephone charges, as well as AT&T's own costs. The Department of Revenue collects the telephone license tax on the total amount paid by Ms. Smith to AT&T. As you can see, now, as opposed to 10 ten years ago, portions of this call are taxed twice.

TODAY

AT&T bill Ms. Smith	\$5.00
U S WEST bills AT&T	\$2.00
Project bills AT&T	\$1.00
	-----
Tax paid on	\$8.00
	=====

Senate Bill 462 will remedy this double taxation problem.

DATE 4-3-91  
HB 462

Amendments to Senate Bill No. 462  
Third Reading Copy

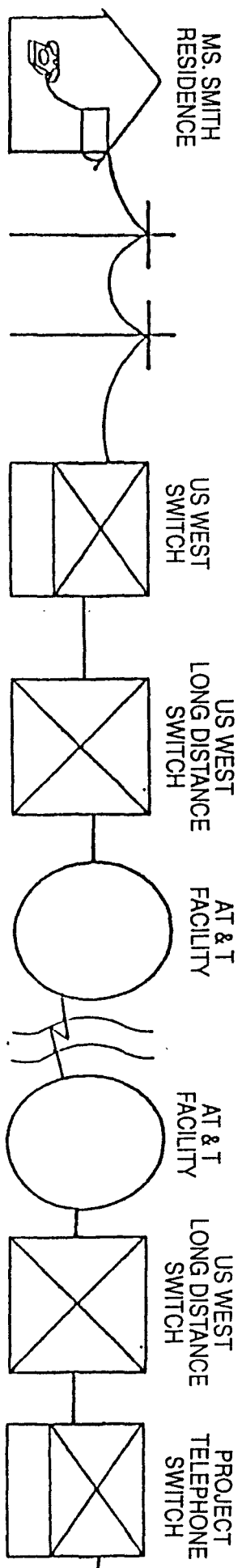
Requested by Sen. Bob Williams  
For the Committee on Taxation

Prepared by Susan Fox  
April 2, 1991

1. Page 2, line 25 through page 3, line 1.  
Strike: subsection (3) in its entirety  
Renumber: subsequent subsection

# HELENA

EXHIBIT 5  
DATE 4-3-91  
HB SB-462



US WEST BILLS CARRIER - TAX 1

CARRIER OWNS  
NO BILL ISSUED

US WEST  
BILLS  
CARRIER  
TAX 1

PROJECT

AT & T BILLS MS. SMITH - TAX 2

# Tippy & McCue

ATTORNEYS AT LAW

DATE 4-3-91  
HB SB 462

1215 Eleventh Avenue  
P.O. Box 543  
Helena, Montana 59624  
406-442-4448 FAX 406-442-8018

Roger Tippy  
Mary Kelly McCue

March 29, 1991

Jeff Miller, Administrator  
Income & Miscellaneous Tax Division  
Montana Department of Revenue  
Helena, MT 59620

Re: Senate Bill 462

Dear Jeff:

Our firm is reading bills for the Montana Innkeepers Association and has noted a possible concern the larger hotels could have with SB 462. A hotel, as you are aware, provides through a central switch and single number, telephone service to its guests. Some hotels charge a guest a nominal amount for each local call. All provide long-distance calling access. If a hotel guest uses a credit card to place a long-distance call, the hotel adds no charge. If the guest charges the call to the room, the call is placed through the carrier the hotel has selected and is billed, with a markup over the carrier's charge to the hotel. The hotel also accepts calls to guests and takes messages when the guest is out.

My question is this: Does SB 462's definition of "gross revenue" exclude revenue realized by the hotel, as revenue from the lease or maintenance of equipment or from the provision of nontransmission-related services or activities? The hotel's expenses include the amortization and maintenance of a switch and the individual sets, usually equipped with message-waiting lights, as well as the wages of a receptionist. Revenue from providing these activities could include a profit margin, or course. However, the point is that a hotel's markup on outgoing long distance may be covering a lot of other telephone services available to the guests.

I would appreciate a written response before the House Taxation Committee hears the bill. If your interpretation accords with what I suggest, the hotels would not need to seek an amendment to the bill.

Sincerely,

  
ROGER TIPPY

cc: Dennis Lopach

EXHIBIT 8  
DATE 4-3-91  
HB SB 462

State of Montana  
Stan Stephens, Governor



Department of Revenue  
Denia Adams, Director

Income and  
Miscellaneous Tax Division  
Jeff Miller, Administrator

Roger Tippy, Esq.  
Tippy & McCue  
1215 Eleventh  
P.O. Box 543  
Helena, Montana 59624

RE: Senate Bill 462

Dear Roger:

I have your letter of March 29th questioning whether a hotel or motel engaged in providing "telephone service to its guests" would be subject to the Telephone Company License Tax addressed in SB 462 ?

The short answer is yes. The proposed amendments to Section 15-53-101 (2) would not except the activity you describe.

To the extent a facility is providing for a fee, two way telephone service, they will be subject to this tax. Please keep in mind Roger, whether or not this legislation is passed, clearly, the gross "mark-up" earned by the facility from providing telephone service is now subject to tax and will continue to be under this legislation. I would expect however, the quarterly exemption of \$250 per quarter may eliminate many of the smaller members of the Montana Innkeepers Association.

Your letter suggests there are potentially several elements to be considered in determining which of your clients' revenues would be subject to tax. Many of your concerns have also been raised by other businesses engaged in the telephone business on a more limited basis than the local telephone companies. Recognizing this is a new issue for your clients, the Department would be pleased to sit down at any time and discuss these issues more thoroughly.

Sincerely,  
*Jeff Miller*

Jeff Miller, Administrator  
Income & Miscellaneous Tax Division

✓ xc: Senator Joe Mazurek

EXHIBIT 9  
DATE 4-3-91  
HB SB 462

Amend SB 462, first reading bill

Page 2, line 10

Following: line 9

Insert: (c) "telephone service provider" does not include a lodging facility, as defined in 15-65-101, or any other business which provides telephone service to its guests or tenants as a service incidental to the lease or rental of rooms, offices, or other premises.

Amendments to House Bill No. 1012  
First Reading Copy

Requested by the Department of Revenue  
For the House Committee on Taxation

Prepared by Eddy McClure  
April 1, 1991

1. Title, line 5.  
Strike: "TO APPLY"  
Insert: "APPLYING"
2. Title, line 9.  
Following: "MEMBERS;"  
Insert: "PROVIDING AN INCREASE IN THE APPROPRIATION TO THE  
DEPARTMENT OF REVENUE FOR FISCAL YEARS 1992 AND 1993 TO  
ADMINISTER COLLECTION OF CIGARETTE TAXES; PROVIDING A CIVIL  
PENALTY FOR THE POSSESSION OF UNSTAMPED CIGARETTES;"
3. Title, line 10.  
Following: "AMENDING"  
Strike: "SECTION"  
Insert: "SECTIONS"
4. Title, line 11.  
Following: "16-11-111,"  
Insert: "16-11-113, 16-11-119, 16-11-131, AND 16-11-133,"  
Following: "AN"  
Insert: "IMMEDIATE"  
Following: "DATE"  
Insert: ", AN APPLICABILITY DATE,"
5. Page 2.  
Following: line 23  
Insert: "NEW SECTION. Section 2. Stamps affixed on all  
cigarettes -- exception. Except for cigarettes sold on  
military reservations, all cigarettes sold in Montana must  
have a Montana cigarette tax stamp affixed prior to sale."  
Renumber: subsequent sections
6. Page 2, line 25.  
Following: "tax"  
Insert: "-- exemption for sales to Indians"
7. Page 3, line 20.  
Following: "(4)"  
Strike: "Wholesalers"  
Insert: "Pursuant to the procedure provided in subsection (5),  
wholesalers"
8. Page 3, line 24 through page 4, line 3.  
Following: "made." on line 24  
Strike: remainder of line 24 through "retailer." page 4, line 3



Ex. 10  
4-3-91  
HB 1012

9. Page 4.

Following: line 3

Insert: "(5) The distribution of tax-free cigarettes to Indians must be implemented through a system of preapproved, wholesaler shipments. Licensed Montana wholesalers shall contact the department for approval prior to shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota for that particular service area has been met. If the sale is authorized as tax exempt, the wholesaler, upon providing proof of order and delivery to an exempt retailer, must be provided a credit or a refund. Once the allocation for the particular service area has been filled, the department shall immediately notify all wholesalers that all further sales on that reservation must be taxed and that claims for refund or credit will not be honored for the remainder of the month. Allocations are not transferrable between months or between Indian reservations."

Renumber: subsequent subsections

10. Page 4, line 6.

Following: "any"

Strike: "reporting period"

Insert: "month"

11. Page 4, lines 8 and 9.

Following: "cigarettes"

Strike: remainder of line 8 through "rule," on line 9

12. Page 4, line 10.

Following: "made."

Insert: "The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using population estimates and other data issued by the United States government."

13. Page 4, lines 11 through 16.

Strike: lines 11 through 16 in their entirety

14. Page 4, line 18.

Following: "department"

Insert: "pursuant to 16-11-132(2)"

15. Page 4, line 22.

Following: line 21

Insert: "NEW SECTION. Section 4. Civil penalty for possession of unstamped cigarettes. In lieu of the criminal penalties provided in Title 16, chapter 11, part 1, the department may assess a person possessing unstamped cigarettes a civil penalty of \$250 for the first full or partial pack of unstamped cigarettes and \$10 for each additional full or partial pack of unstamped cigarettes."

Renumber: subsequent sections

2x. 10  
4-3-91  
HB 1012

16. Page 6, line 6.  
Following: line 5

Insert: "Section 6. Section 16-11-113, MCA, is amended to read:

"16-11-113. Tax insignia. (1) Within 72 hours after receipt by the distributor or dealer of any cigarettes, except as hereinafter provided, he shall cause to be securely affixed thereto the required insignia denoting the tax thereon. ~~A person specifically exempted under the provisions of 16-11-132(2) may not be considered to be acting unlawfully under this section.~~

(2) Said insignia shall be properly canceled prior to sale or removal for consumption, under such regulations as the department may prescribe.

(3) Each package shall have the required insignia to affix thereto in such a manner that the insignia will be destroyed when the package is opened.

(4) Wholesalers and retailers licensed under this part may buy, sell, or have in their possession only cigarettes which have the insignia provided for in this part on each package. The insignia provided for in this part shall be sold to and affixed by licensed wholesalers and licensed retailers only.

(5) Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer, or other person without the insignia affixed and canceled or not marked as having been received by the unlicensed wholesaler, retailer, or person within the preceding 72 hours, the presumption shall be that such cigarettes are kept therein in violation of the provisions of this part."

Section 7. Section 16-11-119, MCA, is amended to read:

16-11-119. Disposition of taxes -- retirement of bonds.

~~All~~ (1) Except as provided in subsection (2), all moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: 70.89% in the long-range building program fund in the debt service fund type and 29.11% in the long-range building program fund in the capital projects fund type.

(2) The following money, collected pursuant to 16-11-111, is appropriated to the department:

<u>Fiscal year 1992</u>	<u>\$ 64,272</u>
<u>Fiscal year 1993</u>	<u>56,872"</u>

Section 8. Section 16-11-131, MCA, is amended to read:

"16-11-131. Transporting cigarettes without insignia a misdemeanor. It shall be unlawful for any person to transport into, receive, carry, or move from place to place within this state, except in the course of interstate commerce, any cigarettes which do not bear the insignia required by this part, ~~except for a person specifically exempted in 16-11-132(2).~~ Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished as hereinafter provided."

Section 9. Section 16-11-133, MCA, is amended to read:

"16-11-133. Sale and use of cigarettes without insignia

**unlawful.** Every person who sells any package of cigarettes which does not bear the insignia required by this part and every person who uses or consumes a cigarette within this state, taken from a package which does not bear the required insignia, is guilty of a misdemeanor and shall be punished as hereinafter provided, ~~except that a person specifically exempted under the provisions of 16-11-132(2) may not be considered to be acting unlawfully under this section."~~

Renumber: subsequent sections

17. Page 6, line 7.  
Strike: "[Section 1] is"  
Insert: "[Sections 1, 2, and 4] are"

18. Page 6, line 10.  
Strike: "[section 1]"  
Insert: "[sections 1, 2, and 4]"

19. Page 6, line 10.  
Following: "date"  
Insert: "-- applicability"

20. Page 6, line 11.  
Following: "effective"  
Strike: "July 1, 1991"  
Insert: "on passage and approval and applies to sales made by a wholesaler after June 30, 1991"

EXHIBIT 11  
DATE 4-3-91  
HB SB412

SB 412  
SALES ASSESSMENT RATIO - SHORTENED REAPPRAISAL CYCLE  
Senator Crippen

This bill is necessary as the Montana Supreme Court ruled that the sales assessment ratio as applied for the 1990 tax year unfairly discriminated against certain owners of real property. The Court declared that the law, and thus the property taxable values determined under the law, were unconstitutional after December 31, 1990. Therefore, this legislature must deal with the procedure for determining how the taxable value for real residential and commercial property will be established for tax year 1991 and beyond.

The effect of not dealing with the sales assessment ratio study for tax years 1991 through 1993 will be to have residential property taxable value adjustment ranging from a 14.5 percent decrease to a 30.7 percent increase. Commercial property taxable values will change from a 2.9 percent decrease to a 33.7 percent increase. The three counties with the largest dollar change in taxable value are Cascade county will have a \$6.3 million decrease, Gallatin County with a \$3.9 million decrease, and Flathead with a \$3.5 million decrease. The largest taxable value increase will be in Yellowstone county with a \$21.1 million increase. In general there will be a property tax shift from the West to the East.

Rolling back these property tax adjustments, which reflect the changing economies of the state, delays and exasperates the changes which will take place at the end of this reappraisal cycle. Taxpayers will be notified in 1993 what their assessed value changes are. Without these interim adjustments, the tax base will shift dramatically in 1994. This causes taxpayers to question the fairness of the system that has been out of line for so long and causes disruption to county and city governments which must make immediate adjustments with no time to address mill levy ceilings.

SB 412 addresses the problems with the sales assessment ratio in an orderly and cost efficient manner; allows reappraisal to be completed on time; and shortens the next reappraisal cycle; and eliminates the sales assessment ratio study adjustments after 1993.

Section 1. Deals with appeals. There are two aspects of appeals--the individual property value and the sales assessment area.

1991 - continues

- A. The owner may now appeal the market value of the home in comparison to recent sales and appraisals or other relevant information rather than needing to show that the 1982 cost base values were wrong when applied at the end of the last reappraisal cycle.

4-3-91

SB 412

Ends 1993

**Section 7.** Repeals the section 1 appeals language and deletes the sales assessment ratio appeal language after December 31, 1993.

1994 - continues

**Section 8.** Repeals the sales assessment ratio study for tax years after December 31, 1993 and shortens the reappraisal cycle from 5 to 3 years.

1994 - continues

**Section 9.** Repeals the 1-105 sales assessment ratio study exemption for tax years beginning after December 31, 1993.

**Section 10.** Repeals 15-7-132 and 15-7-133, which provide statistics for the current reappraisal cycle. The repeal is effective 1-1-93.

**Section 11.** Coordinates the timberland formula with House Bill 340.

**Section 12.** Sets the applicable dates.

**Section 13.** Terminates the sales assessment appeal procedures and selective reappraisal after December 31, 1993.

**Section 14.** Makes the bill effective upon passage and approval and makes the repeal of the sales assessment ratio effective January 1, 1994.

EXHIBIT 12  
DATE 4-3-91  
HB SB412

# Property Tax



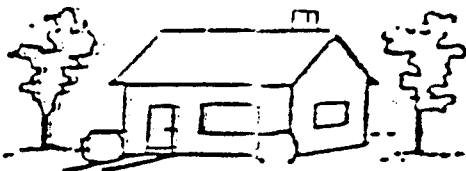
# THE UNRELIABLE EYE

Your HOUSE as seen by . . . .



Your Lender

Yourself



Your Buyer



Your Appraiser

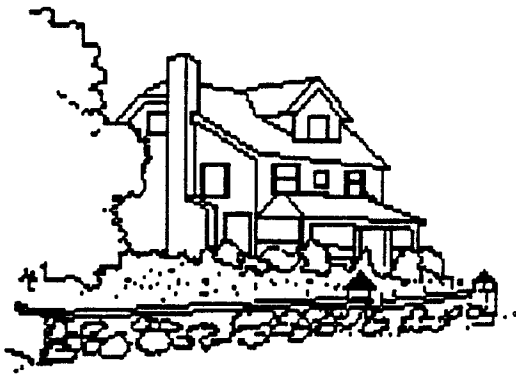


Your Tax Assessor

# PROPERTY CLASSIFICATION GROUPINGS

AGRICULTURAL LAND	Land in excess of 20 acres or land producing at least \$1,500 in annual agricultural income.
TIMBERLAND	Land exceeding 15 acres capable of producing timber in commercial quantities.
CENTRALLY ASSESSED	Basically public utilities, railroads, and airlines.
PERSONAL PROPERTY	All property not considered real estate or improvements.
COMMERCIAL - REAL	Land and improvements owned by a business and/or used in certain income producing activities.
RESIDENTIAL - REAL	Land and improvements other than commercial land and improvements. This primarily includes property used as residences.

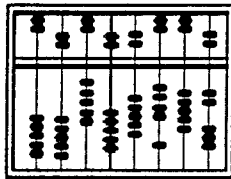




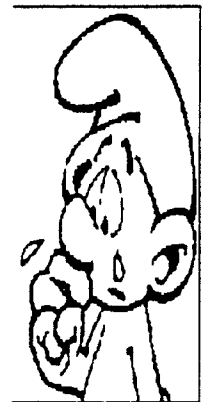
\$20,000 = MARKET VALUE



$\$20,000 \times 3.86\% = \$772$   
MARKET VALUE x TAX RATE = TAXABLE VALUE



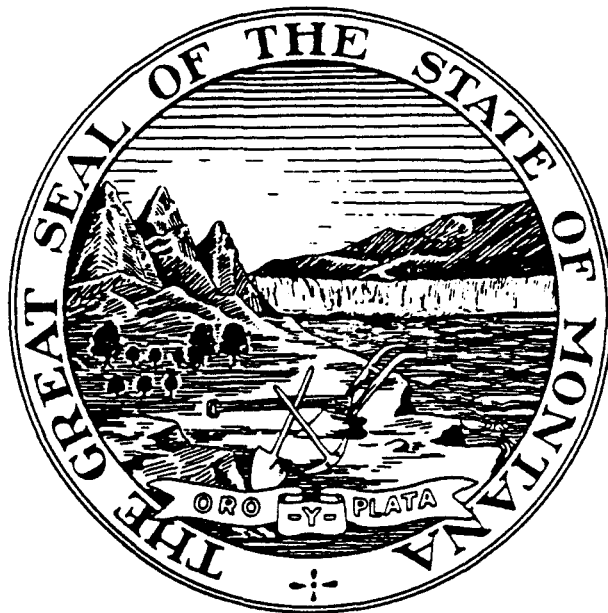
$\$772 \times .250 = \$193.00$   
TAXABLE VALUE x MILL LEVY = TAXES



# Residential and Commercial Real Property Tax Definitions

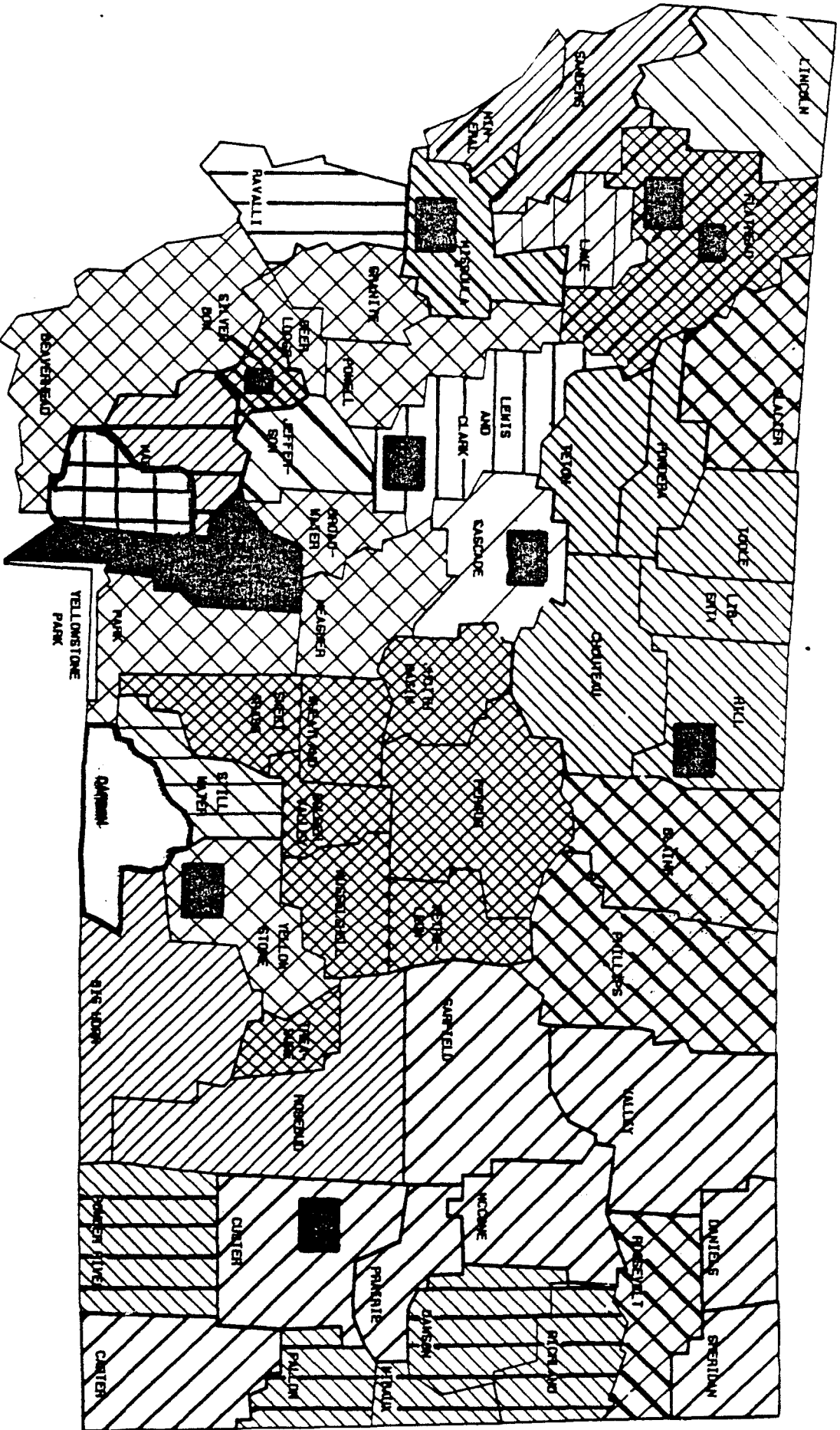
APPRAISED/ASSESSED VALUE	A value determined by the Dept. of Revenue for use in computing local government taxes. Under 15-8-111, MCA, (except for a few noted exceptions) all taxable property must be assessed at 100% of its market value.
MARKET VALUE	The value at which property would change hands between a willing buyer and a willing seller.
TAXABLE VALUE	3.86 percentage of assessed value
MILL	A tenth of a cent. Mills are applied to taxable value to determine taxes owed. One mill applied to \$1,000 of taxable value produces \$1 in tax.

# Montana Department of Revenue



Sales-Assessment Ratio Study  
Tax Year 1991

# SALES ASSESSMENT RATIO STUDIES RESIDENTIAL PROPERTY AREAS



■ Separate City Area (s)



# SALES ASSESSMENT RATIO STUDY

## Why This Program Is Needed

- O Montana statutes require all residential and commercial property be assessed at 100% of its market value. A sales assessment ratio study is the best mechanism for achieving this requirement on an annual basis.
- O A sales assessment ratio study is the best procedure for adjusting values in a timely manner to reflect changing economic conditions.
- O This adjustment accomplishes the goal that comparable property with similar true market values shall have substantially equal taxable values.
- O This bill will compensate for appraisal errors that cover a large area by making adjustments immediately instead of waiting until the next reappraisal cycle.
- O New construction will be assessed at a value more closely approximating cost instead of the cost at the last reappraisal date which is currently 1982.
- O Currently, assessed values are not adjusted to reflect selling prices when property is sold between reappraisal dates.

