

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on March 18, 1993, at 8:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Fred Van Valkenburg (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Bonnie Stark, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 92, HB 350, HB 437  
Executive Action: None.

**HEARING ON HB 350**

**Opening Statement by Sponsor:**

Rep. Gary Mason, House District #63, presented HB 350, which is a bill to revise the Coal Board Grant and Loan Program. The Grant and Loan Program is funded by the Coal Severance Tax and is administered by the Montana Coal Board. Rep. Mason said this bill will narrow the scope of areas impacted by new coal mines or coal mine closures. If a new coal mine comes in, or a mine is closed, local governments, schools, and other entities eligible, apply for funding to help with the impact from the mine. Rep. Mason presented Exhibit No. 1 to these minutes to further explain

HB 350 and the distribution of Coal Severance Taxes. The intent of HB 350 is to make sure the funding is available for the impacted areas in case of a mine closure.

Proponents' Testimony:

Rep. Robert Clark, House District #31, spoke in favor of HB 350 in its present form, without amendments proposed.

Hershel Robbins, representing the Musselshell County Development Corporation, the City of Roundup, County of Musselshell, and Musselshell Valley Chamber of Commerce, spoke in support of HB 350. Mr. Robbins' written testimony is attached to these minutes as Exhibit No. 2.

Senator Cecil Weeding, Senate District #14, spoke in favor of HB 350 in one aspect only. On March 4, Senator Weeding presented SB 382 to this Committee which would allocate a portion of the Coal Severance Tax to the Eastern Coal Counties Drug Task Force, and asked this Committee to withhold action on that bill until HB 350 was heard. Senator Weeding said he would yield to this Committee to make accord for that drug task force within the confines of HB 350. He said the task force funding has been handled that way since its inception approximately 10 years ago. The way HB 350 is written, there will not be sufficient funds to fund the Eastern Coal Counties Drug Task Force.

Sue Olson, Musselshell County Commissioner, appeared in favor of HB 350, and presented Exhibits No. 3 and 4 to these minutes.

Beth Baker, Department of Justice (DOJ), appeared in support of HB 350 with much the same purpose as Senator Weeding. She expressed the Justice Department's enthusiastic support for the Eastern Coal Counties Drug Task Force, and expressed the DOJ's concern that the task force will continue to be funded. In its original form, the DOJ understood it would provide much less funding for the task forces than what is currently being provided; however, they received a new fiscal note which seems to have changed the figures. As Attorney General Mazurek expressed to this Committee at the hearing on SB 382, the DOJ's major concern is having the drug task force caught in the cross-fire of funding its tax policy issues and removing the program altogether. Ms. Baker asked the Committee to seriously consider continued funding of the drug task force.

Michelle LeFurge, representing the Montana Association of Oil, Gas, and Coal Counties (MAOGCC), spoke in support of HB 350 with the amendments to be presented by Senator Yellowtail, Exhibit No. 6 to these minutes. Ms. LeFurge presented and reviewed Exhibit No. 5 to these minutes. She said at issue are counties who do not have enough tax revenue to take care of needed improvements, such as local roads. The MAOGCC is urging the Committee to pass these amendments which she says will not

make an increase in dollar amounts to be appropriated by this Legislature, but will make it revenue neutral by taking some people out of the 10% designation category and give them their own designation. Other amendments would allow more counties to qualify, according to Ms. LeFurge.

Gerald Himelspace, Powder River County Commissioner, appeared in support of HB 350, and presented his written testimony as Exhibit No. 7 to these minutes.

Robert Koyama, Commissioner in Big Horn County, presented his written testimony in support of HB 350 as Exhibit No. 8 to these minutes.

Marvin Miller, Montana Bureau of Mines and Geology (MBMG), presented Exhibit No. 9 to these minutes, which includes some comments by the late Senator Nathe, as well as proposed amendments to HB 350. Mr. Miller said Senator Nathe had worked for over 15 years in maintaining the Poplar River Program, working with Canadian officials, the MGMG, and local citizens, in an effort to maintain long-term evaluations of the aquifers and groundwater conditions impacted by coal mining. Mr. Miller said the MBMG is in agreement with Senator Nathe's stand, and asked this Committee to consider the amendments to HB 350 which would designate and include long-term aquifer impacts and groundwater changes.

Jim Mockler, representing the Montana Coal Council, spoke in favor of HB 350, and hopes areas such as Roundup will be protected. He reminded the Committee that one reason the evaluation in Big Horn County and Rosebud County has gone down significantly is because the gross proceeds have been taken out of their tax base and it is now called non-taxable income. The counties still get the money, it just doesn't appear in the total valuation.