Residential  
Sales Ratio Studies  
Percentage Adjustments for Tax Years 1990 and 1991

<u>RESIDENTIAL AREAS</u>		<u>Adjustment Factors</u>	
		<u>Tax Year 1990</u>	<u>Tax Year 1991</u>
Area 1	Carbon County	0	2
Area 2	Rural Cascade County	5	2
Area 2.1	Great Falls Downtown	30	20
Area 2.2	Great Falls East	32	7
Area 2.3	Great Falls South	20	4
Area 2.4	Great Falls Southwest	9	3
Area 2.5	Great Falls West	7	2
Area 2.6	Great Falls Northwest	14	1
Area 3	Remainder of Gallatin County	3	7
Area 3.1	Gallatin Canyon and Bozeman Fringe	18	4
Area 3.2	West and East of Bozeman	6	3
Area 3.3	Bozeman	13	8
Area 3.4	Big Sky Area	N/A	12
Area 4	Jefferson County	13	-5
Area 5	Lewis and Clark County	0	4
Area 5.1	Helena Area	0	4
Area 6	Lincoln County	0	0
Area 7	North and West Madison County	0	0
Area 7.1	Southern Madison County	14	-1
Area 8	Missoula County	5	9
Area 8.1	Eastern Urban Missoula	0	7
Area 8.2	Central Urban Missoula	0	2
Area 8.3	Western Urban Missoula	0	7
Area 9	Rural Silver Bow County	3	3
Area 9.1	Butte Flats and West Side	14	1
Area 10	Stillwater County	0	0
Area 11	Yellowstone County	-3	0
Area 11.1	Billings Lockwood	-10	0
Area 11.2	Billings South Side	-14	0
Area 11.3	Billings South West Side	-3	0
Area 11.4	Billings West Side	-1	0
Area 11.5	Billings Heights	-3	0
Area 11.6	Laurel	-3	0

Continued

----- Residential -- Continued -----  
Sales Ratio Studies  
Percentage Adjustments for Tax Years 1990 and 1991

		Adjustment Factors	
<u>RESIDENTIAL AREAS</u>		<u>Tax Year 1990</u>	<u>Tax Year 1991</u>
Area 12	Mineral and Sanders Counties	0	1
Area 13	Remainder of Flathead County	9	12
Area 13.1	Kalispell Area	4	7
Area 13.2	Columbia Falls	0	5
Area 14	Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Treasure and Wheatland Counties	0	0
Area 15	Beaverhead, Broadwater, Deer Lodge, Granite, Meagher, Park and Powell	0	0
Area 16	Blaine, Glacier, Phillips and Roosevelt counties	0	0
Area 17	Big Horn and Rosebud Counties	4	0
Area 18	Dawson, Fallon, Powder River, Richland and Wibaux Counties	-11	-1
Area 19	Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	0	0
Area 19.1	Havre Area	0	0
Area 20	Carter, Custer, Daniels, Garfield, McCone, Prairie, Sheridan and Valley Counties	-1	-2
Area 20.1	Miles City Area	-6	-3
Area 21	Lake County	0	4
Area 22	Ravalli County	5	0



Commercial  
Sales Ratio Studies  
Percentage Adjustments for Tax Years 1990 and 1991

<u>COMMERCIAL AREAS</u>		<u>Adjustment Factors</u>	
		<u>Tax Year 1990</u>	<u>Tax Year 1991</u>
Area 100	Silver Bow and Lewis and Clark	3	0
Area 200	Cascade County	0	0
Area 300	Yellowstone County	-21	0
Area 400	Missoula County	0	0
Area 600	Gallatin and Madison Counties	0	0
Area 700	Flathead County	0	0
Area 500	Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lake, Lincoln, Meagher, Mineral, Park, Powell, Ravalli and Sanders Counties	0	0
Area 800	Rest of Eastern Montana	-7	-3

# THE STATE OF MONTANA'S PROPERTY TAX SYSTEM

As a result of a recent court decision, Montana's property tax system needs fixing. The purpose of this memorandum is to explain the basics of the system, the court decision and some possible solutions.

## HOW PROPERTY TAXES ARE DETERMINED

The taxes on a particular property are determined by the assessed value of the property, the tax rate for the class of property and the mill levy as set by the local officials.

$$\text{assessed value} \times \text{tax rate} \times \text{mill levy} = \text{tax}$$

**Mill Levy** -- Mill levies are determined by the governing body of each taxing jurisdiction. The budget as set by the local officials is divided by the total taxable value in the jurisdiction. This number is calculated in tenths of a cent. One tenth of a cent equals one mill. The number of mills times the taxable value of a particular property equals the tax.

**Tax Rate** -- The taxable value is determined by the tax rate times the assessed value. The tax rate is determined by the classification of the property. The legislature has put residential and most commercial real property in class four. The rate for class four property is 3.86%. This percentage times the assessed value equals the taxable value of the property.

**Assessed value** -- Property is assessed at 100% of market value. The market value of a property is determined by an appraisal. Appraisals are done by the Department of Revenue's appraisal staff in each county.

## CHANGING MARKET VALUES

Market values change over time depending on economic conditions and other factors. The legislature has provided for property to be reappraised every five years in order to keep the assessed value current with market value.

The Department has been unable to complete a reappraisal of all real property in Montana within the five year period. The last reappraisal was scheduled to be completed in 1984 but was not completed until 1986. New reappraised values were scheduled to apply in 1991. The legislature extended the cycle two years and also allowed for one extra year for appeals prior to the new values actually taking effect. New values will now apply beginning in 1994.

## POSSIBLE SOLUTIONS

DATE 4-3-91  
HB SB 412

Clearly, the Montana Supreme Court expects the Legislature to address what it sees as a problem with the current property tax system. If the legislature does not address the problem, all sales/assessment ratio adjustments made over the last few years are invalid. Dramatic increases and decreases in assessed values will result. When the current reappraisal is completed in 1993, the changes will again be dramatic but in the opposite direction.

**Two separate issues** -- The problem can be separated into two separate issues. The first is the short term problem of what to do until the current reappraisal cycle is completed. The second is the long term problem of making sure we do not end up in this situation again. The solution to the short term problem does not have to be the same as the solution to the long term problem.

**A plan** -- It is clear that the court will require the legislature to enact a plan to cure the problem of unequalized assessed values between individual properties. The plan can take various forms but it must address the inequities found by the court and provide a method for keeping assessed values relatively current with market values in the future.

**Reappraisals** -- Obviously the best method for keeping values current would be a reappraisal every year. Clearly this is not possible for the short term and not practical for the long term. However, reappraisals on a more frequent basis than every five or seven years may be possible in the future with the help of computer assisted appraisals.

**Ratio studies** -- Adjustments based on a sales/assessment ratio study are possible as part of a solution to either the long term or the short term problem. However, they can not be the entire solution. These adjustments address the inequities between areas which have different economic factors affecting market values. However, they do not address the inequities between individual properties within an area. The court has said that the inequities between individual properties must be addressed.

**Selective reappraisals** -- Selective reappraisals coupled with area wide adjustments are possible as a solution to either the long term or the short term problem. If the study of an area shows a statistically significant variance between assessment levels for individual properties, the property in the area would be reappraised. The reappraisal would correct the problem between individual properties within an area.

## CONCLUSION

The most important consideration is that the legislature develop a plan which will keep assessed values relatively close to market values over the long term. The legislature is the appropriate body to develop this plan. The court will not unreasonably interfere with the legislature's judgement as long as there is a plan in place which assures equity for taxpayers over the long term.

The values determined in the 1986 reappraisal are based upon the value of the property in 1982. A constant base year is necessary to insure equality since the actual appraisals took place over a seven year period.

The legislature was concerned that the long period between reappraisals was causing inequitable results in areas where market values had changed significantly since 1982. In 1987 and in 1989, the legislature enacted legislation to adjust market values between appraisals.

## SALES/ASSESSMENT RATIO STUDIES

The legislation, HB 436 in 1987 and HB 703 in 1989, requires the Department to conduct a study of assessed values as compared to the market values based on actual sales. The assessed value of property, as shown on the county property tax records, is compared to the sales price from realty transfer certificates filed with the county.

The state is divided into areas with similar property and an average ratio is determined for each area. If the study shows an increase or decrease in market value by more than 5%, all property within the area is adjusted by the percentage which brings the average to within 5%.

As a result of the above study, assessed values were increased in some areas and decreased in other areas. The largest increases were in Cascade county and western Montana. The largest decreases were in Yellowstone county and eastern Montana.

## THE SUPREME COURT DECISION

A property owner in the area with the largest increase, the downtown area of Great Falls, was the first appeal to reach the Montana Supreme Court. The court scrutinized the study and its effect on the taxpayers in the particular area. It concluded that the assessed values in this area were so different from market values, a blanket percentage adjustment made matters worse rather than better.

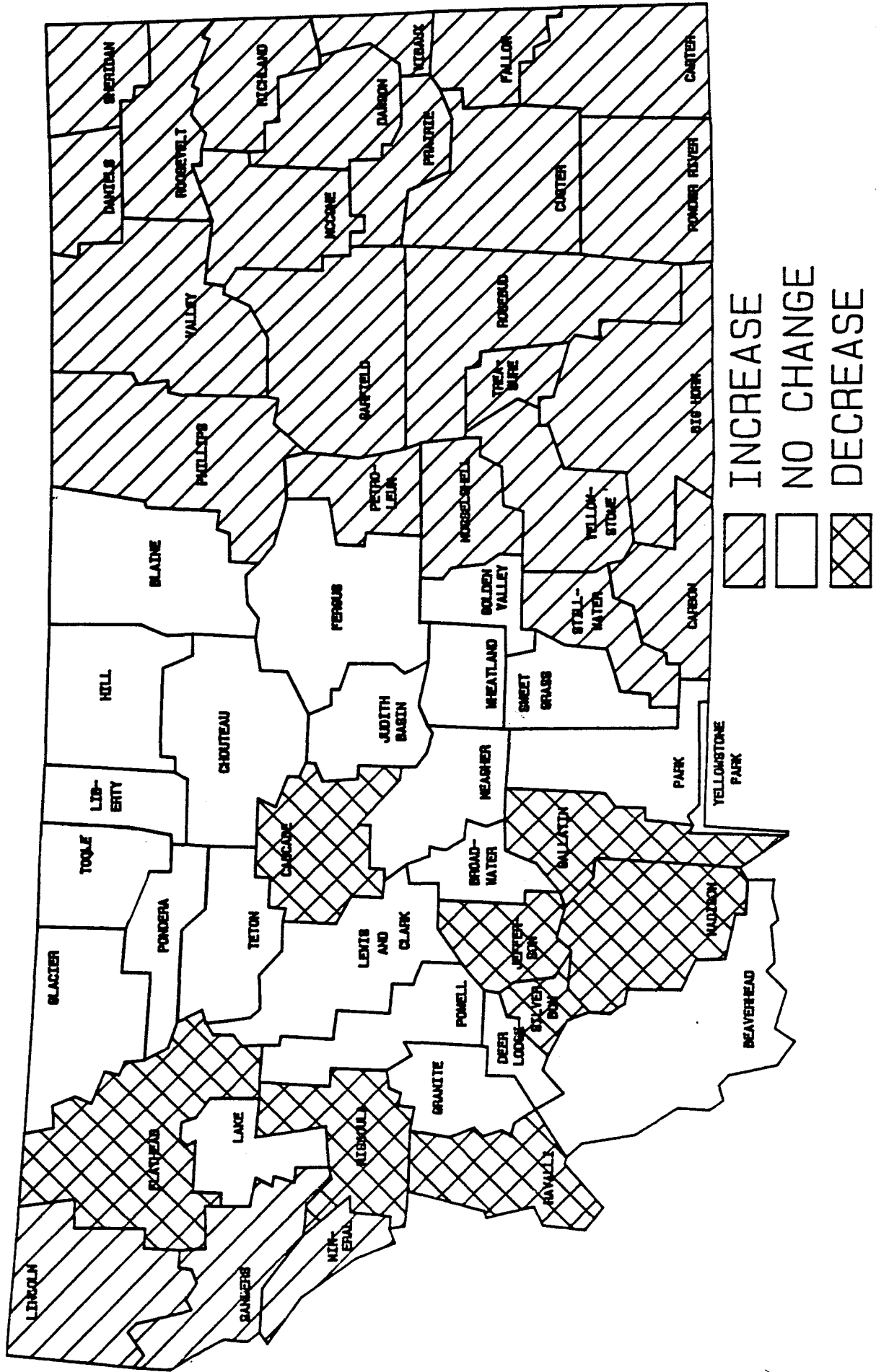
The court determined that the legislation was unconstitutional, as it applied to this area. It delayed the effect of the decision until the end of the 1990 tax year except for those people who had filed appeals. As a result, local governments did not have to refund a large amount of taxes where assessed values were increased or collect additional taxes where assessed values were decreased.

The court delayed the decision in order to give the legislature an opportunity to resolve the problems it saw in the assessed values for downtown Great Falls.

# IMPACT OF REMOVING HB-703 & HB-436

Exhibit # 12  
4-3-91 SB 412

## RESIDENTIAL PROPERTY





### Impact of Repealing HB 703 and HB 436 on TY 90 Taxable Values

County	% Adjustment Necessary to Offset HB 703 and HB436		Change in 1990 Taxable Value if HB 703 and HB436 are Repealed		
	Residential	Commercial	Residential	Commercial	Total
Beaverhead	0.0%	0.0%	0	0	0
Big Horn	11.8%	25.0%	360,751	796,799	1,157,550
Blaine	0.0%	7.5%	0	49,424	49,424
Broadwater	0.0%	0.0%	0	0	0
Carbon	7.5%	15.6%	506,487	152,861	659,349
Carter	17.5%	25.0%	118,417	11,491	129,908
Cascade	-14.3%	0.0%	(6,325,732)	0	(6,325,732)
Chouteau	0.0%	7.5%	0	46,988	46,988
Custer	21.9%	25.0%	1,068,830	473,384	1,542,214
Daniels	17.5%	25.0%	238,653	79,189	317,842
Dawson	30.7%	25.0%	1,482,601	428,720	1,911,320
Deer Lodge	0.0%	0.0%	0	0	0
Fallon	30.7%	25.0%	430,968	133,193	564,161
Fergus	0.0%	7.5%	0	121,009	121,009
Flathead	-7.4%	0.0%	(3,548,201)	0	(3,548,201)
Gallatin	-11.5%	0.0%	(3,923,484)	0	(3,923,484)
Garfield	17.5%	25.0%	133,748	24,991	158,739
Glacier	0.0%	7.5%	0	126,455	126,455
Golden Valley	0.0%	7.5%	0	3,743	3,743
Granite	0.0%	0.0%	0	0	0
Hill	0.0%	0.0%	0	0	0
Jefferson	-11.5%	0.0%	(584,626)	0	(584,626)
Judith Basin	0.0%	7.5%	0	16,207	16,207
Lake	0.0%	0.0%	0	0	0
Lewis And Clark	0.0%	-2.9%	0	(353,739)	(353,739)
Liberty	0.0%	7.5%	0	20,707	20,707
Lincoln	4.2%	4.2%	423,250	148,069	571,319
Madison	-5.7%	0.0%	(373,623)	0	(373,623)
McCone	17.5%	25.0%	260,772	55,172	315,944
Meagher	0.0%	0.0%	0	0	0
Mineral	4.2%	4.2%	61,379	23,872	85,251
Missoula	-2.4%	0.0%	(1,154,509)	0	(1,154,509)
Musselshell	7.5%	15.6%	163,537	58,645	222,182
Park	0.0%	0.0%	0	0	0
Petroleum	16.3%	25.0%	36,057	3,860	39,917
Phillips	16.3%	25.0%	400,822	175,856	576,678
Pondera	0.0%	7.5%	0	74,221	74,221
Powder River	30.7%	25.0%	318,462	45,096	363,557
Powell	0.0%	0.0%	0	0	0
Prairie	17.5%	25.0%	116,256	27,331	143,588
Ravalli	-4.8%	0.0%	(879,961)	0	(879,961)
Richland	30.7%	25.0%	1,501,118	596,876	2,097,995
Roosevelt	16.3%	25.0%	501,881	230,855	732,737
Rosebud	11.8%	25.0%	429,056	455,903	884,959
Sanders	4.2%	4.2%	179,465	37,324	216,789
Sheridan	17.5%	25.0%	449,381	180,892	630,272
Silver Bow	-9.9%	-2.9%	(1,661,965)	(246,457)	(1,908,422)
Stillwater	7.5%	15.6%	347,013	117,225	464,238
Sweet Grass	0.0%	7.5%	0	36,860	36,860
Teton	0.0%	7.5%	0	55,722	55,722
Toole	0.0%	7.5%	0	69,860	69,860
Treasure	7.5%	15.6%	28,729	8,145	36,873
Valley	17.5%	25.0%	722,402	302,974	1,025,377
Wheatland	0.0%	7.5%	0	14,783	14,783
Wibaux	30.7%	25.0%	158,148	27,108	185,256
Yellowstone	10.0%	33.7%	7,967,913	13,146,291	21,114,204
Statewide	-0.0%	9.6%	(46,003)	17,777,904	17,731,901

# HB 703 REPLACEMENT - SB 412

- O Selective Reappraisal - Residential Property 1991, 1992, 1993
  - Remove Trailer Houses.
  - 1991 if less than 80% of assessment level (Great Falls areas 2.1 and 2.2).
  - 1992 and 1993: If less than 80% of assessment level;  
If greater than 20% coefficient of dispersion  
and  
Market value is 5% greater than assessed  
value.
- O Appeal Rights
  - Appeal areas and percentage adjustments through the Administrative Rule process.
  - Appeal individual parcel market values to County Tax Appeal Board.
- O Three Year Reappraisal Cycle - Tax Years 1994 and beyond
  - Reduce 5 year reappraisal cycle to 3 years.
  - Establish a 3 year reappraisal cycle for agricultural land and timber.
- O Administrative Actions Prior to Passage
  - Selective Reappraisal of Areas 2.1 and 2.2.
  - Rule Hearings on Areas and Percentage Adjustments.



Formula Used to Estimate Assessment Level

$$\text{Assessment Level} = \frac{\sum \text{ appraised values}}{\sum \text{ sale values}}$$

# **MARKET MODELING**

**Market modeling is the process of comparing the sales price of a property to similar properties to determine the value of the similar properties.**

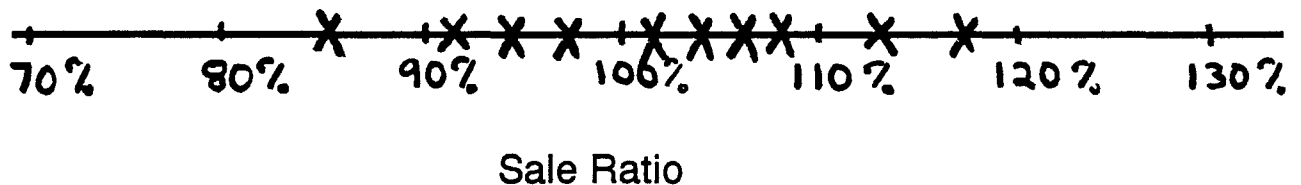
**It is based on the fact that a taxpayer would pay no more for a property than the cost of acquiring an existing, comparable property.**

## Coefficient of Dispersion (COD)

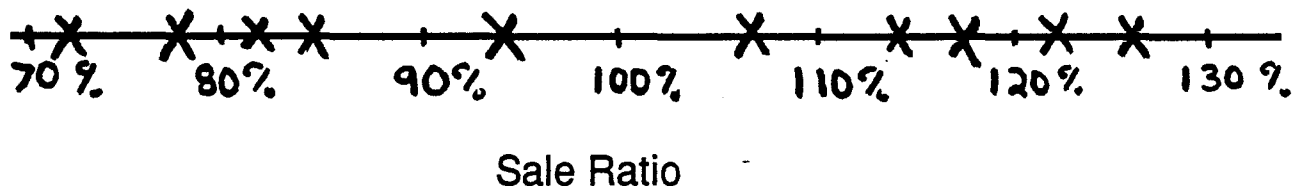
The COD is a measure of assessment uniformity. It is the average dispersion of the individual sales ratios.

Example: Suppose an area has 10 sales. Plot the 10 individual sales ratios on a line graph.

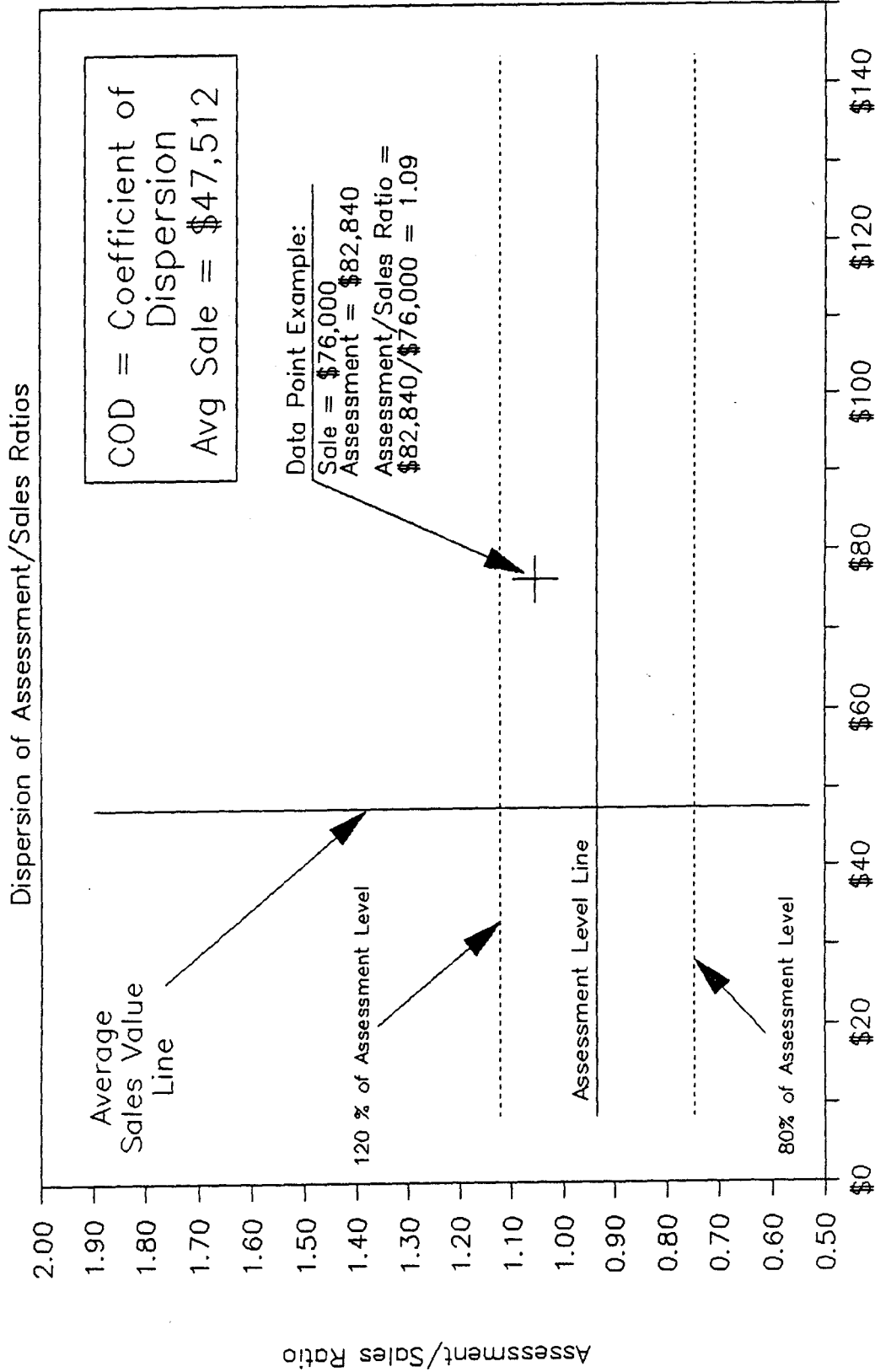
A small COD indicates good assessment uniformity. The individual sales ratios do not vary greatly from one another.



A larger COD indicates poor assessment uniformity. The individual sales ratios are dispersed more widely.



# EXPLANATION OF GRAPHS

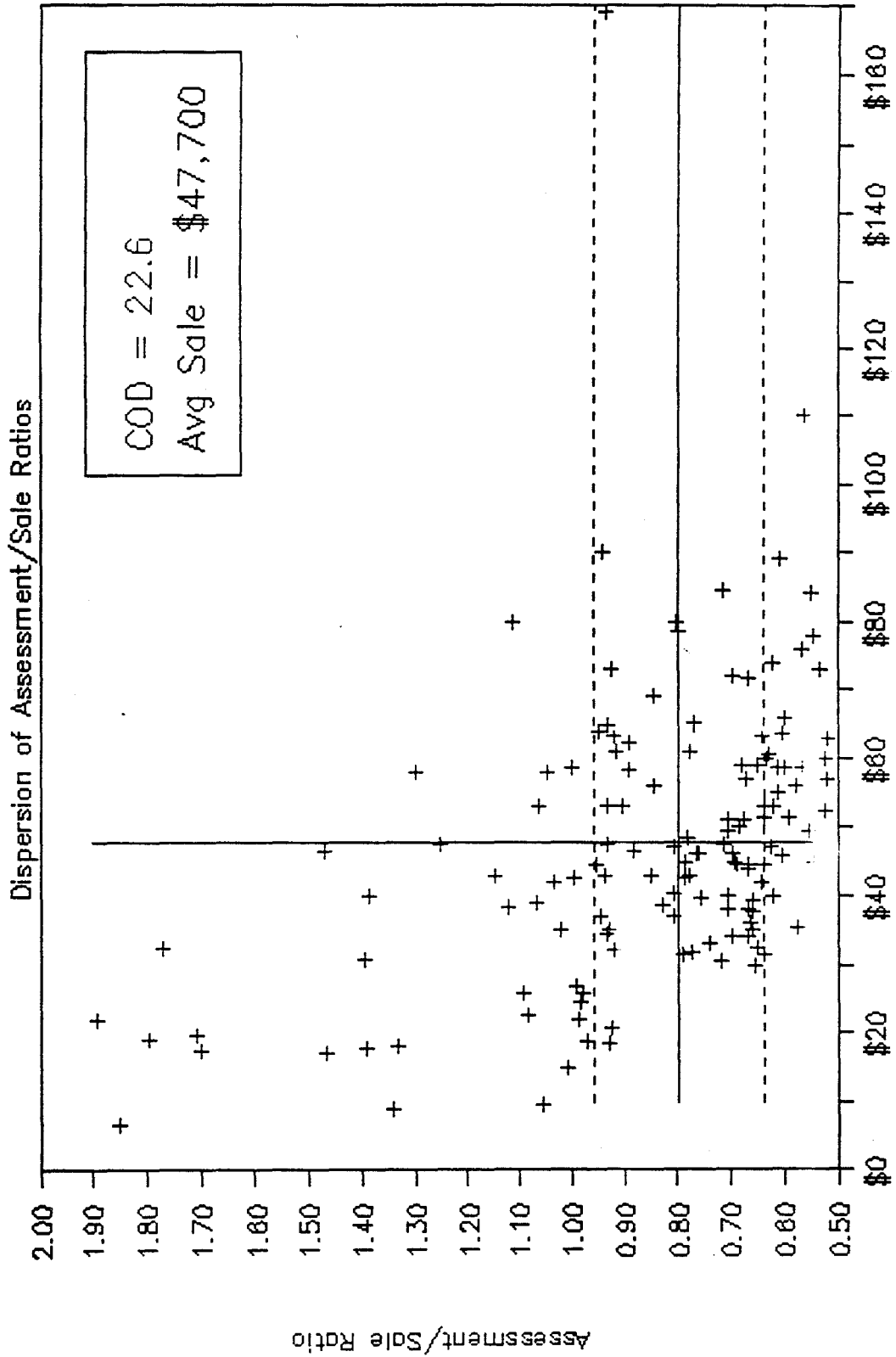


-- Graphs --  
Dispersion of Assessment/Sales Ratios

- \* ) The graphs are a means of eye-balling the relationship, if any, between the sales value and assessment/sales ratio of single-family residences during the sales year (11/89 to 11/90 time period).
  
- \* ) + indicates a sale. The x-axis is the sale value, the y-axis is the assessment/sales ratio.
  
- \* ) The dark solid line between the dotted lines represents the assessment level of single-family residences sold in the area during the sales year.
  
- \* ) The dotted lines represent 20% deviation from the assessment level with respect to the assessment level.
  
- \* ) The vertical line represents the average sale value of single-family residences sold in the area during the sales year.
  
- \* ) The COD listed is the COD of all residential property (including vacant land) sold in the area during the sales year.

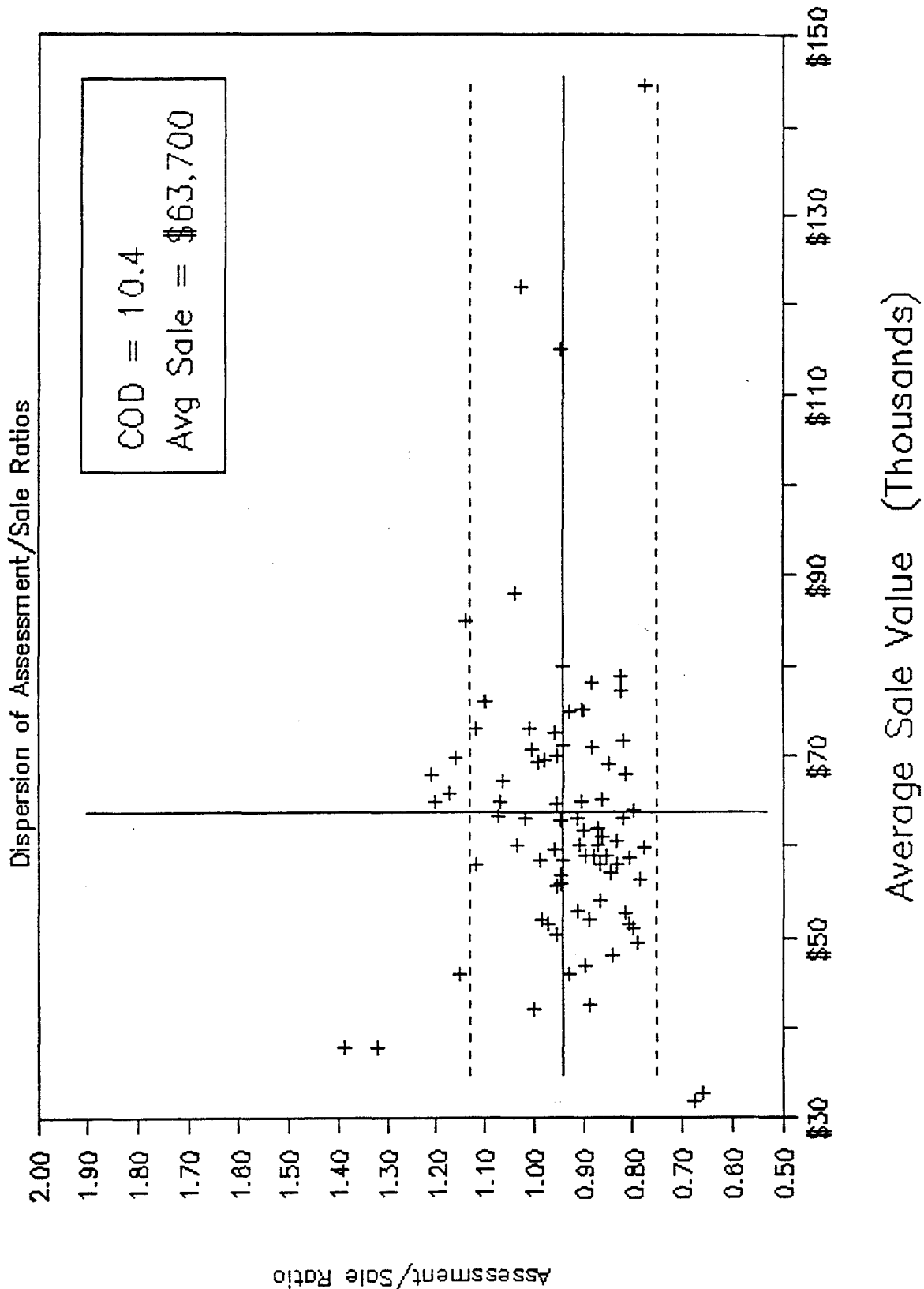
Example of a Poor Coefficient of Dispersion

# Area 2.1 Great Falls Downtown



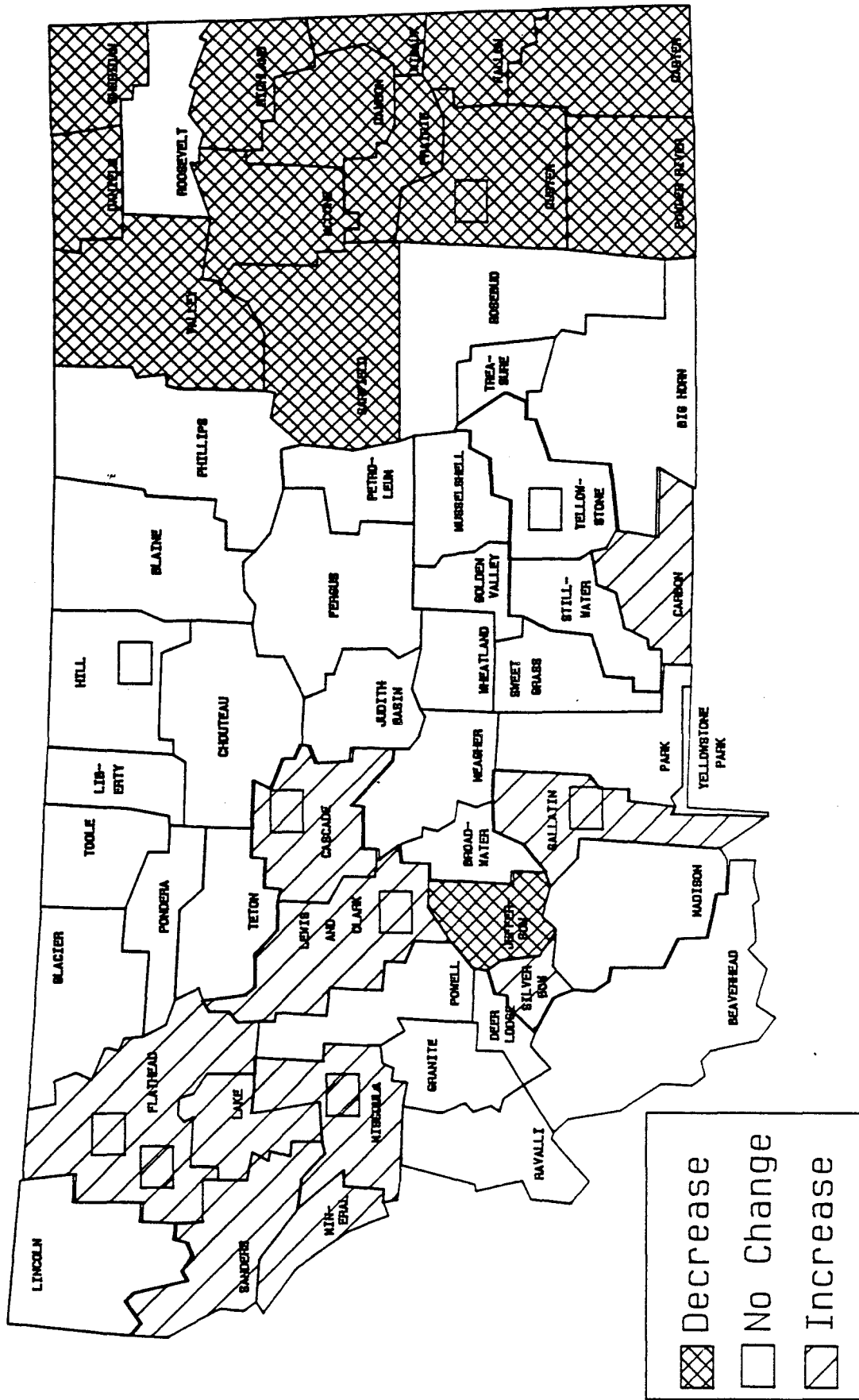
Example of a Good Coefficient of Dispersion

# Area 2.6 Great Falls Northwest



# SALES ASSESSMENT RATIO STUDIES

## Residential Area Valuation Changes

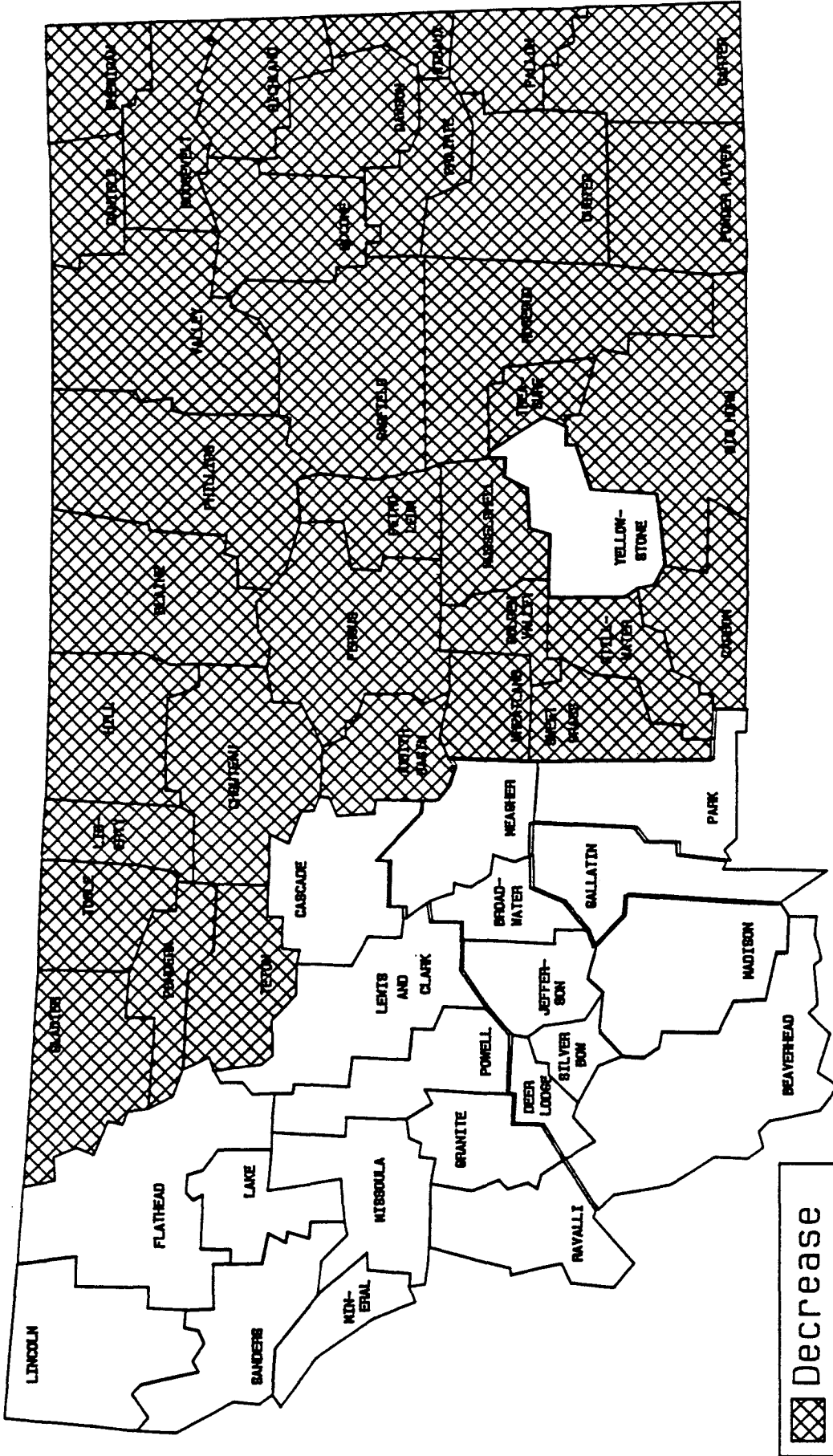




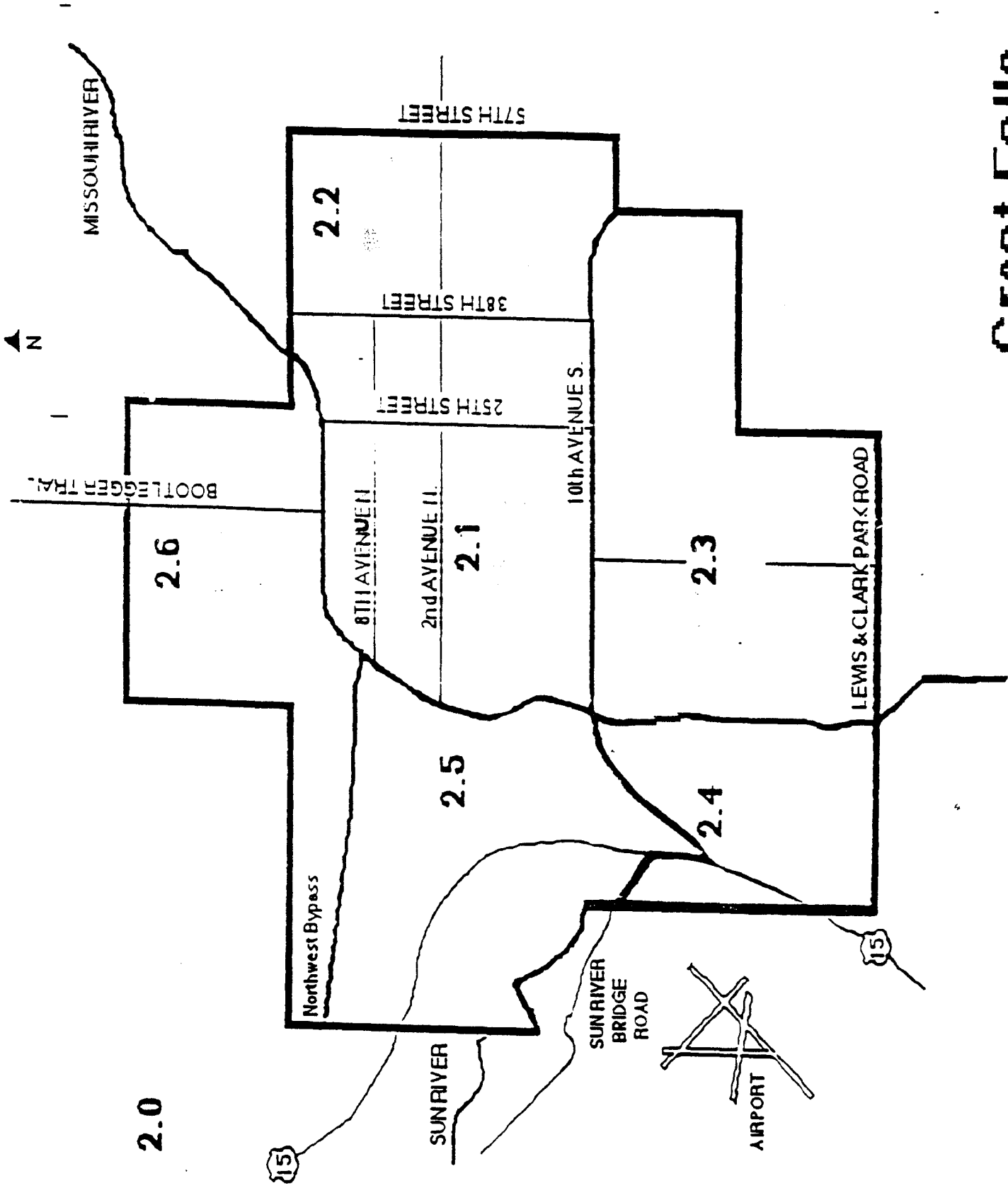
# SALES ASSESSMENT RATIO STUDIES

## Commercial Area Valuation Changes

EXHIBIT 12  
 DATE 4-3-91  
 HB SB 412



	Decrease
	No Change
	Increase



# Great Falls

## Examples of Impact to Property Taxes on a Home Selling for \$50,000 in 1990

<u>Tax Computation</u>	<u>Without Ratio Study Adjustment</u>	<u>With Adjustment and Same Mill Levy</u>	<u>With Adjustment and Lowered Mill Levy</u>
1990 Selling Price	\$50,000	\$50,000	\$50,000
Assessed Value x Tax Rate	\$44,750 3.86%	\$50,000 3.86%	\$50,000 3.86%
Taxable Value x Mill Levy	\$1,727 415.18	\$1,930 415.18	\$1,930 371.50
Property Taxes	\$717	\$801	\$717

<b>Change in Statewide Taxable Value Due to Adjustments</b>
---

<u>Property Class</u>	<u>Current Taxable Value</u>	<u>Adjusted Taxable Value</u>	<u>Change in Taxable Value</u>
Agricultural Land	\$141,447,109	\$141,447,109	\$0
Timber Land	6,612,075	6,612,075	\$0
Centrally Assessed	478,051,380	478,051,380	\$0
Personal Property	258,922,755	258,922,755	\$0
Other	11,034,199	11,034,199	\$0
Real Commercial Property	186,255,606	185,352,018	(\$903,588)
Real Residential Property	<u>488,261,007</u>	<u>501,077,282</u>	<u>\$12,816,275</u>
<b>Total</b>	<b>1,570,584,131</b>	<b>1,582,496,818</b>	<b>11,912,687</b>

<u>Property Class</u>	<u>Current Percent of Total Taxable Value</u>	<u>Adjusted Percent of Total Taxable Value</u>	<u>Change in Percent</u>
Agricultural Land	9.01%	8.94%	-0.07%
Timber Land	0.42%	0.42%	-0.00%
Centrally Assessed	30.44%	30.21%	-0.23%
Personal Property	16.49%	16.36%	-0.12%
Other	0.70%	0.70%	-0.01%
Real Commercial Property	11.86%	11.71%	-0.15%
Real Residential Property	<u>31.09%</u>	<u>31.66%</u>	<u>0.58%</u>
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>0.00%</b>

**Table 1**  
**SB 412 Sales Ratio Studies**  
**Percentage Adjustments for Tax Year 1991**

<u>RESIDENTIAL AREAS</u>		<u>Value Weighted Mean Ratio</u>	<u>Adjustment Factor</u>
Area 1	Carbon County	0.9330	2
Area 2 *	Rural Cascade County	0.9351	2
Area 2.1	Great Falls Downtown	0.8002	20
Area 2.2	Great Falls East	0.8949	7
Area 2.3	Great Falls South	0.9200	4
Area 2.4	Great Falls Southwest	0.9221	3
Area 2.5 *	Great Falls West	0.9354	2
Area 2.6	Great Falls Northwest	0.9406	1
Area 3	Remainder of Gallatin County	0.8903	7
Area 3.1	Gallatin Canyon and Bozeman Fringe	0.9179	4
Area 3.2	West and East of Bozeman	0.9291	3
Area 3.3	Bozeman	0.8867	8
Area 3.4	Big Sky Area	0.8522	12
Area 4	Jefferson County	1.1168	-5
Area 5	Lewis and Clark County	0.9168	4
Area 5.1	Helena Area	0.9138	4
Area 6	Lincoln County	1.0173	0
Area 7	North and West Madison County	0.9940	0
Area 7.1	Southern Madison County	1.0637	-1
Area 8	Missoula County	0.8798	9
Area 8.1	Eastern Urban Missoula	0.8916	7
Area 8.2	Central Urban Missoula	0.9386	2
Area 8.3	Western Urban Missoula	0.8889	7
Area 9	Rural Silver Bow County	0.9302	3
Area 9.1	Butte Flats and West Side	0.9414	1
Area 10	Stillwater County	0.9561	0
Area 11	Yellowstone County	1.0147	0
Area 11.1	Billings Lockwood	1.0130	0
Area 11.2	Billings South Side	0.9598	0
Area 11.3	Billings South West Side	0.9916	0
Area 11.4	Billings West Side	1.0167	0
Area 11.5	Billings Heights	1.0094	0
Area 11.6	Laurel	1.0351	0

\* \* \* \* \* Continued \* \* \* \* \*

Table 1 - Continued  
 SB 412 Sales Ratio Studies  
 Percentage Adjustments for Tax Year 1991

<u>RESIDENTIAL AREAS</u>		<u>Value Weighted Mean Ratio</u>	<u>Adjustment Factor</u>
Area 12	Mineral and Sanders Counties	0.9422	1
Area 13	Remainder of Flathead County	0.8547	12
Area 13.1	Kalispell Area	0.8891	7
Area 13.2	Columbia Falls	0.9118	5
Area 14	Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Treasure and Wheatland Counties	1.0151	0
Area 15	Beaverhead, Broadwater, Deer Lodge, Granite, Meagher, Park and Powell	0.9553	0
Area 16	Blaine, Glacier, Phillips and Roosevelt counties	1.0476	0
Area 17	Big Horn and Rosebud Counties	1.0164	0
Area 18	Dawson, Fallon, Powder River, Richland and Wibaux Counties	1.0665	-1
Area 19	Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	0.9807	0
Area 19.1	Havre Area	0.9677	0
Area 20	Carter, Custer, Daniels, Garfield, McCone, Prairie, Sheridan and Valley Counties	1.0804	-2
Area 20.1	Miles City Area	1.0852	-3
Area 21	Lake County	0.9150	4
Area 22	Ravalli County	0.9694	0

\* According to rule criteria, three years of sales were used.