#### Opponents' Testimony:

Dennis Olson, Northern Plains Resource Council (NPRC), spoke in opposition to HB 350, stating Northern Plains has worked for over 20 years to address community social and environmental impacts. They are philosophically opposed to taking coal impact monies away from the communities being impacted, and have many of the same concerns about groundwater programs that are currently in place. Mr. Olson said some amendments being proposed since the House hearing on HB 350 may have helped the bill; however, he still has some concerns because those monies are now designated for certain programs. The NPRC supports the amendments proposed by Senator Nathe, offered by Mr. Miller, to re-designate the groundwater programs so they would not have to compete for the reduced amount of money available. Mr. Olson said the decrease from 1 million tons a year to 300,000 tons a year production from new mines will expand the scope of the programs to include proposals that would not otherwise be

eligible. Right now surface mined coal is taxed at a 15% rate under the Coal Severance Tax, and underground coal is taxed at a 4% rate. Mr. Olson said this 4% rate was put into affect because of the small family-type mining operations and he doesn't think the larger coal mining companies should be eligible for this lower tax rate. He urged the Committee to consider raising the 4% to 15% so the larger companies will pay their fair share.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Harp asked Jim Mockler if he had had an opportunity to review the amendments being offered by Senator Yellowtail. Mr. Mockler said he had not had a chance to review them.

Senator Doherty asked Rep. Mason if the threshold level of 300,000 tons could be changed to 500,000 or 750,000 tons. Rep. Mason said the thought behind the 300,000 ton figure is that all of the mines coming in from now on will be smaller, and HB 350 would help the areas that are going to be impacted by those smaller mines. Senator Doherty asked Rep. Mason if there are any other mines affected by HB 350 other than the Meridian Mine. Rep. Mason said he knows of no other mines, but the Meridian is just the first involved and there may be more in the future.

Senator Doherty asked Ms. Olson if Musselshell County has supported the Meridian Mine throughout the permitting process and if so, was it done on the basis that there would be a legislative change in order to get Coal Board money. Ms. Olson said the whole community supported the mine because they knew if they had problems with impacts, they could go to the Coal Board and expect the Board to help take care of the problems. Senator Doherty asked Ms. Olson that if there were Coal Board impact funds available to take care of the impacts, why is HB 350 before the Legislature to change the designations. Ms. Olson said they would have qualified for the designations anyway; HB 350 will tighten up the criteria of what the impacts are as opposed to what criteria is in effect now.

Senator Towe asked Ms. LeFurge how the amendments to HB 350 funding would fit into the appropriations in HB 2. Ms. LeFurge replied that the \$1.6 million over the two fiscal years would have about \$230,000 included for administration costs. The actual monies available for grant and loan programs would be \$1.3 million, leaving about \$330,000 of the \$1.9 million to be used for grants that are not anticipated by the Coal Board at this time. Of that amount, \$190,000 under the current bill would only be available to the existing mine counties. This, basically, means they are asking for 20% instead of 10%, or \$380,000, a \$50,000 difference between this fiscal note and what the 20% would give the Board.

Senator Towe asked if the shortage would come at the expense of Musselshell County, where the new mine would be. Ms. LeFurge said the difference would basically come out of the earmarked funds for Musselshell County; however, they are saying the \$50,000 more than makes up for the difference between the \$550,000 and the \$380,000 they would get if these amendments are passed.

Senator Towe asked Hershel Robbins if he supports the amendments by Senator Yellowtail. Mr. Robbins said he received a copy of them this morning and has not had a chance to review them.

Senator Towe said the main thing to affect Musselshell County is that HB 350 increases the 10% discretionary amount to 20%, at least for the next two years, and that appears to be designated primarily to take care of the Meridian mine. This would be approximately \$190,000 out of funds available to that area, and if so, would Mr. Robbins oppose the amendments. Mr. Robbins said he would think so, and that originally when the bill left the House, there was no funding level on it; it was \$5.4 million. He thinks there would not be enough money to go around.

Senator Towe asked Mr. Robbins to respond to the concern that funds need to be available for the impacts of the Tongue River Railroad. Mr. Robbins said he would not oppose that project, but from what he understands, that is two years down the road and does not affect HB 350 within this two-year biennium.

Senator Towe asked how Mr. Robbins would respond to the concern of Senator Weeding and Beth Baker on funding for the drug task force. Mr. Robbins said from the offset, HB 350 did not have the drug task force in it because the Governor did not want it in there. The Coal Board has been funding the drug task force for approximately 10 years. That Board was originally asked to fund the drug task force for two years, after which time the Legislature was to be asked for the needed funding.

Senator Towe asked Murdo Campbell, Administrative Officer of the Montana Coal Board, if SB 382 passes, will HB 350 be in trouble. Mr. Campbell said SB 382 would take almost a million dollars directly out of the local impact funds, so if there is \$1.9 in there now, that would leave \$900,000, and all of the other amounts involved would be reduced by half. Mr. Campbell presented Exhibit No. 13 to these minutes, which is entitled, The Montana Coal Board, An Historical Perspective, 1975-1992.