**Table 2**  
**SB 412 Sales Ratio Studies**  
**Percentage Adjustments for Tax Year 1991**

<u>COMMERCIAL AREAS</u>		<u>Value Weighted Mean Ratio</u>	<u>Adjustment Factor</u>
Area 100	Silver Bow and Lewis and Clark	0.9717	0
Area 200	Cascade County	1.0508	0
Area 300	Yellowstone County	1.0152	0
Area 400	Missoula County	0.9546	0
Area 600	Gallatin and Madison Counties	0.9502	0
Area 700	Flathead County	1.0190	0
Area 500	Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lake, Lincoln, Meagher, Mineral, Park, Powell, Ravalli and Sanders Counties	0.9707	0
Area 800	Rest of Eastern Montana	1.0912	-3

**Table 3**  
**SB 412 Sales Ratio Studies**  
**Summary Statistics**

<b>RESIDENTIAL AREAS</b>		<b>Number of Study Sales</b>	<b>Average Sale Price</b>	<b>Average Appr Price</b>
Area 1	Carbon County	135	33,018	30,807
Area 2 *	Rural Cascade County	35	53,309	46,696
Area 2.1	Great Falls Downtown	146	46,654	37,335
Area 2.2	Great Falls East	166	58,277	52,153
Area 2.3	Great Falls South	86	67,057	61,692
Area 2.4	Great Falls Southwest	57	93,959	86,642
Area 2.5 *	Great Falls West	35	49,037	42,891
Area 2.6	Great Falls Northwest	96	56,630	53,267
Area 3	Remainder of Gallatin County	110	32,141	28,614
Area 3.1	Gallatin Canyon and Bozeman Fringe	339	60,388	55,433
Area 3.2	West and East of Bozeman	86	48,413	44,981
Area 3.3	Bozeman	330	61,575	54,600
Area 3.4	Big Sky Area	46	65,955	56,208
Area 4	Jefferson County	51	62,231	69,497
Area 5	Lewis and Clark County	28	39,630	36,334
Area 5.1	Helena Area	267	58,838	53,764
Area 6	Lincoln County	169	31,398	31,939
Area 7	North and West Madison County	27	26,924	26,763
Area 7.1	Southern Madison County	36	33,149	35,261
Area 8	Missoula County	190	47,205	41,532
Area 8.1	Eastern Urban Missoula	688	67,610	60,283
Area 8.2	Central Urban Missoula	202	43,583	40,906
Area 8.3	Western Urban Missoula	286	62,156	55,248
Area 9	Rural Silver Bow County	117	28,403	26,421
Area 9.1	Butte Flats and West Side	265	45,322	42,664
Area 10	Stillwater County	89	37,120	35,489
Area 11	Yellowstone County	88	60,717	61,611
Area 11.1	Billings Lockwood	119	52,358	53,038
Area 11.2	Billings South Side	58	32,198	30,904
Area 11.3	Billings South West Side	253	55,301	54,834
Area 11.4	Billings West Side	350	78,798	80,117
Area 11.5	Billings Heights	148	76,771	77,491
Area 11.6	Laurel	58	45,640	47,245

\* \* \* \* \* Continued \* \* \* \* \*



Table 3 - Continued  
 SB 412 Sales Ratio Studies  
 Summary Statistics

<u>RESIDENTIAL AREAS</u>		<u>Number of Study Sales</u>	<u>Average Sale Price</u>	<u>Average Appr Price</u>
Area 12	Mineral and Sanders Counties	119	23,456	22,099
Area 13	Remainder of Flathead County	525	51,861	44,326
Area 13.1	Kalispell Area	629	52,478	46,657
Area 13.2	Columbia Falls	174	39,989	36,463
Area 14	Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Treasure and Wheatland Counties	199	31,006	31,475
Area 15	Beaverhead, Broadwater, Deer Lodge, Granite, Meagher, Park and Powell	364	33,549	32,049
Area 16	Blaine, Glacier, Phillips and Roosevelt counties	114	32,477	34,024
Area 17	Big Horn and Rosebud Counties	89	34,546	35,113
Area 18	Dawson, Fallon, Powder River, Richland and Wibaux Counties	172	33,351	35,570
Area 19	Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	155	30,718	30,124
Area 19.1	Havre Area	181	48,555	46,984
Area 20	Carter, Custer, Daniels, Garfield, McCone, Prairie, Sheridan and Valley Counties	180	31,480	34,009
Area 20.1	Miles City Area	23	33,101	35,921
Area 21	Lake County	298	50,402	46,120
Area 22	Ravalli County	394	40,462	39,225

**Table 4**  
**SB 412 Sales Ratio Studies**  
**Summary Statistics**

<u>COMMERCIAL AREAS</u>		<u>Number of Study Sales</u>	<u>Average Sale Price</u>	<u>Average Appr Price</u>
Area 100	Silver Bow and Lewis and Clark	150	68,311	66,375
Area 200	Cascade County	159	98,079	103,059
Area 300	Yellowstone County	177	134,112	136,144
Area 400	Missoula County	205	104,885	100,120
Area 600	Gallatin and Madison Counties	189	96,479	91,673
Area 700	Flathead County	227	91,717	93,462
Area 500	Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lake, Lincoln, Meagher, Mineral, Park, Powell, Ravalli and Sanders Counties	234	60,635	58,859
Area 800	Rest of Eastern Montana	288	57,197	62,415

**Table 5**  
**SB 412 Sales Ratio Studies**  
**Estimated Change in 1990 Taxable Value - Residential Property**

<b>RESIDENTIAL AREAS</b>		<b>Percent Change</b>	<b>Current Taxable</b>	<b>Change</b>
Area 1	Carbon County	2%	6,729,044	134,581
Area 2	Cascade County	6%	44,189,795	2,654,142
	Great Falls	7%	33,521,003	2,278,902
Area 3	Gallatin County	5%	34,104,128	1,825,242
	Bozeman	8%	10,319,598	825,568
Area 4	Jefferson County	-5%	5,081,750	(254,088)
Area 5	Lewis and Clark County	4%	30,103,101	1,204,124
	Helena	4%	14,219,278	568,771
Area 6	Lincoln County	0%	10,157,998	0
Area 7	Madison County	1%	6,600,679	58,422
Area 8	Missoula County	5%	48,618,415	2,401,709
	Missoula	3%	24,373,720	783,165
Area 9	Silver Bow County	2%	16,770,733	259,369
Area 10	Stillwater County	0%	4,610,318	0
Area 11	Yellowstone County	0%	79,704,498	0
	Billings	0%	56,674,408	0
Area 12	Mineral and Sanders Counties	1%	5,780,258	57,803
Area 13	Flathead County	9%	47,960,898	4,249,203
	Kalisp., Whitefish, Col. Falls	8%	11,990,741	1,003,486
Area 14	Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Treasure and Wheatland Counties	0%	13,603,208	0
Area 15	Beaverhead, Broadwater, Deer Lodge, Granite, Meagher, Park and Powell	0%	26,333,049	0

\* \* \* \* \* Continued \* \* \* \* \*

**Table 5 - Continued**  
**SB 412 Sales Ratio Studies**  
**Estimated Change in 1990 Taxable Value - Residential Property**

<u>RESIDENTIAL AREAS</u>	<u>Percent Change</u>	<u>Current Taxable</u>	<u>Change</u>
Area 16 Blaine, Glacier, Phillips and Roosevelt counties	0%	11,302,440	0
Area 17 Big Horn and Rosebud Counties	0%	6,689,423	0
Area 18 Dawson, Fallon, Powder River, Richland and Wibaux Counties	-1%	12,695,646	(126,956)
Area 19 Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	0%	24,216,418	0
Havre	0%	4,938,637	0
Area 20 Carter, Custer, Daniels, Garfield, McCone, Prairie, Sheridan and Valley Counties	-2%	16,558,731	(366,127)
Miles City	-3%	3,495,210	(104,856)
Area 21 Lake County	4%	17,971,289	718,852
Area 22 Ravalli County	0%	18,479,188	0
Change in Residential Taxable Value			<u>12,816,275</u>

**Table 6**  
**SB 412 Sales Ratio Studies**  
**Estimated Change in 1990 Taxable Value - Commercial Property**

<u>COMMERCIAL AREAS</u>	<u>Percent Change</u>	<u>Current Taxable</u>	<u>Change</u>
Area 100 Silver Bow and Lewis and Clark	0%	20,606,724	0
Area 200 Cascade County	0%	17,336,428	0
Area 300 Yellowstone County	0%	39,029,139	0
Area 400 Missoula County	0%	25,919,153	0
Area 600 Gallatin and Madison Counties	0%	14,765,078	0
Area 700 Flathead County	0%	18,887,146	0
Area 500 Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lake, Lincoln, Meagher, Mineral, Park, Powell, Ravalli and Sanders Counties	0%	19,279,749	0
Area 800 Rest of Eastern Montana	-3%	30,119,613	<u>(903,588)</u>
Change in Commercial Taxable Value			<u>(903,588)</u>

**Estimated Net Impact to Total Statewide Taxable Value**

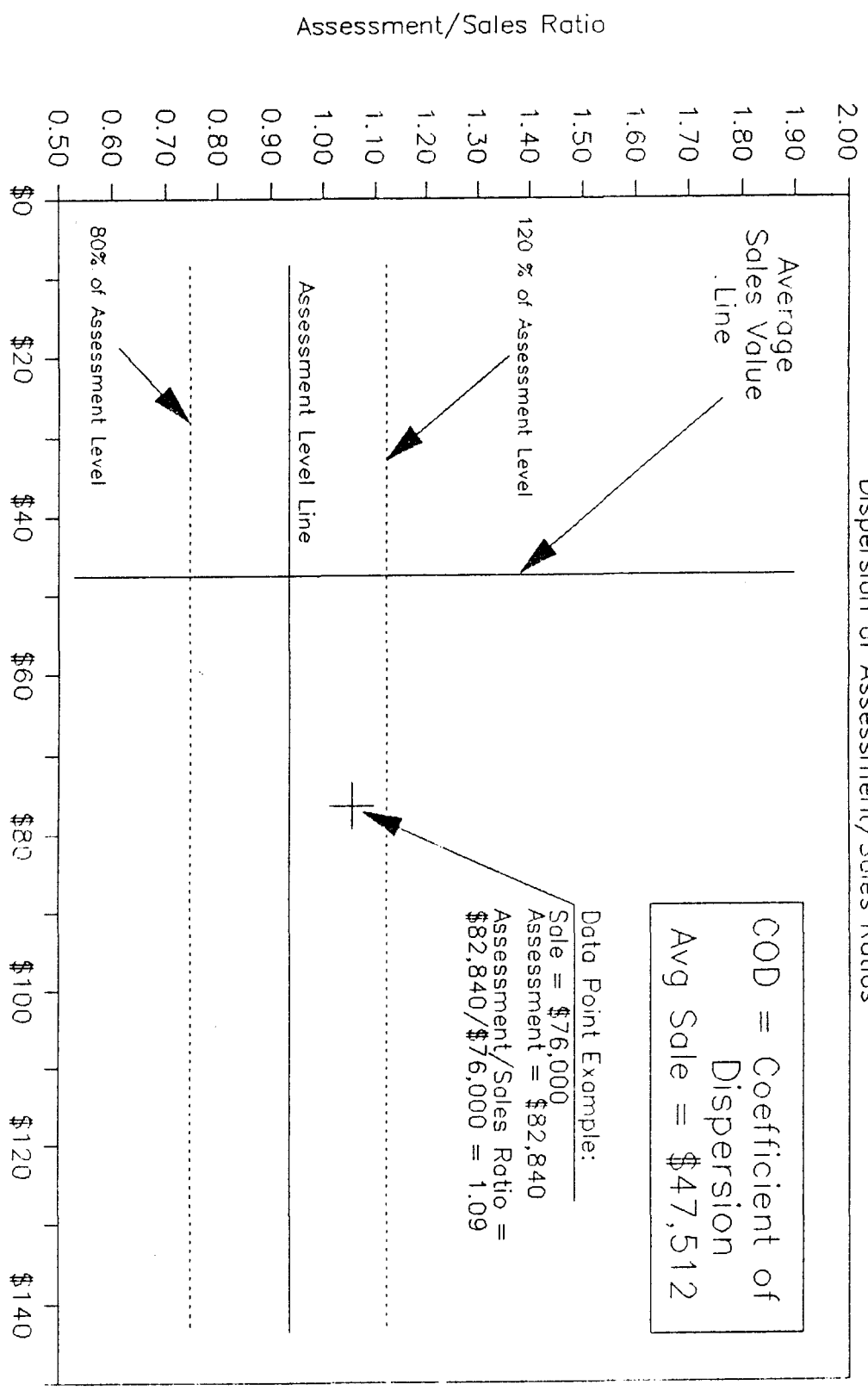
Residential	\$12,816,275
Commercial	<u>(903,588)</u>
Total	\$11,912,687

**Estimated Impact to Statewide Levies**

University	\$ 71,476
State Equalization	476,507
County Equalization	<u>655,198</u>
Total	\$ 1,203,181

# EXPLANATION OF GRAPHS

Dispersion of Assessment/Sales Ratios



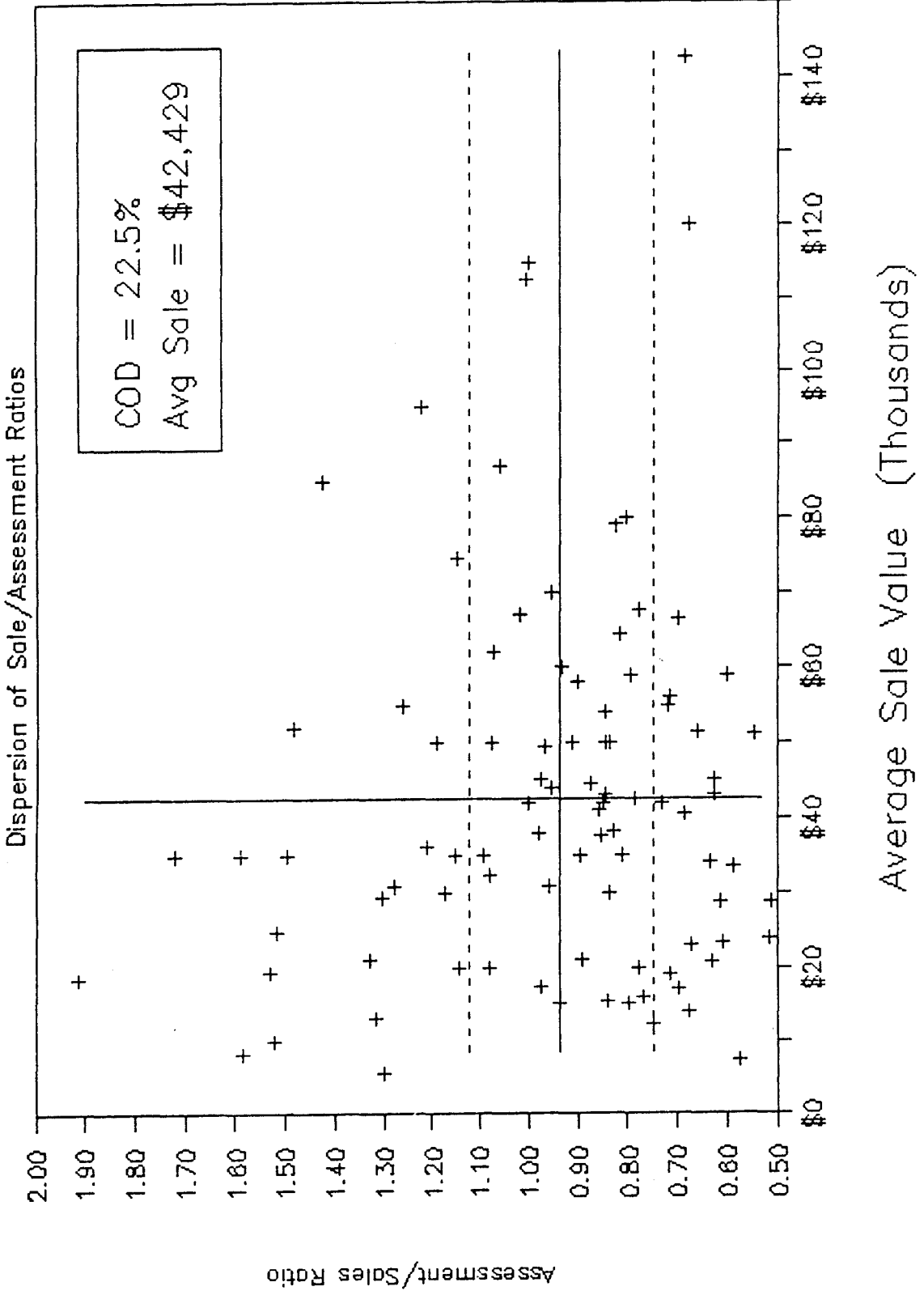
Average Sale Value (Thousands)

-- Graphs --

Dispersion of Assessment/Sales Ratios

- \* ) The graphs are a means of eye-balling the relationship, if any, between the sales value and assessment/sales ratio of single-family residences during the sales year (11/89 to 11/90 time period).
  
- \* ) + indicates a sale. The x-axis is the sale value, the y-axis is the assessment/sales ratio.
  
- \* ) The dark solid line between the dotted lines represents the assessment level of single-family residences sold in the area during the sales year.
  
- \* ) The dotted lines represent 20% deviation from the assessment level with respect to the assessment level.
  
- \* ) The vertical line represents the average sale value of single-family residences sold in the area during the sales year.
  
- \* ) The COD listed is the COD of all residential property (including vacant land) sold in the area during the sales year.

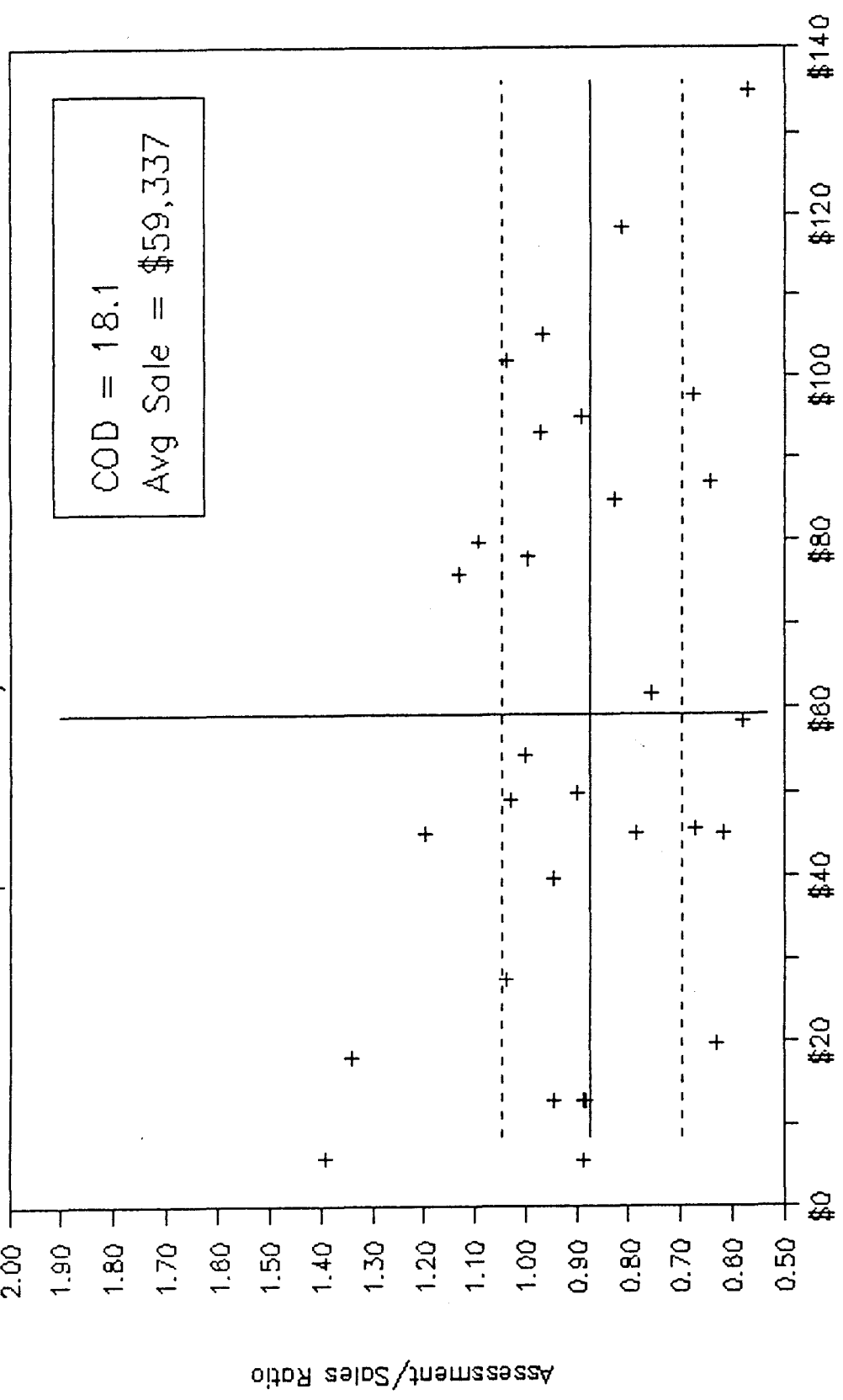
# Area 1.0 Carbon County



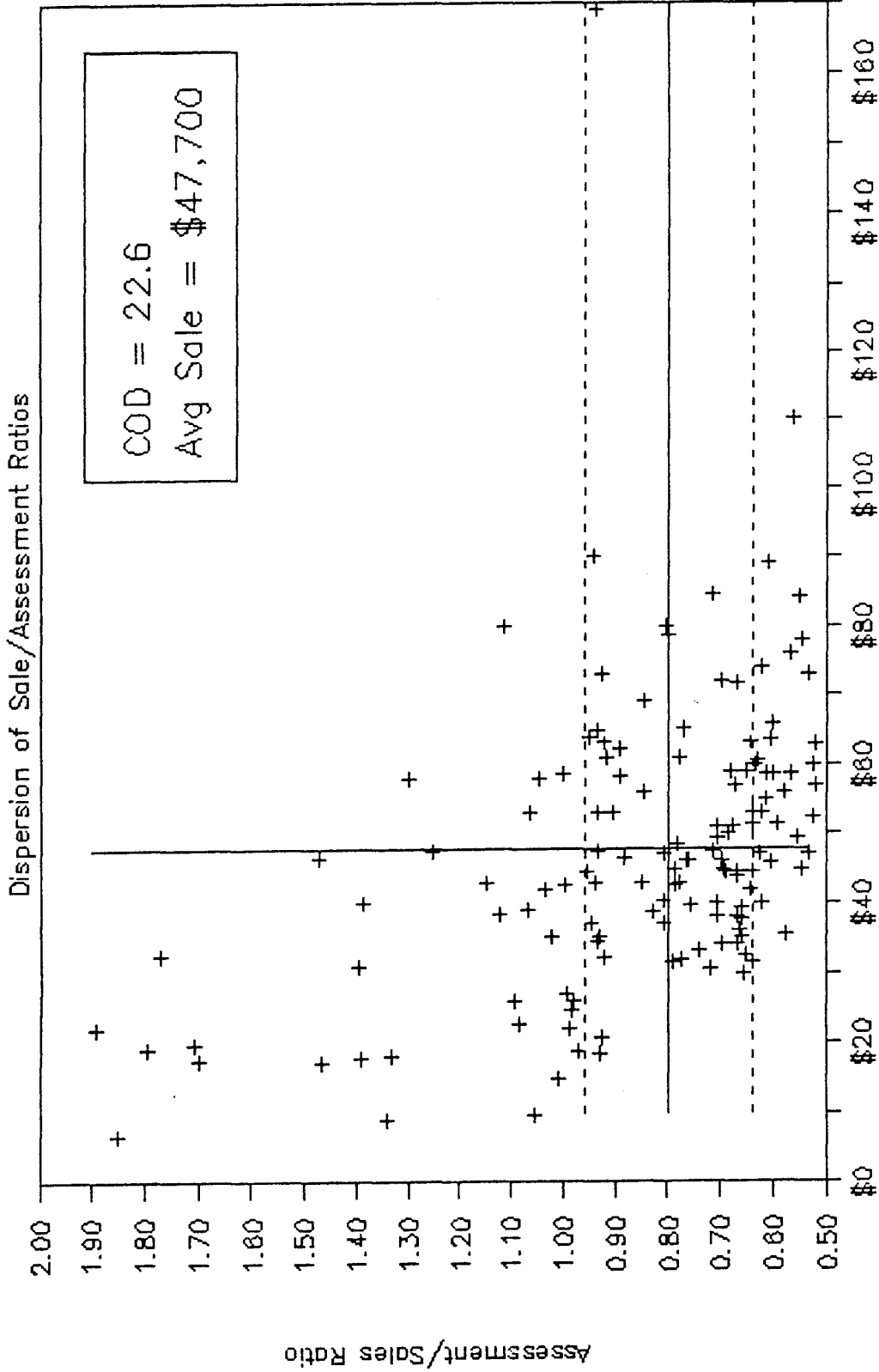


# Area 2.0 Rural Cascade County

Dispersion of Sale/Assessment Ratios

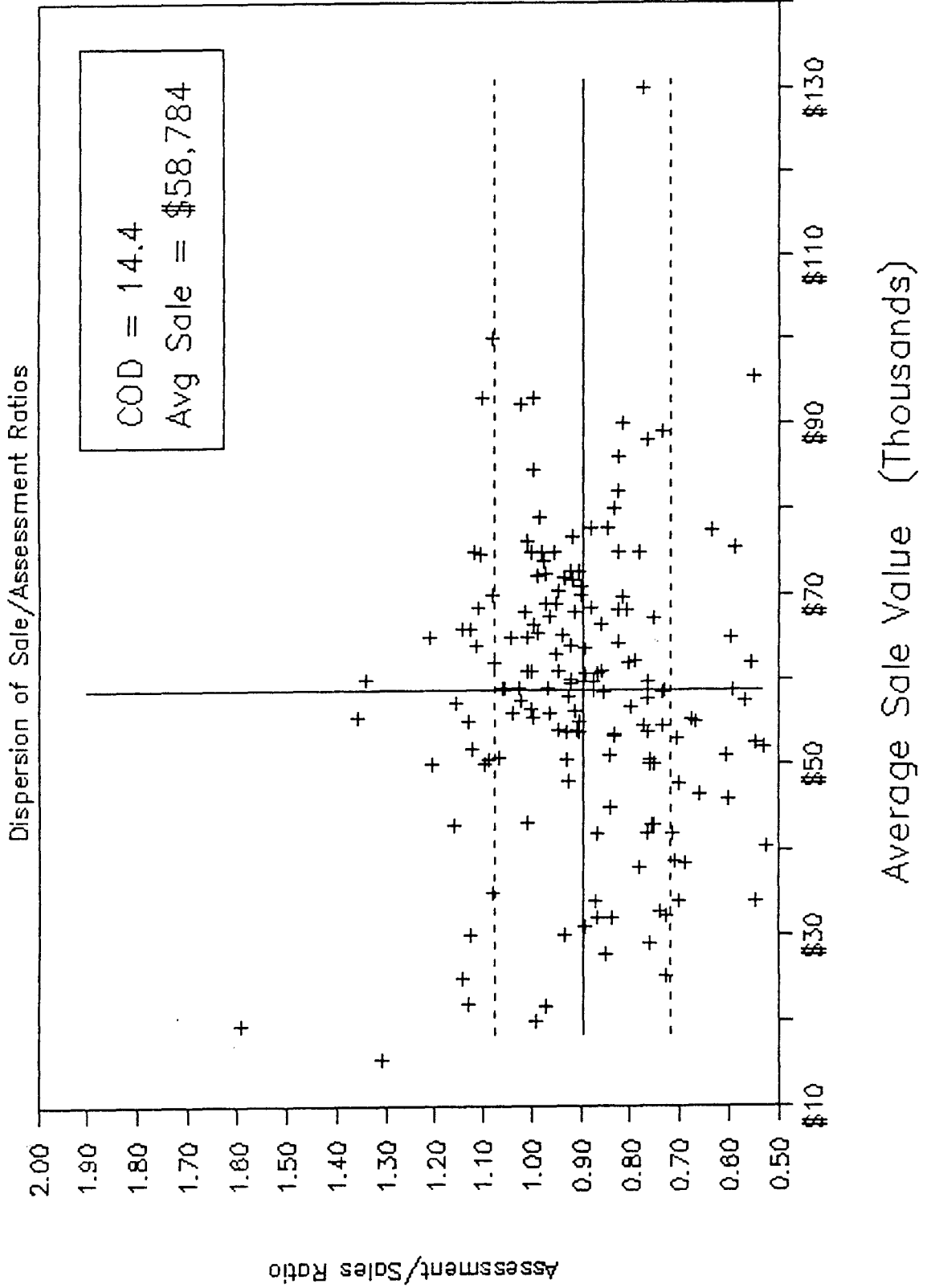


# Area 2.1 Great Falls Downtown



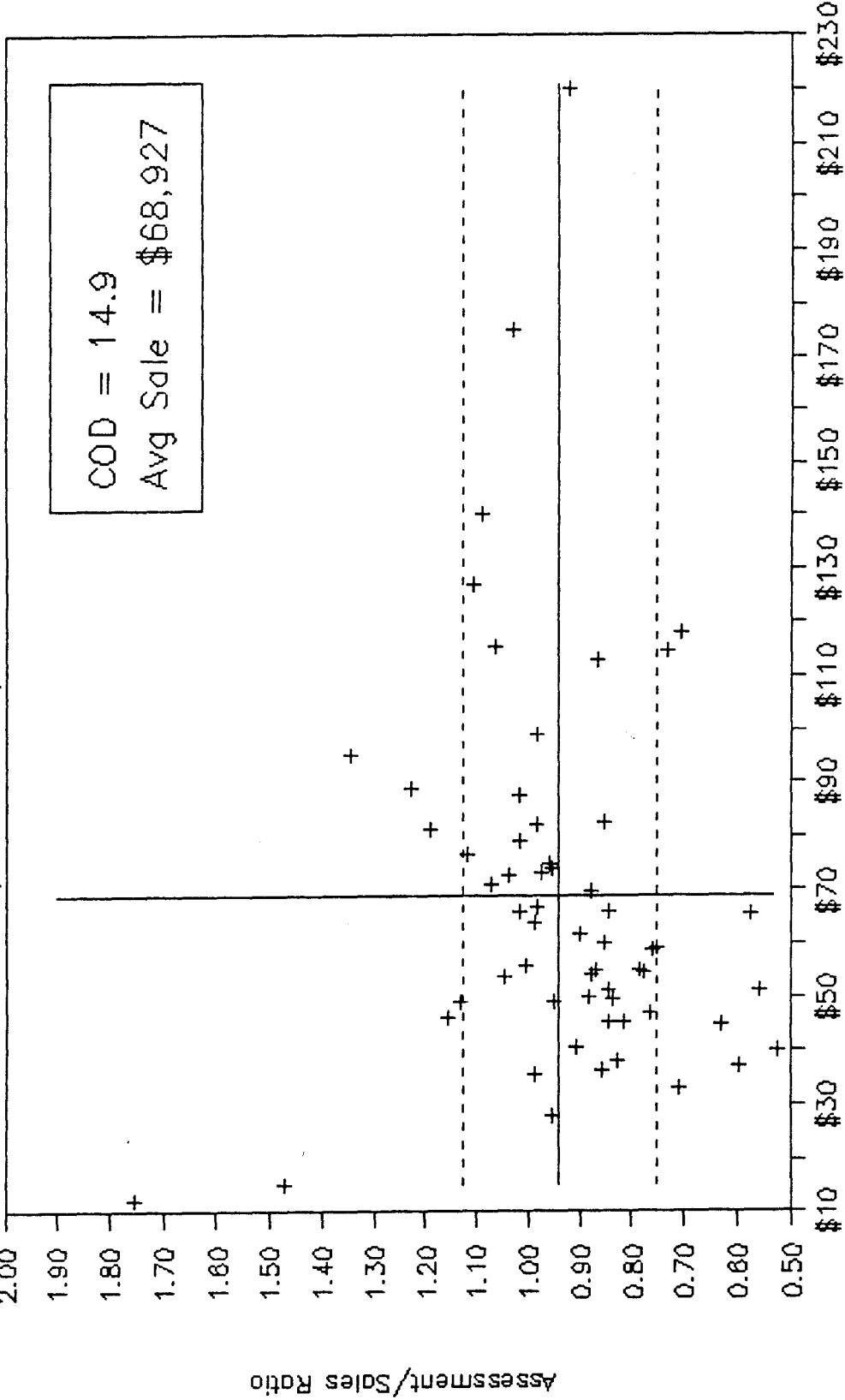
Average Sale Value (Thousands)

# Area 2.2 Great Falls East



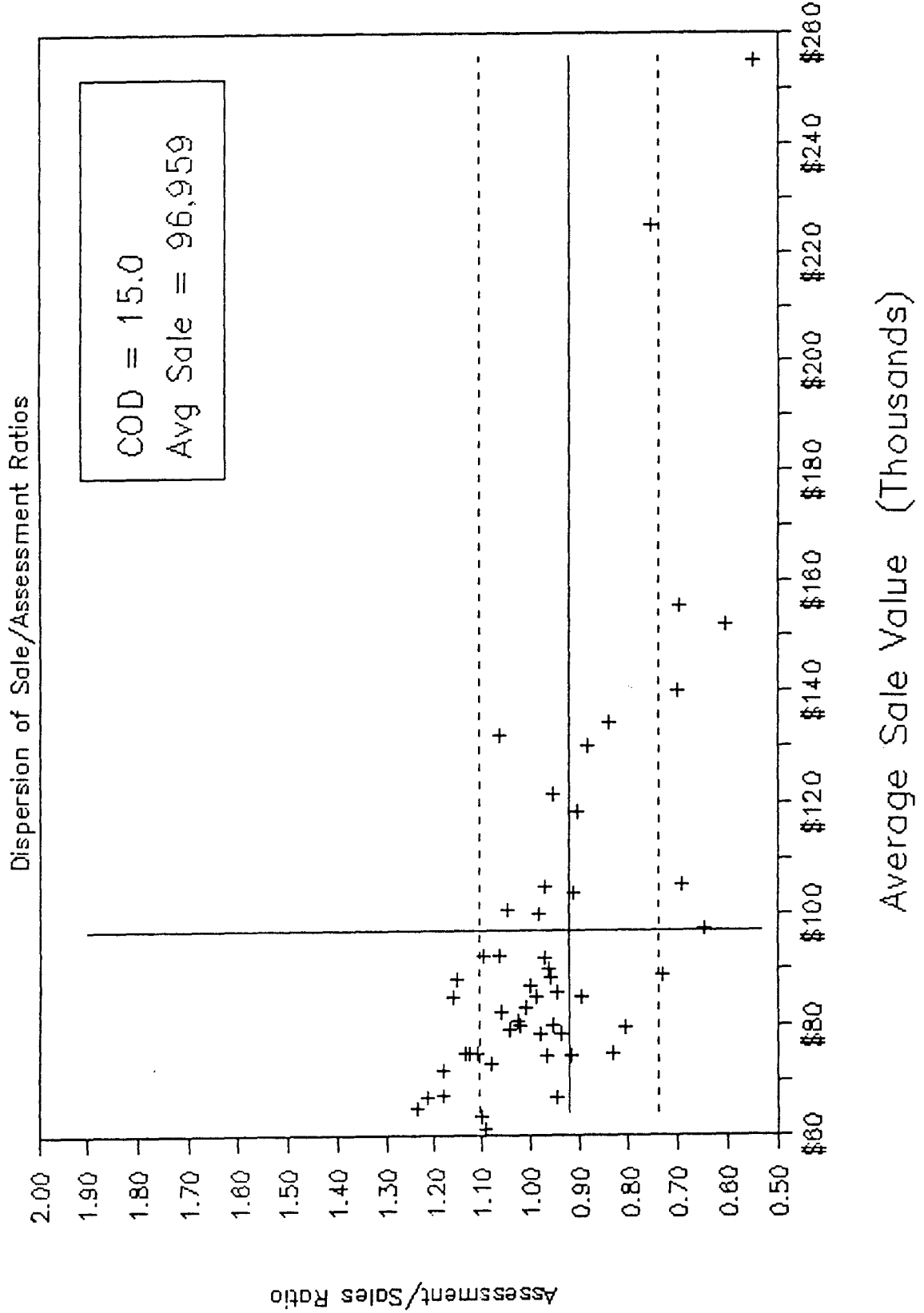
# Area 2.3 Great Falls South

Dispersion of Sale/Assessment Ratios

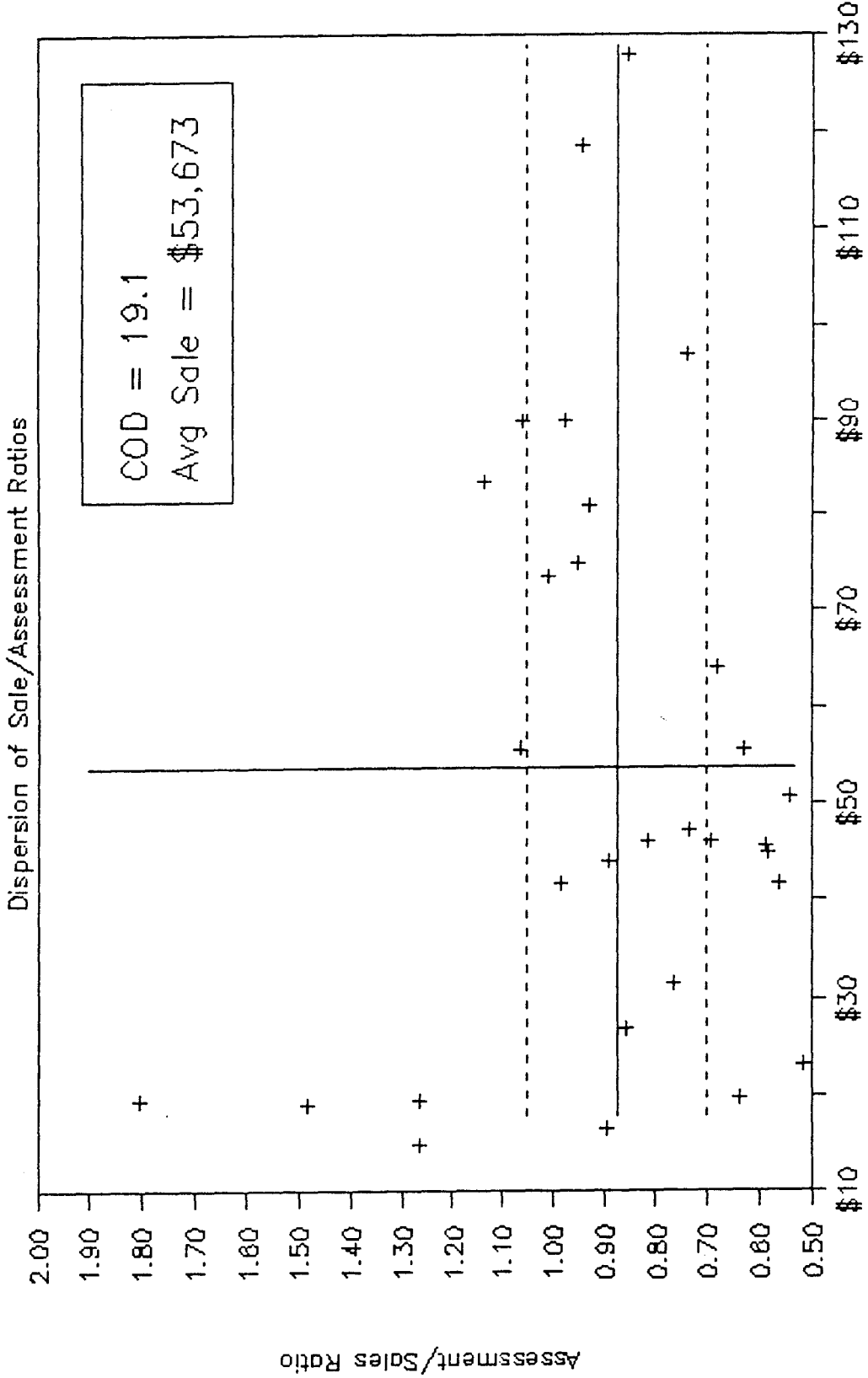


Average Sale Value (Thousands)

# Area 2.4 Great Falls Southwest

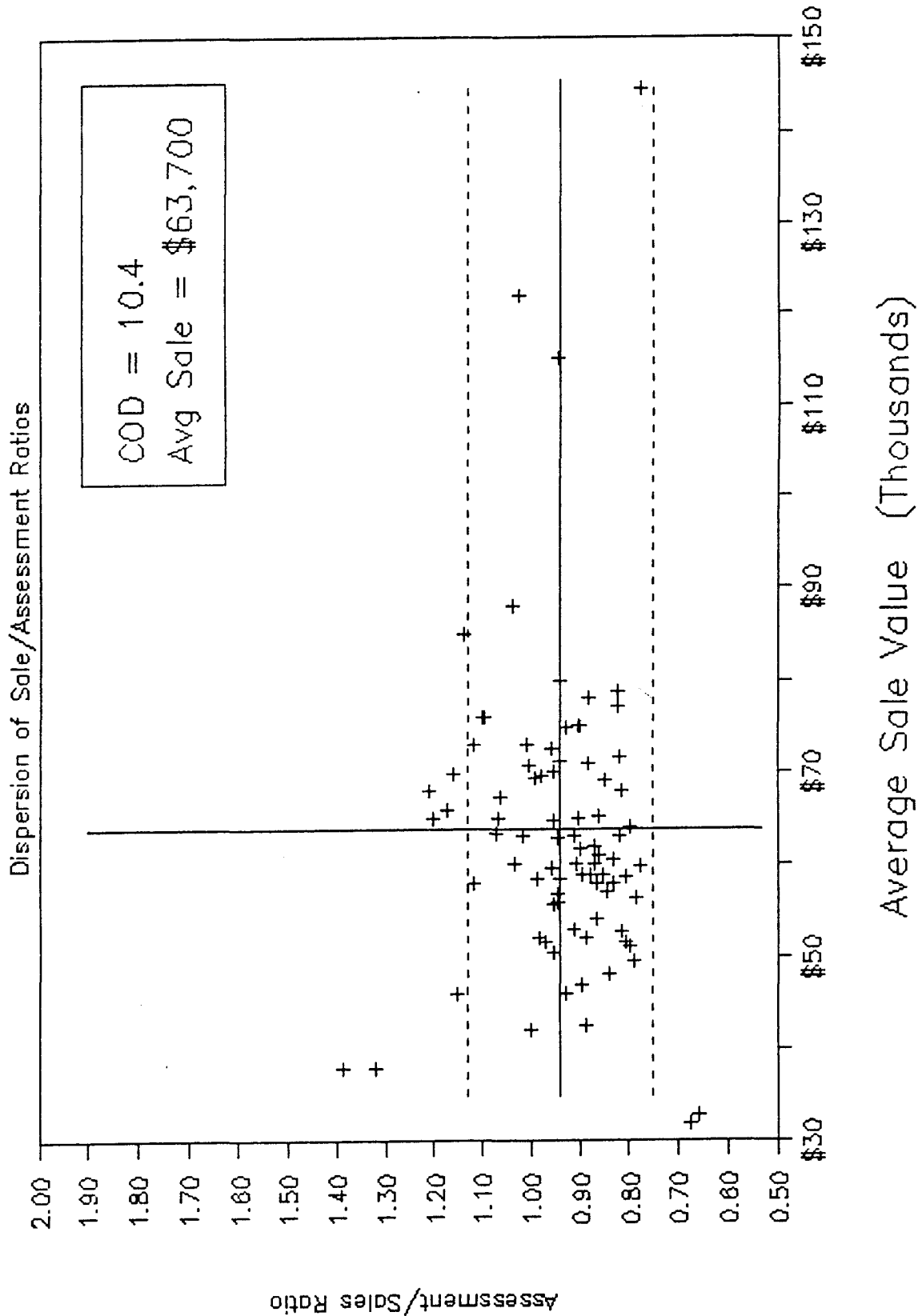


# Area 2.5 Great Falls West

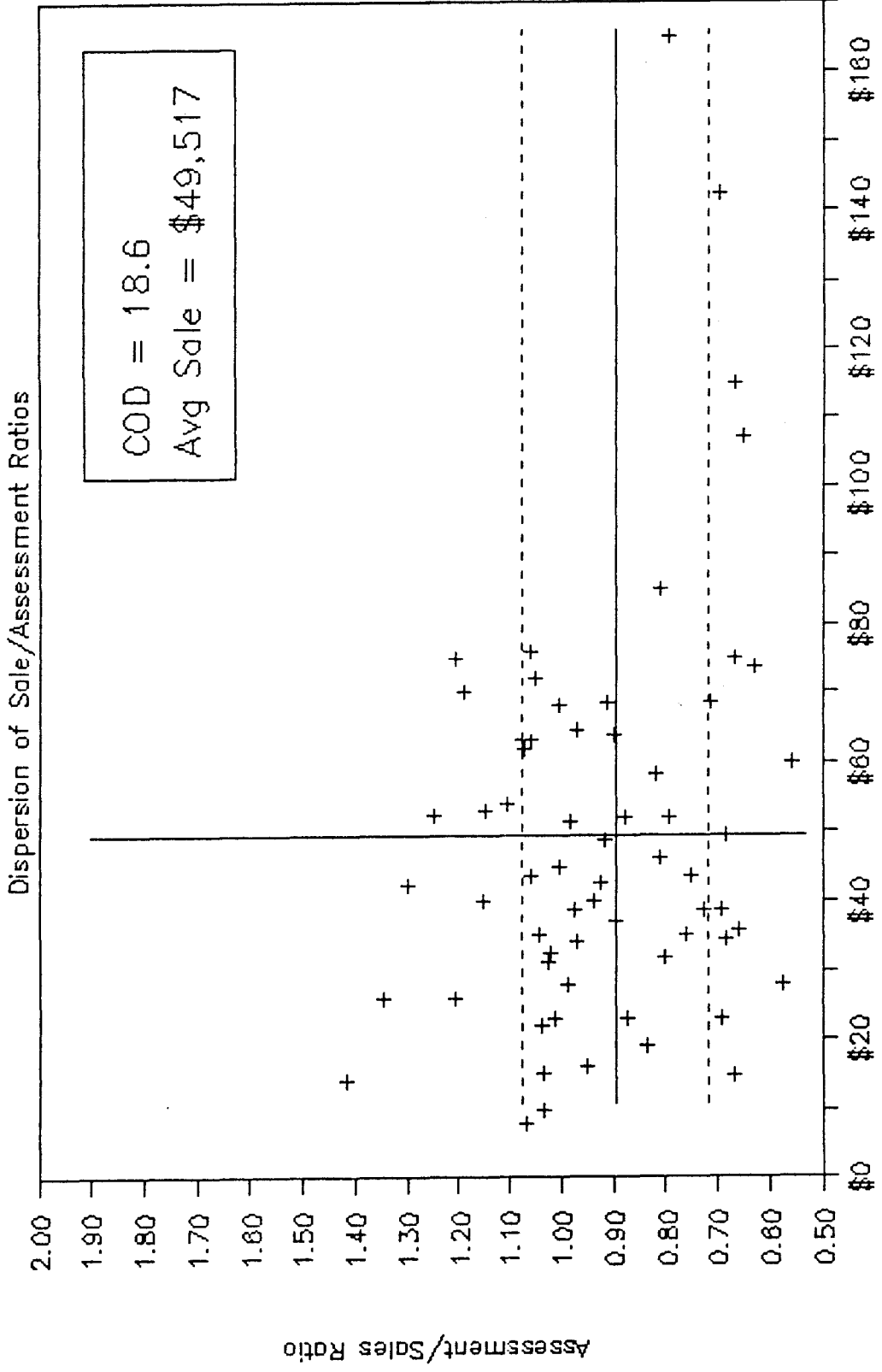


Average Sale Value (Thousands)

# Area 2.6 Great Falls Northwest

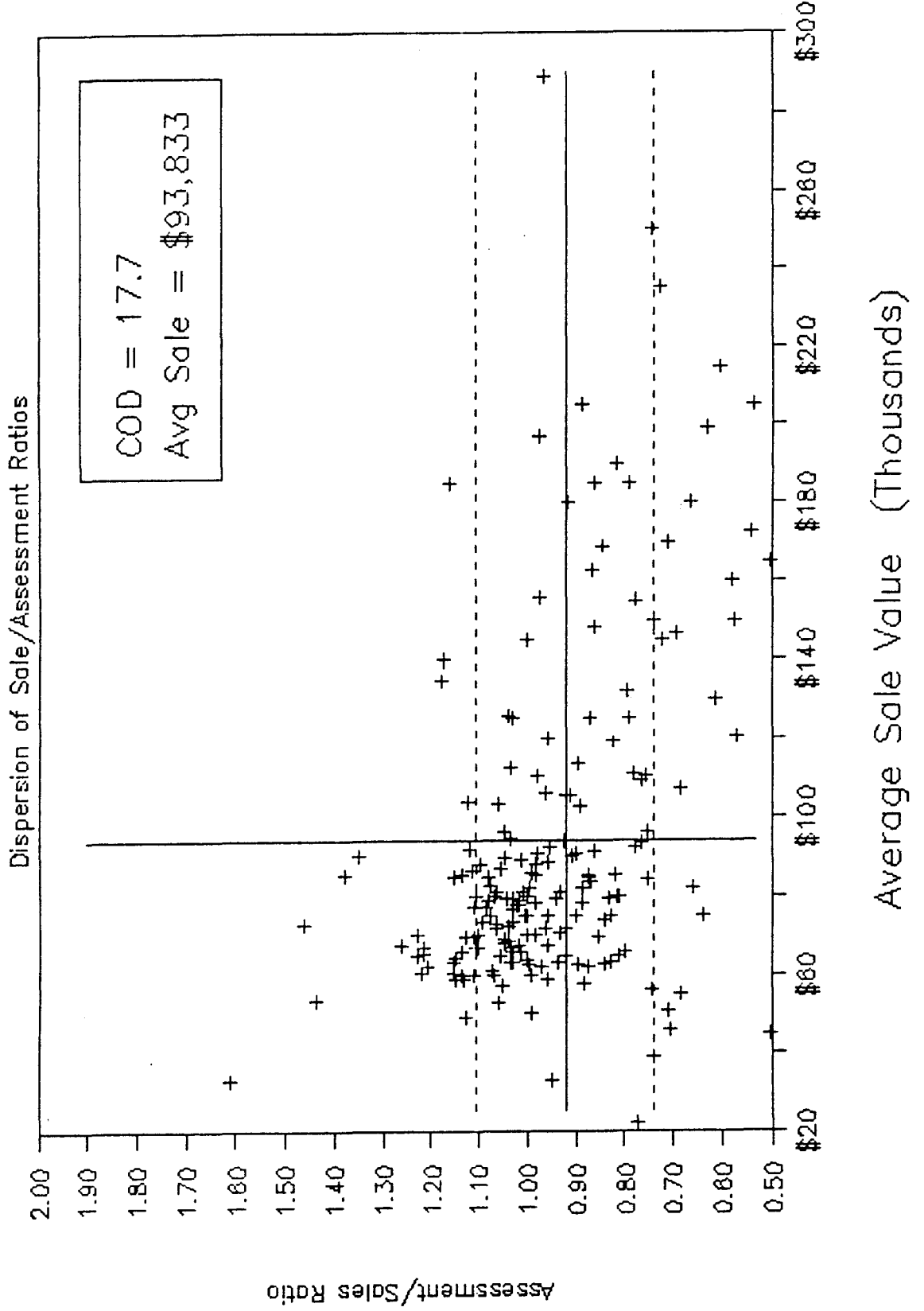


# Area 3.0 Remainder of Gallatin County

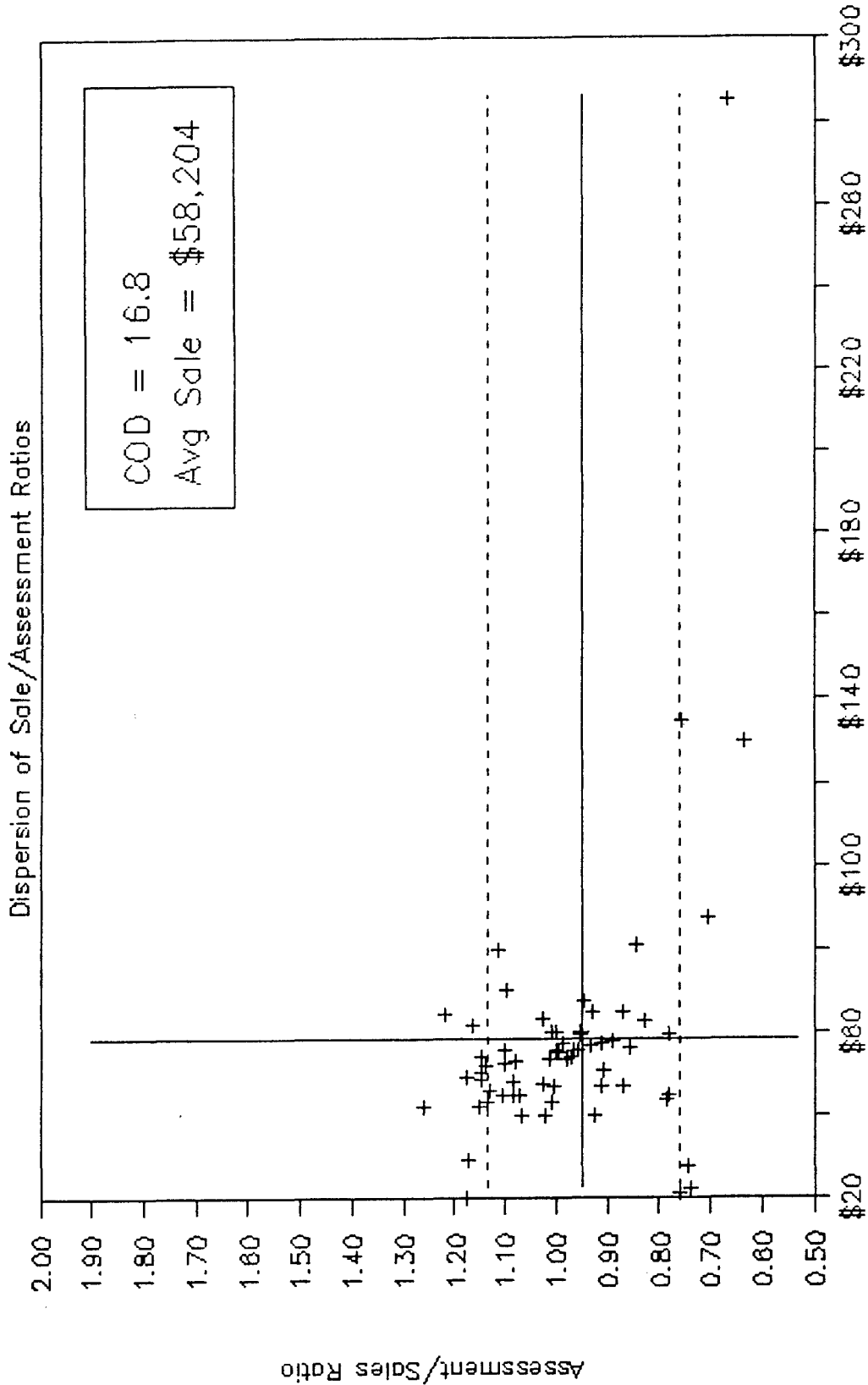




# Area 3.1 Gallatin Canyon & Boz. Fringe



# Area 3.2 West & East of Bozeman

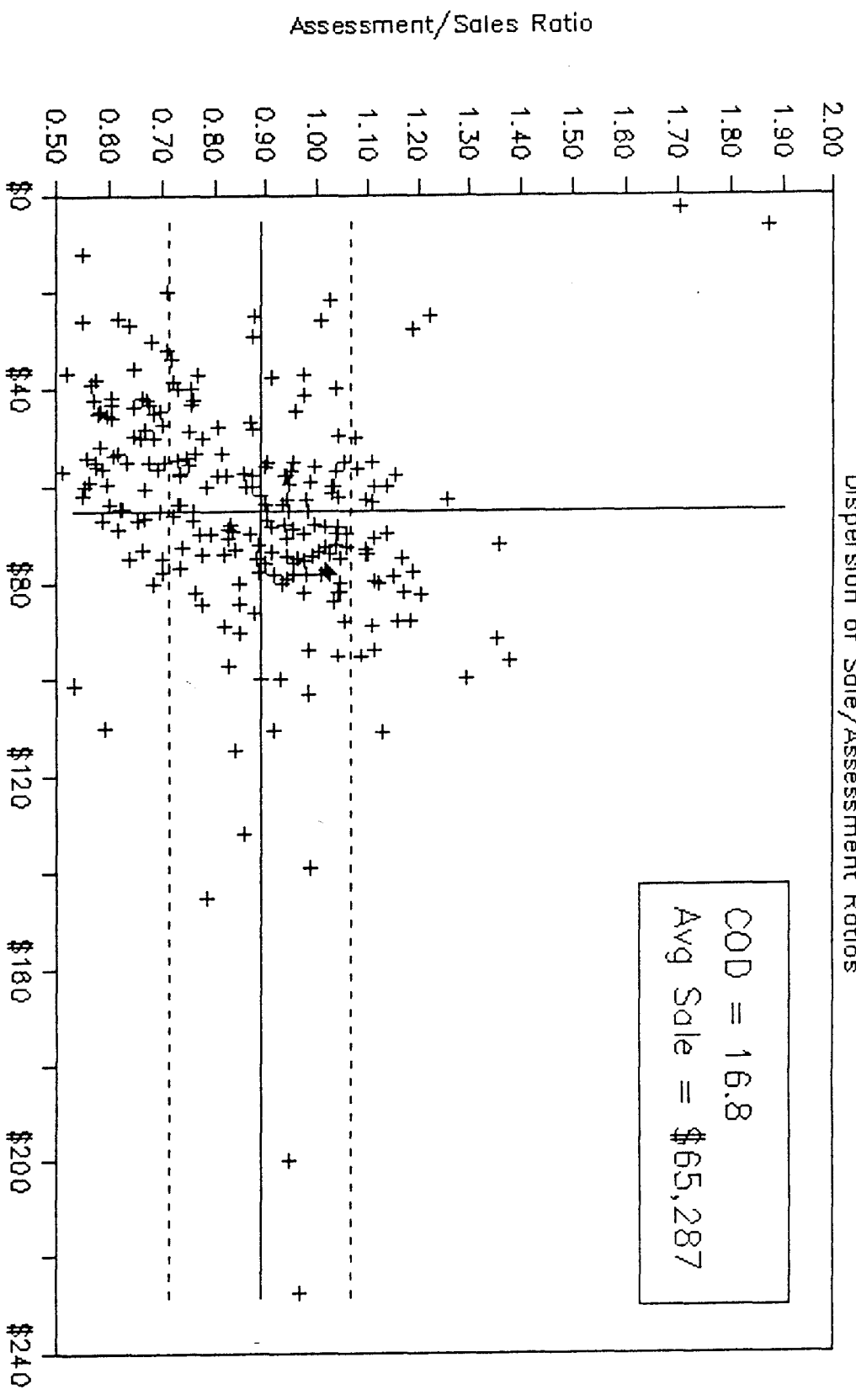


Average Sale Value (Thousands)

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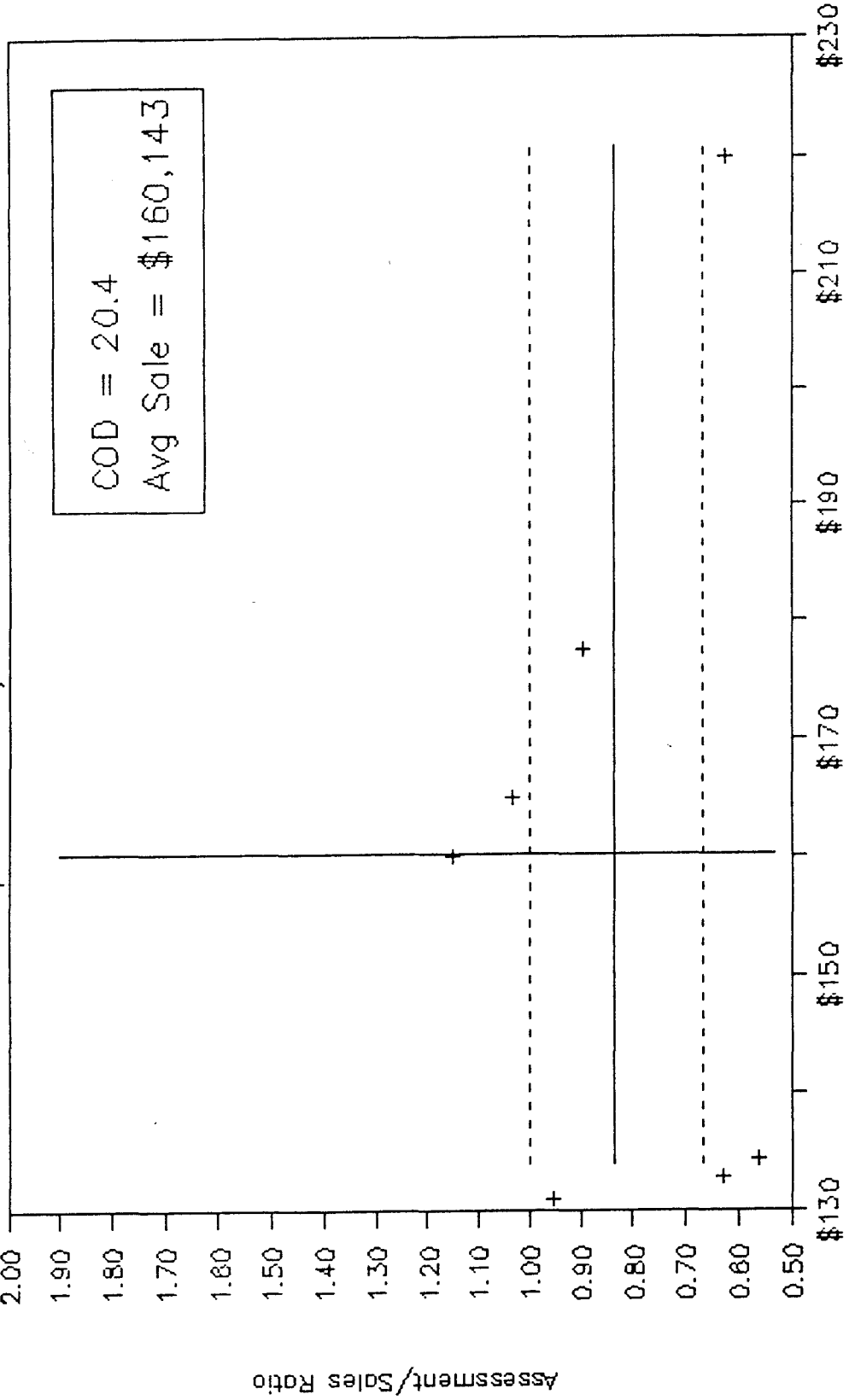
# Area 3.3 Bozeman

Dispersion of Sale/Assessment Ratios



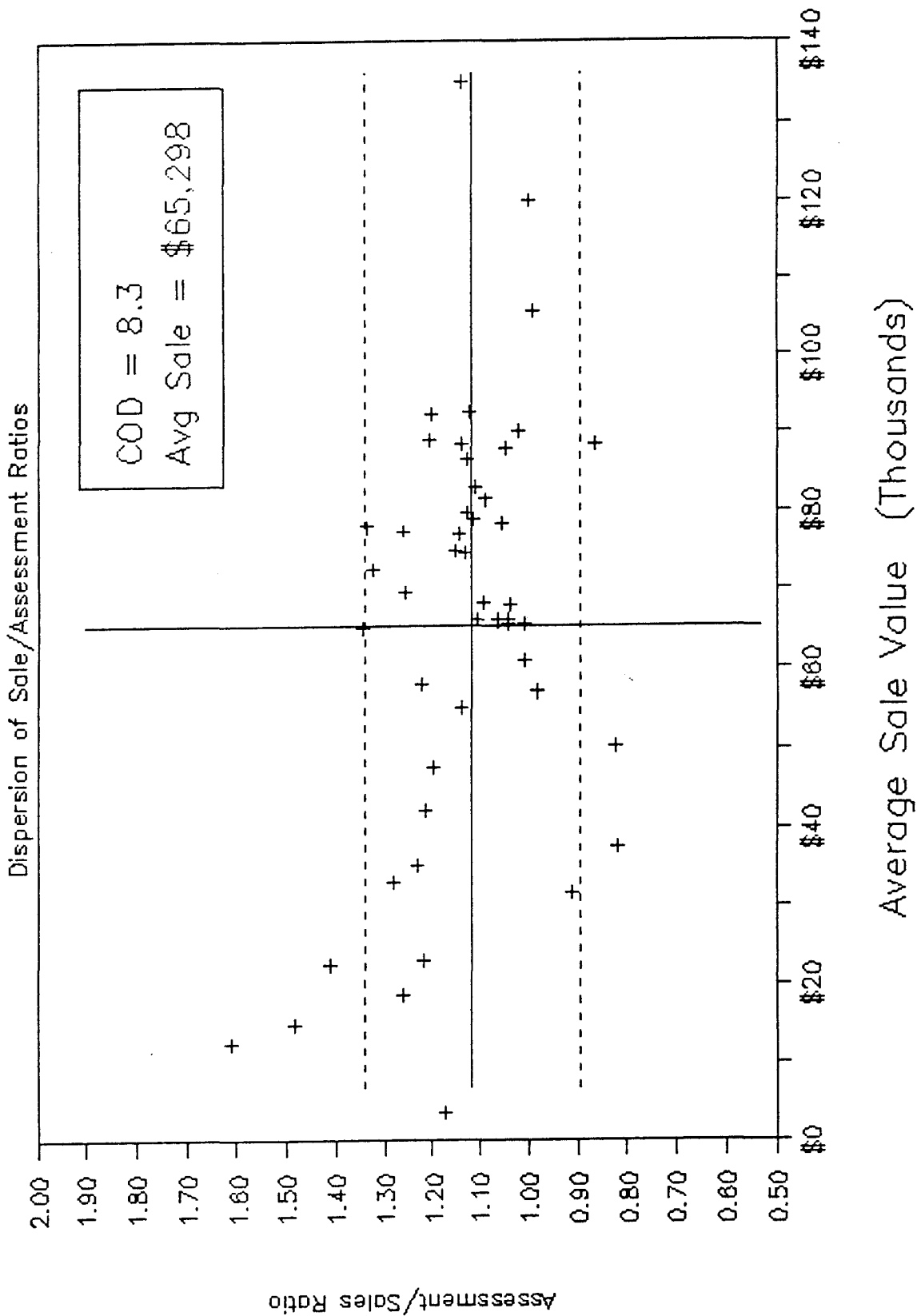
# Area 3.4 Big Sky Area

Dispersion of Sale/Assessment Ratios

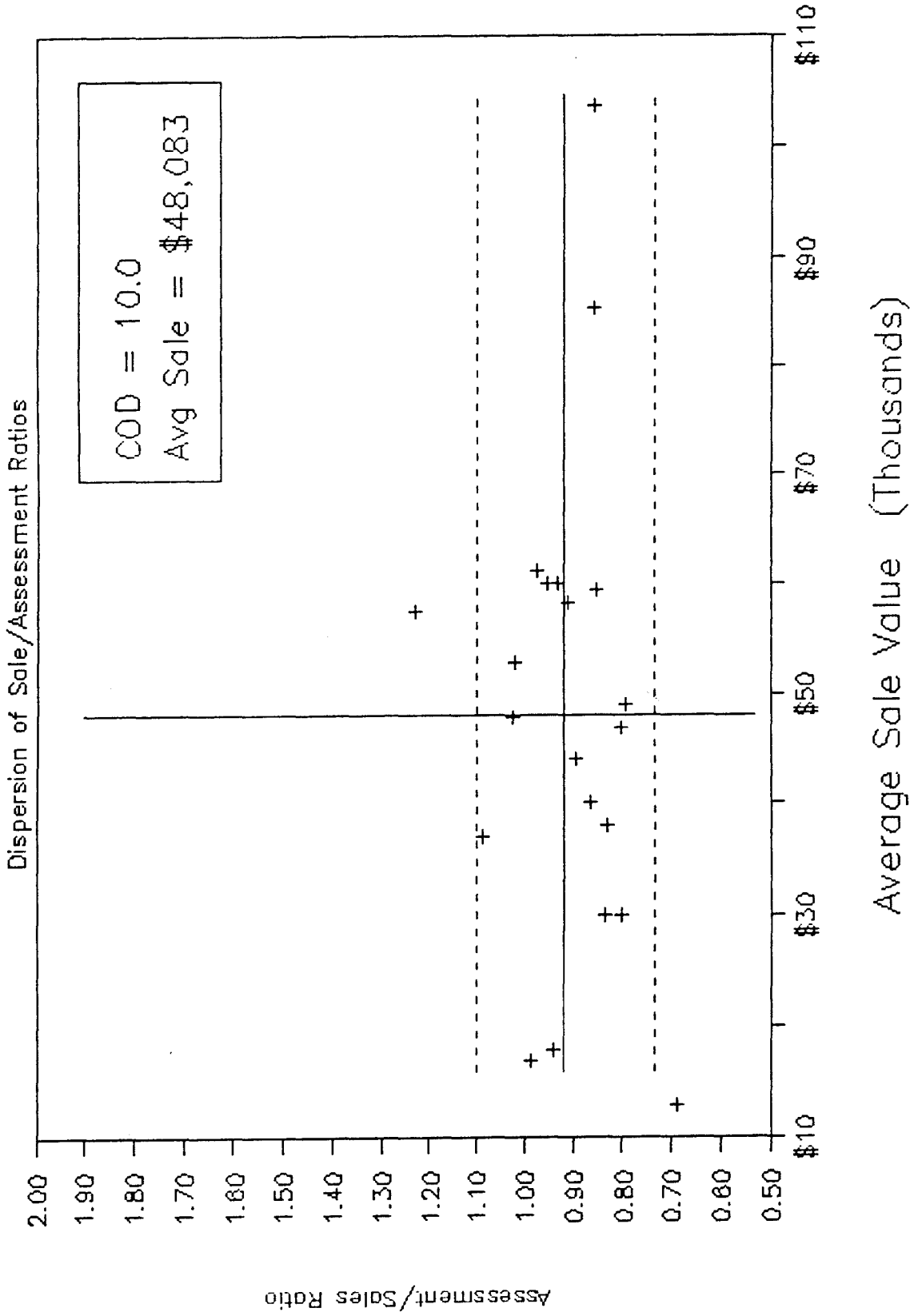


Average Sale Value (Thousands)

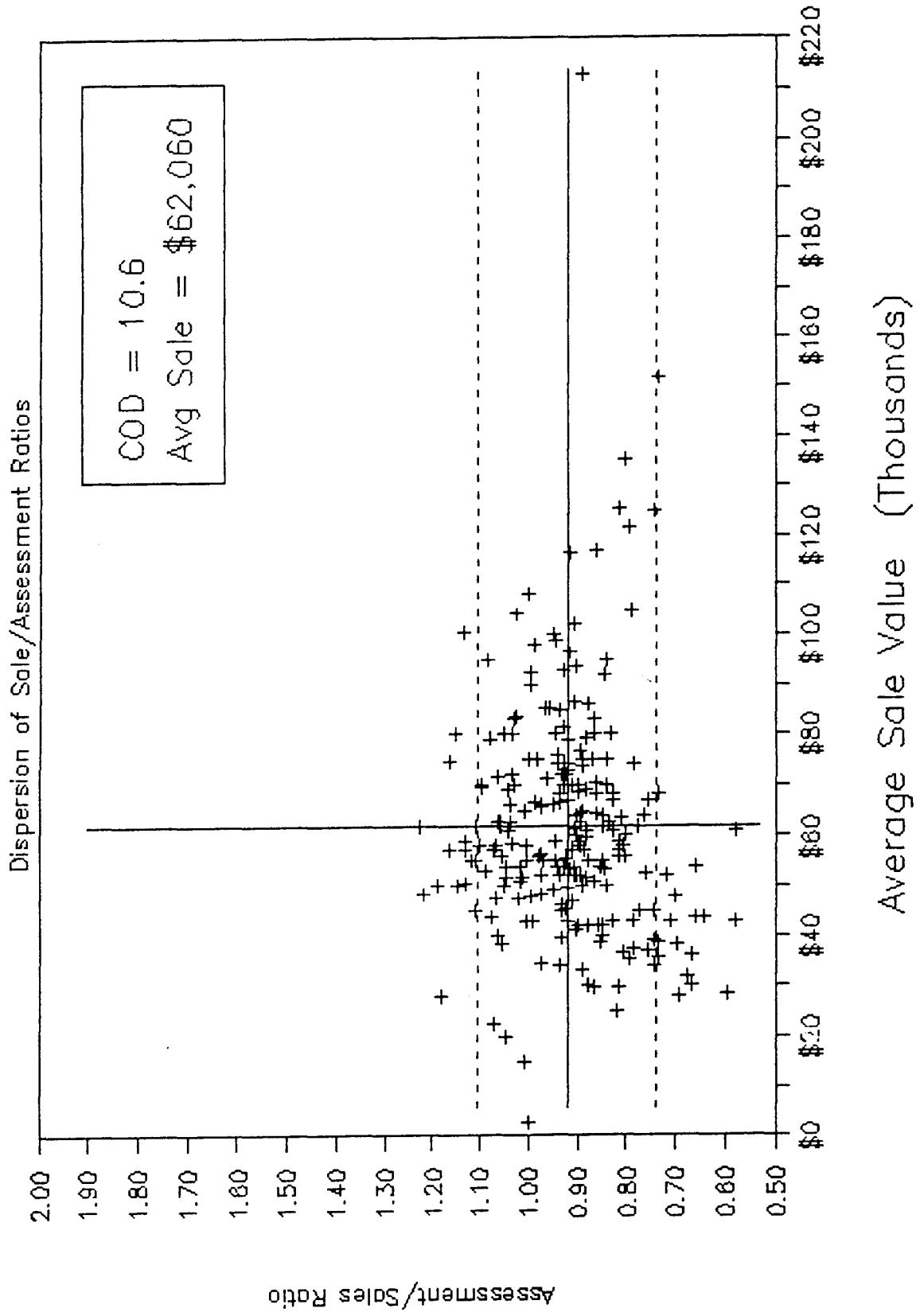
# Area 4.0 Jefferson County



# Area 5.0 Lewis & Clark County

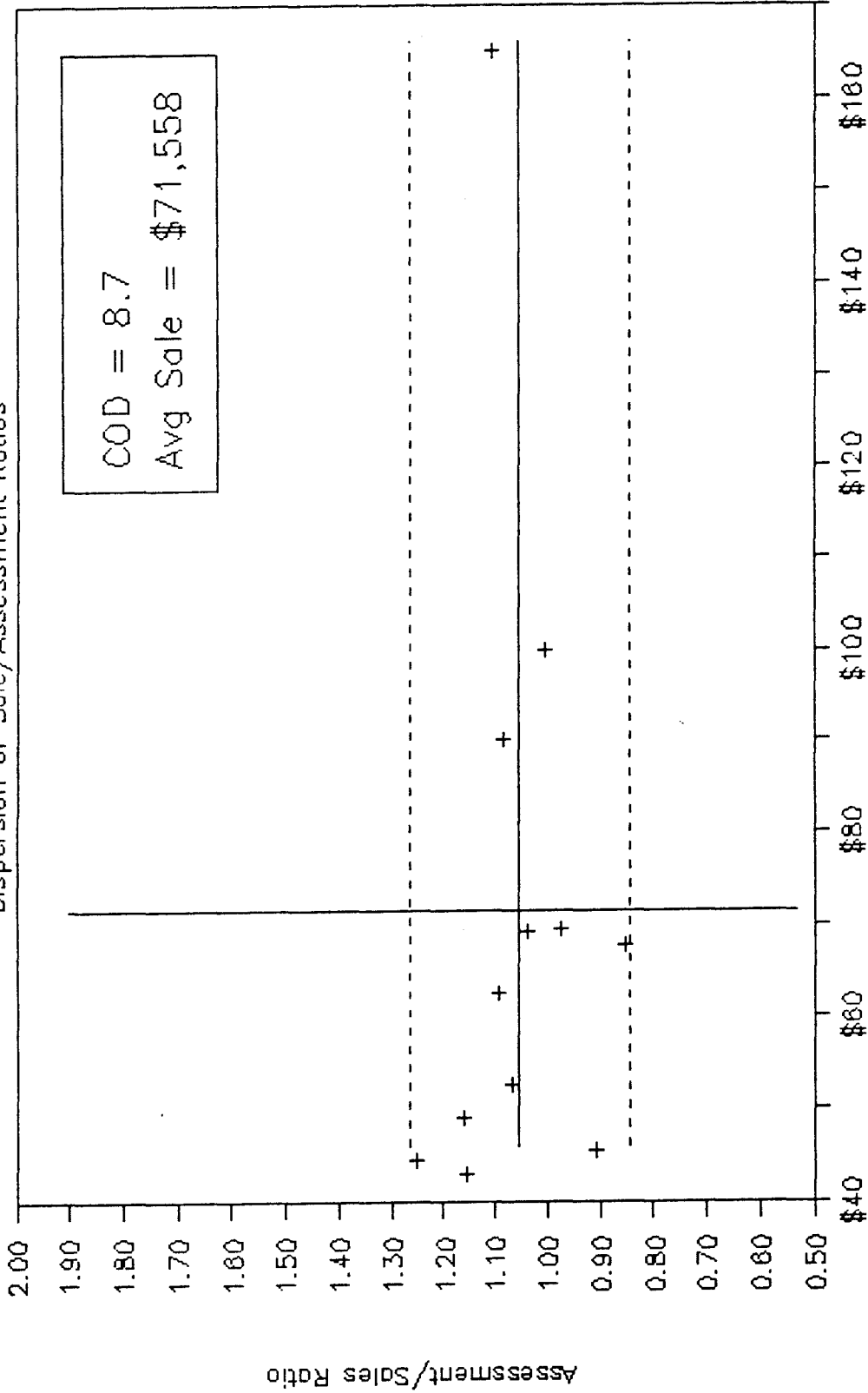


# Area 5.1 Helena Area



# Area 7.1 Southern Madison

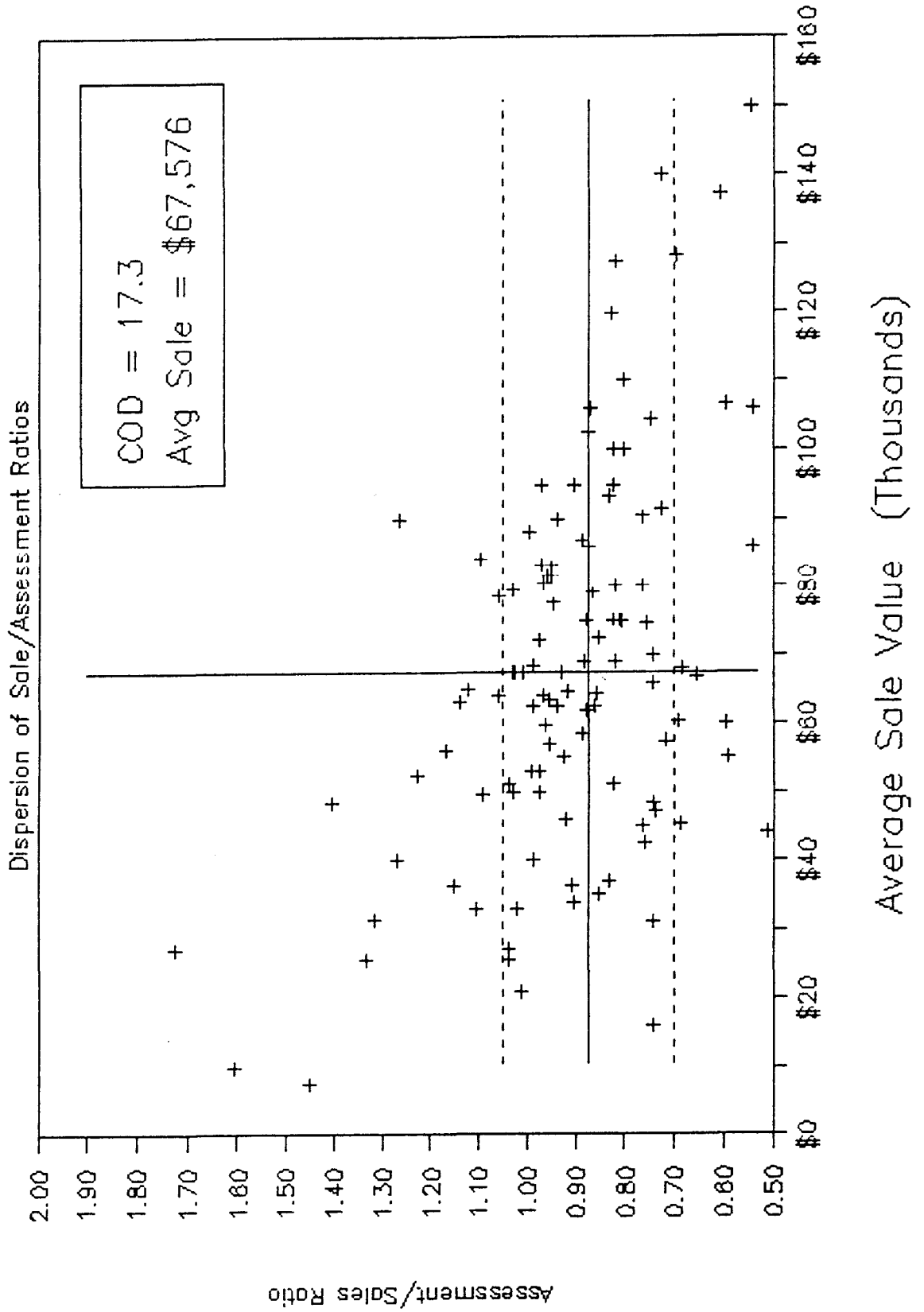
Dispersion of Sale/Assessment Ratios



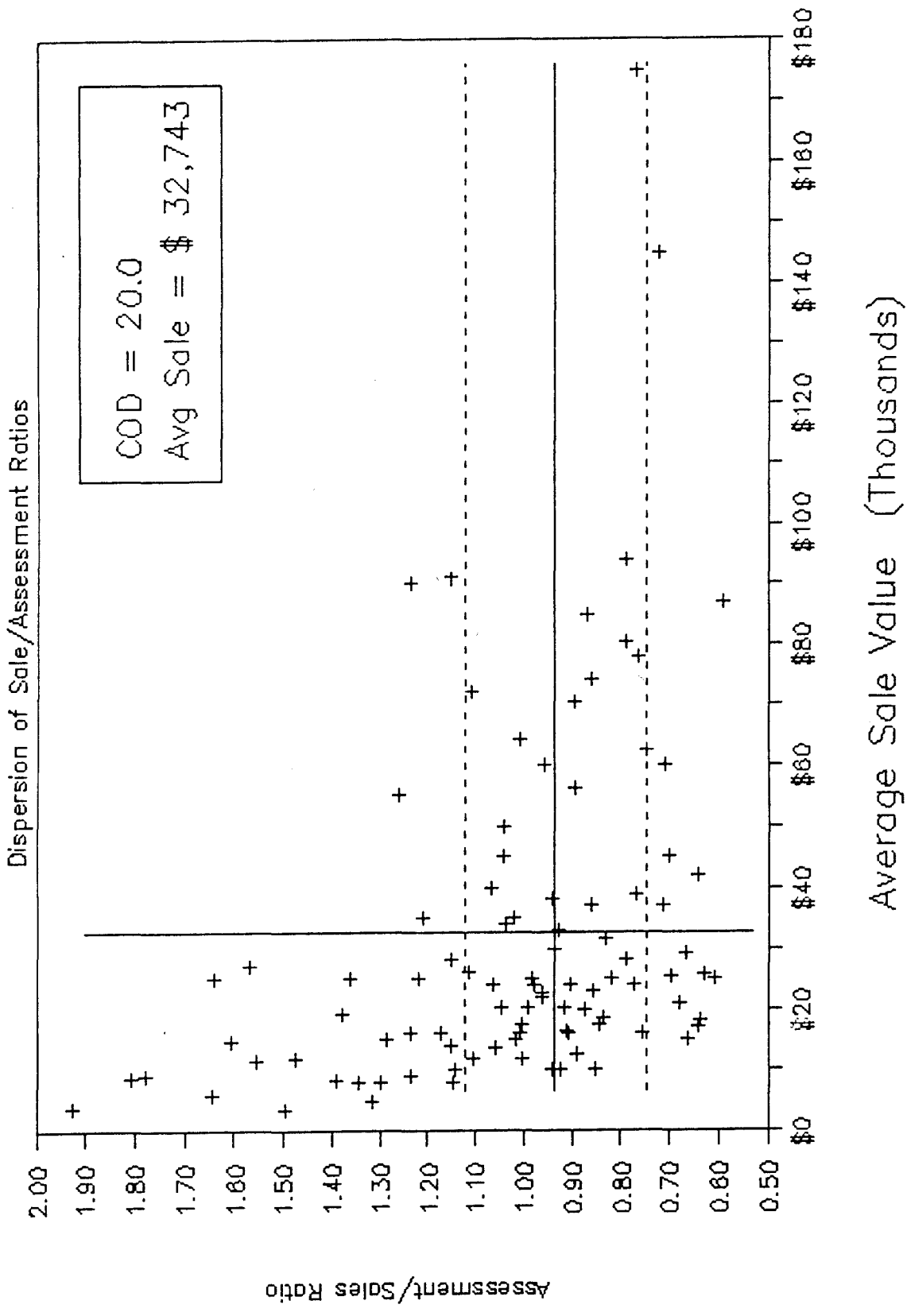
Average Sale Value (Thousands)



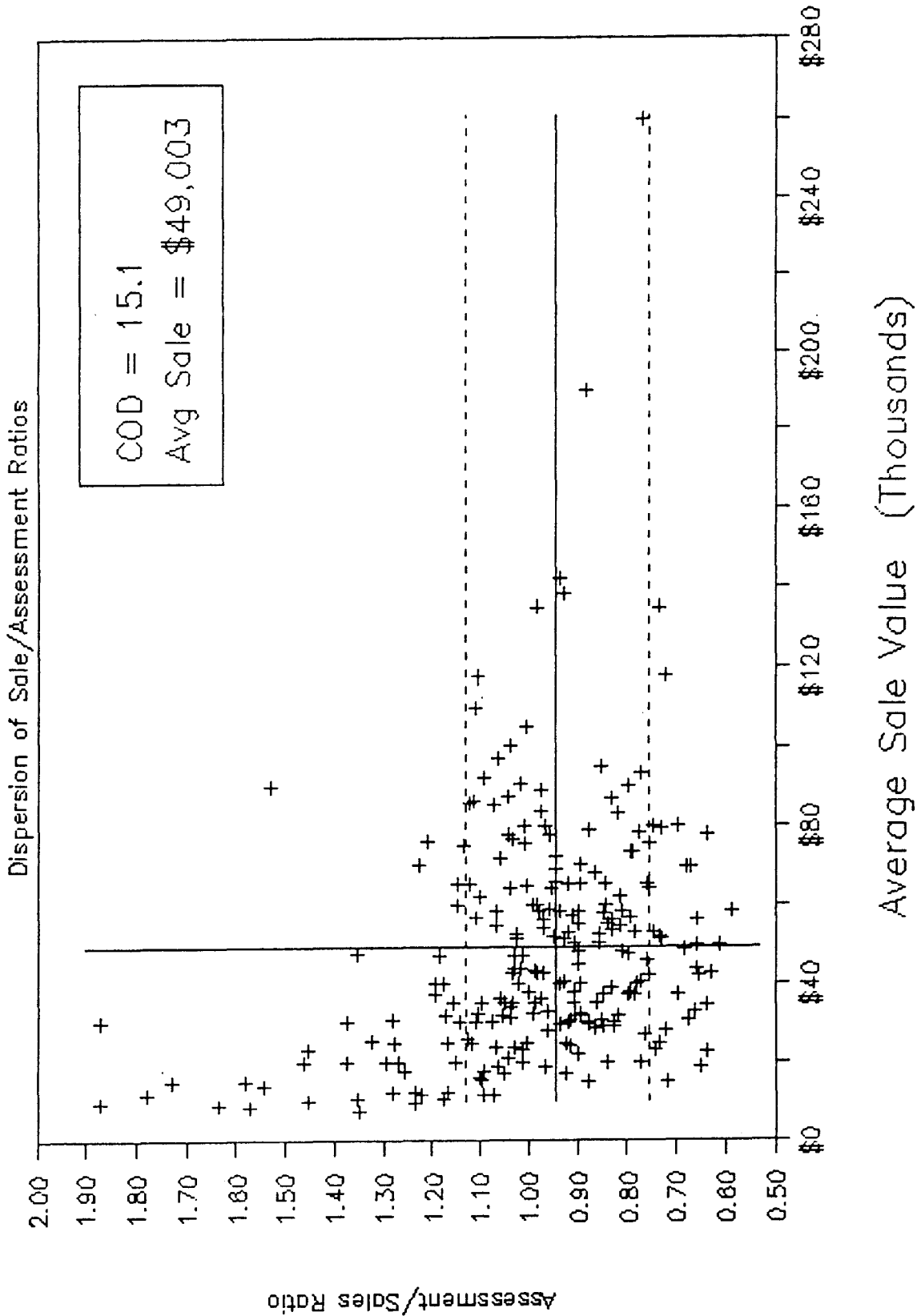
# Area 8.0 Missoula County



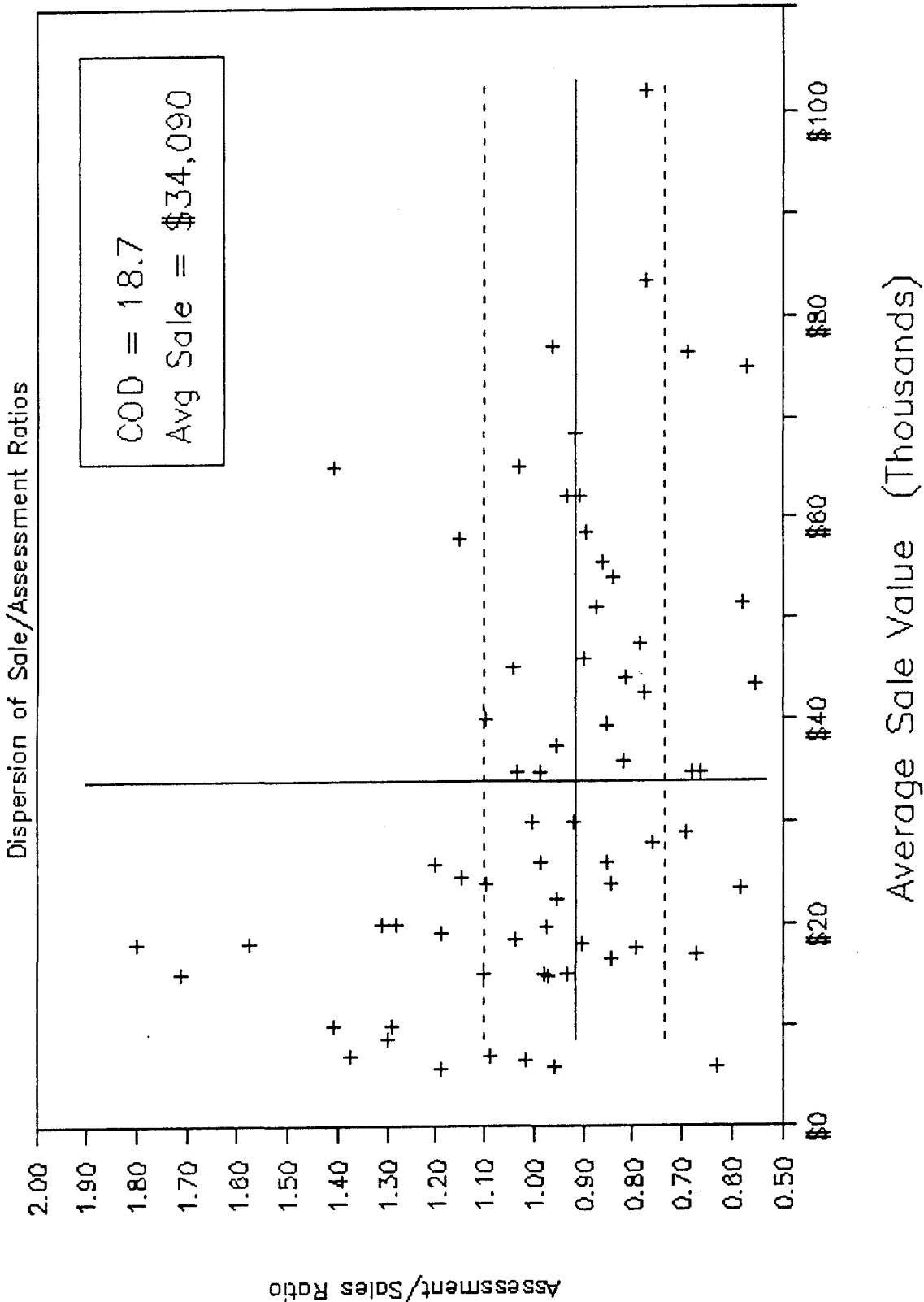
# Area 9.0 Rural Silver Bow County



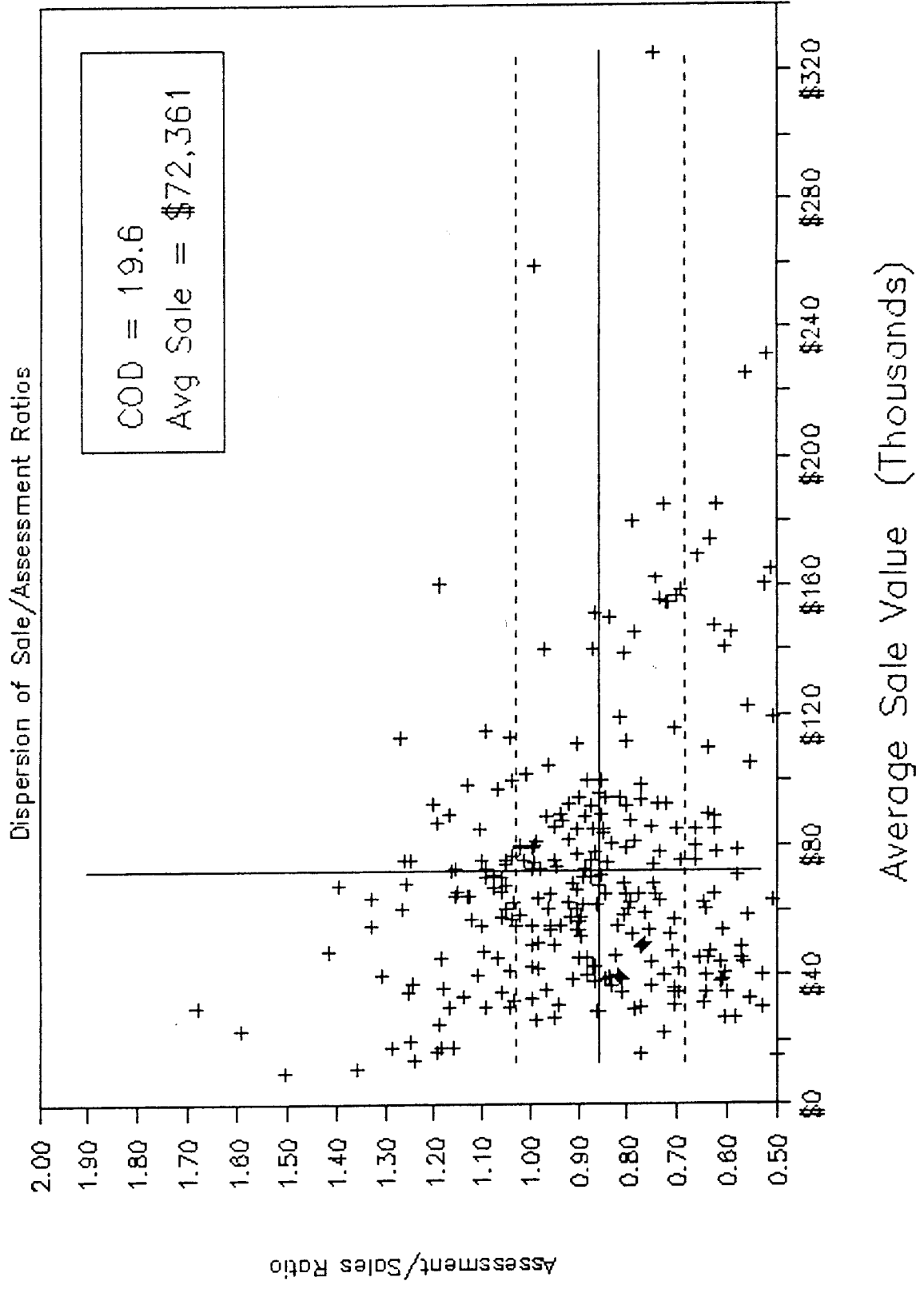
# Area 9.1 Butte Flats and West Side



# Area 12.0 Mineral and Sanders Counties

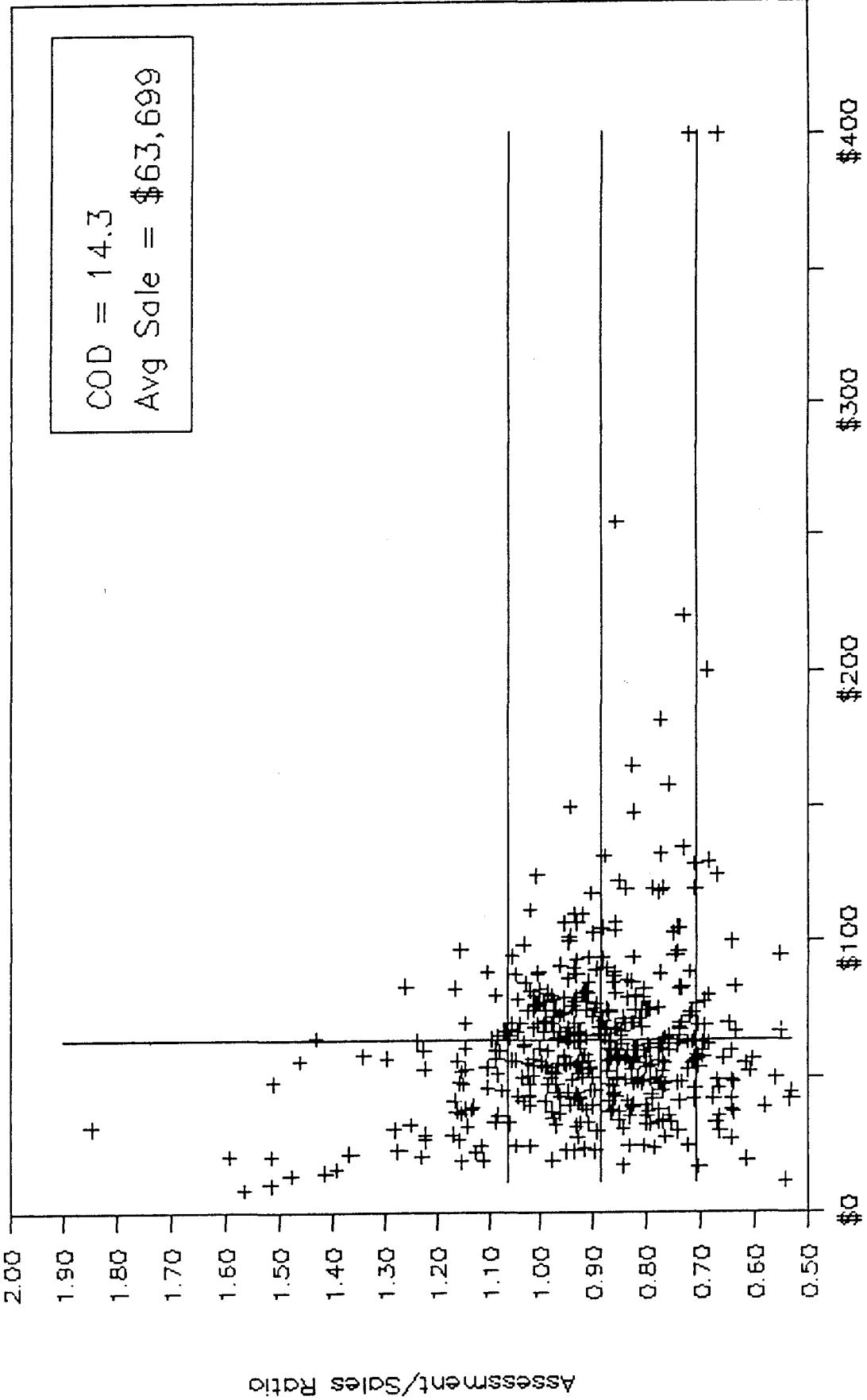


# Area 13.0 Remainder of Flathead County



# Area 13.1 Kalispell Area

Dispersion of Sale/Assessment Ratios

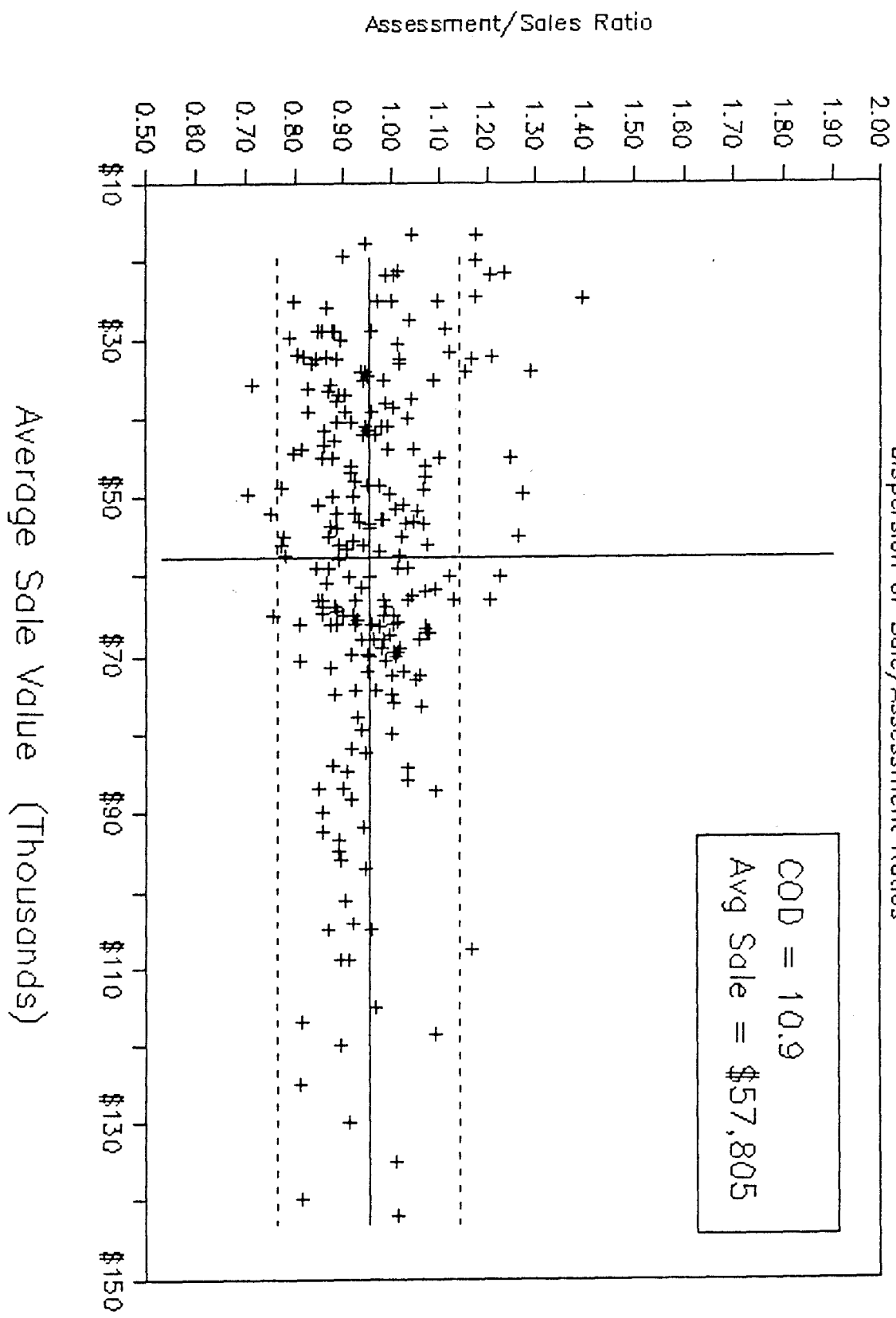


Average Sale Value (Thousands)

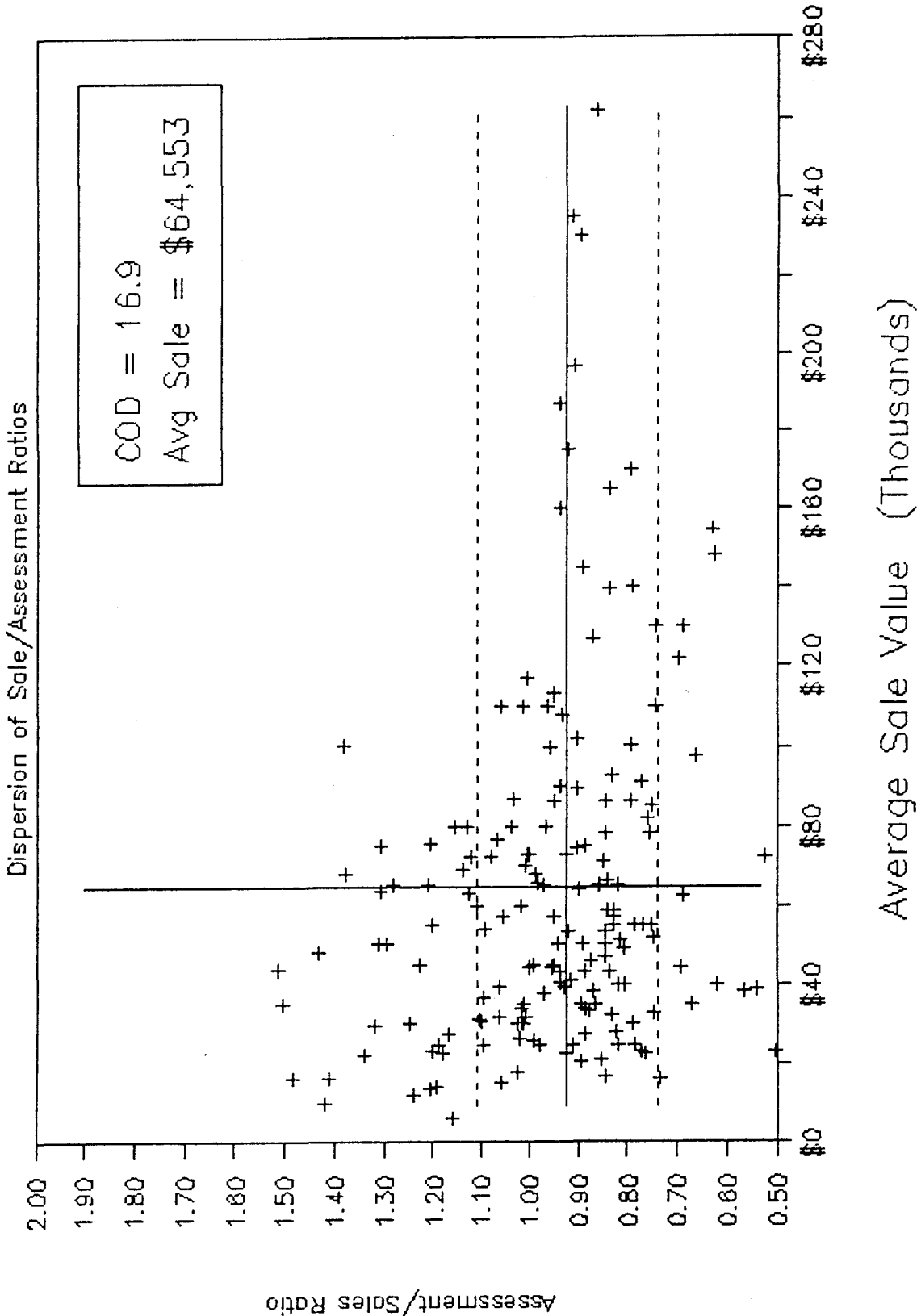
EXHIBIT 13  
DATE 4-3-91  
HB SB 412

# Area 22.0 Ravalli County

Dispersion of Sale/Assessment Ratios

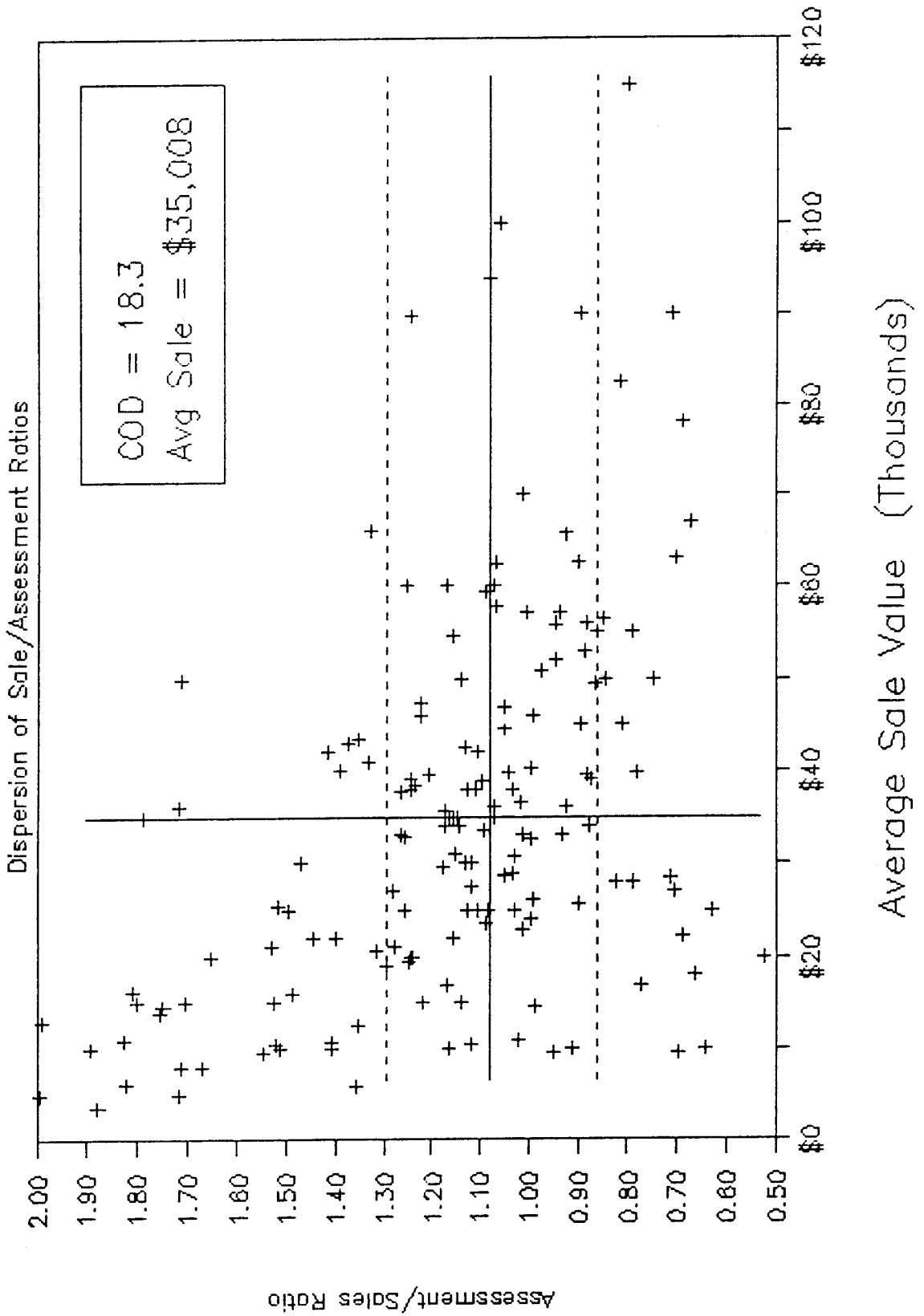


# Area 21.0 Lake County

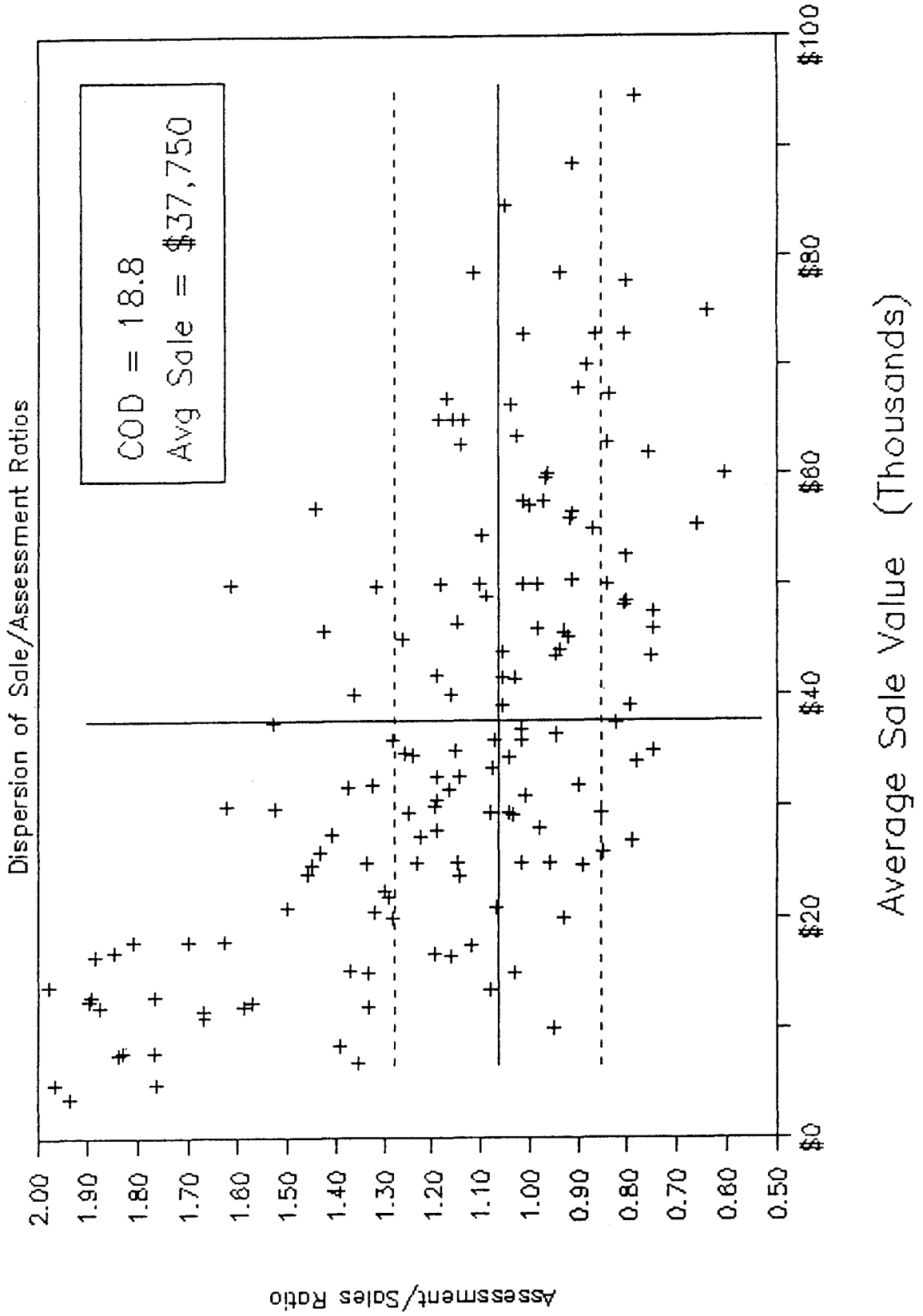




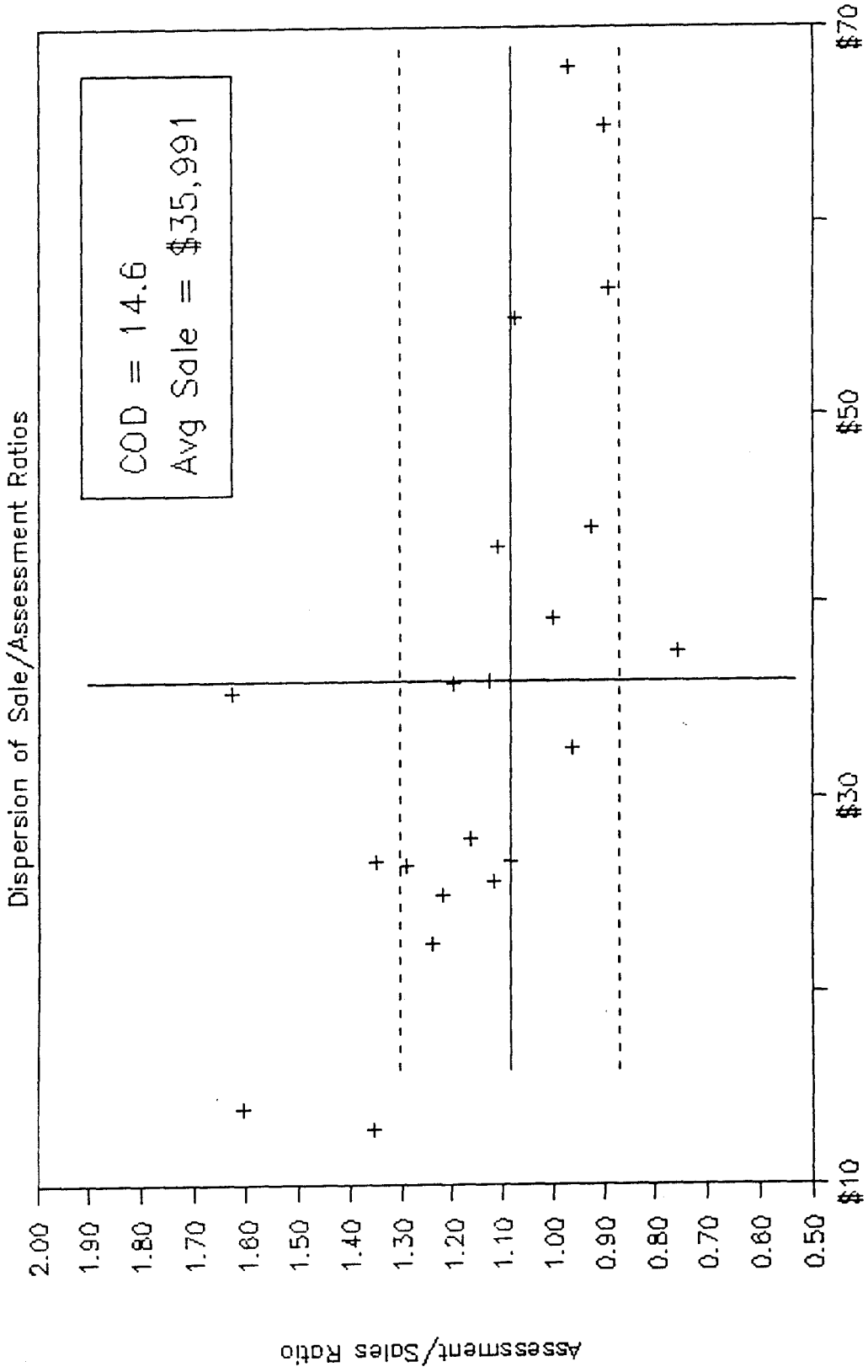
# Area 20.0 (Various Counties)



# Area 18.0 (Various Counties)



# Area 20.1 Miles City Area



Average Sale Value (Thousands)

EXHIBIT 13  
DATE 4-3-91  
HB SB-412

# Area 13.2 Columbia Falls

Dispersion of Sale/Assessment Ratios

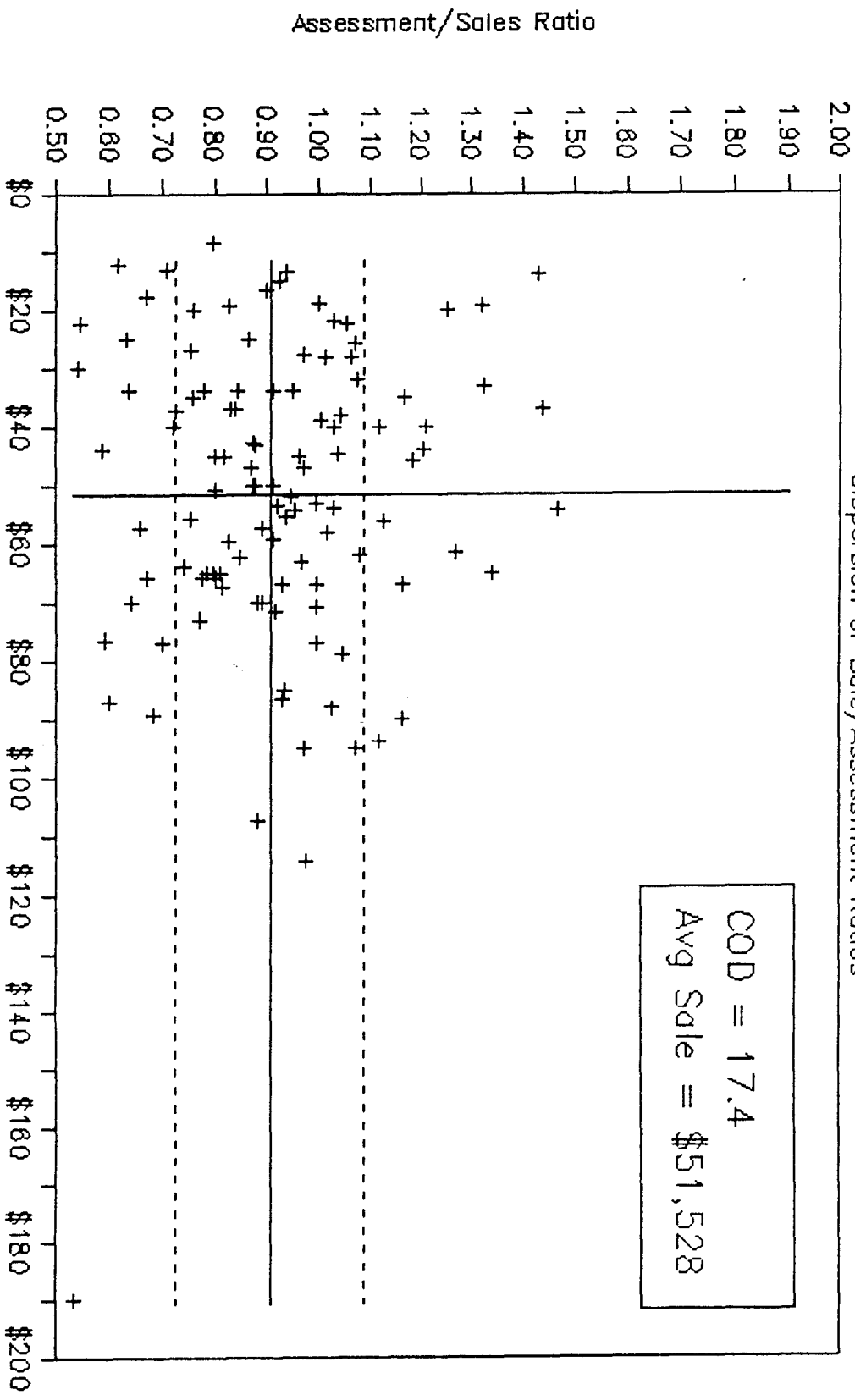


EXHIBIT 17  
 DATE 4-3-91  
 HB 1012

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/3 BILL NO. 1012 NUMBER 1

MOTION: Cohen's A  
Failed

NAME	AYE	NO
REP. BEN COHEN, VICE-CHAIRMAN	✓	
REP. ED DOLEZAL		✓
REP. JIM ELLIOTT		✓
REP. ORVAL ELLISON		✓
REP. RUSSELL FAGG		✓
REP. MIKE FOSTER		✓
REP. BOB GILBERT	✓	
REP. MARIAN HANSON	✓	
REP. DAVID HOFFMAN	✓	
REP. JIM MADISON	✓	
REP. ED MCCAFFREE		✓
REP. BEA MCCARTHY		✓
REP. TOM NELSON	✓	
REP. MARK O'KEEFE		
REP. BOB RANEY		✓
REP. BOB REAM, VICE-CHAIRMAN		✓
REP. TED SCHYE		✓
REP. BARRY "SPOOK" STANG		✓
REP. FRED THOMAS		✓
REP. DAVE WANZENRIED	✓	
REP. DAN HARRINGTON, CHAIRMAN	✓	
<b>TOTAL</b>		

8 : 12

EXHIBIT 15  
 DATE 4-3-91  
 HB 1012

HOUSE OF REPRESENTATIVES  
 TAXATION COMMITTEE  
 ROLL CALL VOTE

DATE 4/3/91 BILL NO. 1012 NUMBER 1

MOTION: OP/A  
w/o Colens A

NAME	AYE	NO
REP. BEN COHEN, VICE-CHAIRMAN		✓
REP. ED DOLEZAL	✓	
REP. JIM ELLIOTT	✓	
REP. ORVAL ELLISON	✓	
REP. RUSSELL FAGG	✓	
REP. MIKE FOSTER	✓	
REP. BOB GILBERT		✓
REP. MARIAN HANSON		✓
REP. DAVID HOFFMAN		✓
REP. JIM MADISON		✓
REP. ED MCCAFFREE	✓	
REP. BEA MCCARTHY	✓	
REP. TOM NELSON	✓	
REP. MARK O'KEEFE		
REP. BOB RANEY	✓	
REP. BOB REAM, VICE-CHAIRMAN		✓
REP. TED SCHYE	✓	
REP. BARRY "SPOOK" STANG	✓	
REP. FRED THOMAS		✓
REP. DAVE WANZENRIED	✓	
REP. DAN HARRINGTON, CHAIRMAN		✓
TOTAL		

12 : 8

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 384  
 DATE 4/3/91 SPONSOR(S) Sen. Lynch

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Joe Speck</i>	<i>RET/PRO EDUCATION EMPLOYEES</i>	<i>SB 384</i>		<input checked="" type="checkbox"/>
<i>Brady Vardemann</i>	<i>MT. University System</i>	<i>SB 384</i>		<input checked="" type="checkbox"/>
<i>Dennis Bursell</i>	<i>MT Taxpayers Assoc</i>	<i>SB 384</i>	<input checked="" type="checkbox"/>	
<i>Kay Foster</i>	<i>Billings Chamber</i>	<i>SB 384</i>	<input checked="" type="checkbox"/>	
<i>White, [unclear]</i>	<i>[unclear]</i>	<i>SB 384</i>		<input checked="" type="checkbox"/>

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VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. H.B. 1012  
 DATE 4/3/91 SPONSOR(S) Rep Elliott

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
STAN FEIST	Sheehan MP Testic	1012	X	
Joe Johnson	Big Sky Brokerage	1012	X	
Bob Noble	Self	1012	X	
David Baker	Billy Dept + vnc	1012	X	
JAY BENNETT	Sheehan MP Testic	1012	X	
Steven Smith	UNITED TRUCK LINES	1012	X	
Roch Wether	TWA Motel Smoke shop	1012	X	
Gonny Christensen	Jac's Smoke King	1012	X	
Margaret "Binky" Hall	Jiffy Stop - Pablo mt	1012	X	
Frank Smith	H & S Smoke Shop + vnc	1012	X	
Don Nandi	Sheehan MP Testic	1012	X	
ERIC KAPCAN	Various Smoke shops & wholesalers	1012	X	
Al Burgess	Sidney, Mt. East-Mont	1012	X	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

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Taxation COMMITTEE BILL NO. H61012  
DATE 4/3/91 SPONSOR(S) Rep. Elliott

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bob FERRARI'S	H.D. 9	1012	X	
Emely M. Stevenson	Tribal attorney Salish-Kootenai Tribes	1012	X	
John Van... <i>(illegible)</i>		1012	X	
Steve Bucknor	Service Distributing	1012	X	
John Miller	Dept of Revenue	1012		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAVATON COMMITTEE BILL NO. SB 462  
 DATE 4/3/91 SPONSOR(S) Sen. Maguire

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GENE PHILLIPS	NORTHWESTERN TELEPHONE	SB 462		X
JOAN MANDEVILLE	MONTANA TELEPHONE ASSOC	SB 462		X
Riley Johnson	CELLULAR INFORMATION Systems Inc	SB 462		X
Cathy Brightwell	ATT	SB 462		X
Leo Berra	MCI	462		X
Dennis Lofach	US WEST Comm.	462		X
Jay Switzer	MTA			X
Tom Hayward	GTE			-
TOM EBZEVY	US WES	462		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 412  
 DATE 4/2/91 SPONSOR(S) Sen. Crippen

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Kay Foster	Billings Chamber	SB 412		✓
Jennus Buro	mt to paper	SB 412		✓
Patrick Labrie	Hour Dist. 40		X	
Richard E. Manning	Sen. Dist 18		X	
Deana Wyatt	HD #37		X	

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