#### Closing by Sponsor:

Rep. Mason said he would like to oppose some of the amendments to HB 350 presented by Senator Yellowtail. He has no problem with amendment 1, which includes the railroad, because it is a coal-related facility. The 10% figure in the bill is realistic because of the increases in population, and Amendment 2

to change the percentage to 5% is not realistic; he opposes Amendment 2. He also opposes the mileage change in Amendment 4. The biggest problem he sees is in Amendment 8, with the change from 20% to 10%. Rep. Mason said the whole intent of HB 350 is to help the areas that are affected by coal mining. They are trying to look down the road and have funds available for the areas that are affected, and by limiting to the impacted areas, all of the associated impacts with an area will be taken care of. Rep. Mason said if the funds are spread out, nobody ends up with enough to take care of their needs.

### HEARING ON HB 92

#### Opening Statement by Sponsor:

Rep. Rolph Tunby, House District #24, presented HB 92, which is a bill requested by the Committee on Indian Affairs and the Revenue Oversight Committee. This bill will amend the State-Tribal Cooperative Agreements Act. One of the benefits of the bill, according to Rep. Tunby, will allow either the State or Tribe to negotiate on who will collect revenue which will eliminate some of the dual taxation presently taking place in some instances. HB 92 will allow any agreement between the State and the Tribes to go into affect immediately instead of waiting for the next Legislature to act on the agreement. The bill will also call for a public meeting on the Reservation before entering into an agreement.

#### Proponents' Testimony:

Gary Wiens, representing the Montana Electric Cooperative Association (MECA), spoke in favor of HB 92. He said the 26 electric cooperatives the MECA represents includes 7 cooperatives serving Tribal Reservations. These cooperatives have taken the lead in building relations with the Tribes in the state, and they support this bill to seek cooperation in the collection of taxes or fees on the Reservations, and to avoid dual taxation. Mr. Wiens said HB 92 will present a win-win situation for both the Tribes, the State or local government, and the taxpayers. Mr. Wiens said MECA has some concern in interpreting the over-all potential of this legislation. They think HB 92 appears to lack clarity on the issue of enabling the State-Tribal Cooperative Act agreements only in those cases where the tax license or permit fee is identical. MECA is asking for a technical clarification amendment, to have Page 6, Line 5, amended by adding, "on the same goods, services, or property", following "government".

Dave Woodgerd, Legal Counsel, Department of Revenue (DOR), said the DOR supports HB 92. The DOR presently has a pending agreement on alcohol with the Tribes on the Fort Peck Reservation. HB 92 will authorize that agreement, as well as authorize agreements on other taxes the DOR has been involved in with the Tribes. Mr. Woodgerd said the DOR has been working with

the Tribes for many years; however, they have always felt there is a problem because the State-Tribal Cooperative Agreements Act did not specifically authorize the expenditure of funds, or the refund of taxes. This language will allow them to work further on the agreements. The purpose of the amendment presented by Mr. Wiens is not clear to Mr. Woodgerd, and he will review it further.

Deanne Sandholm, Department of Justice (DOJ), spoke as a proponent of HB 92. Ms. Sandholm said the DOJ has been involved in many of the negotiations with the Tribes, and they fully support this bill.

Kathleen Fleury, Coordinator for Indian Affairs, said she was asked by Caleb Shields and Reid Chambers of the Assiniboine-Sioux Tribes of the Fort Peck Indian Reservation to provide testimony in support of HB 92. Ms. Fleury presented Exhibit No. 12 to these minutes.

Bill Daum has ranched on the Crow Reservation for 26 years. He appeared in support of HB 92, as amended, and said the public notice provision allows input and participation by all affected by any State-Tribal agreement. It is important that non-Indians and local government affected by the State-Tribal agreements have the opportunity to participate and should not be left out of consideration in these agreements.

Senator Delwyn Gage, Senate District #5, spoke in support of HB 92. He said this bill is somewhat misunderstood by some people who think this bill will allow the Tribes to tax anything they want to tax. However, the State cannot tell the Tribes what they can do with regard to taxation. The Senator pointed out language beginning on Page 3, Line 16, includes the words, "lawfully imposed". He said some people do not feel that part of the bill is clear enough as to what the State-Tribal agreements can cover.

#### Opponents' Testimony:

Jim Halverson, Chairman, Roosevelt County Commissioners, spoke in opposition to HB 92 as it relates to the economic issues. Mr. Halverson presented his written testimony as Exhibit No. 10 to these minutes.

Dan Geer, Glacier County Commissioner, appeared in opposition to HB 92, and presented his written testimony as Exhibit No. 11 to these minutes.

Gordon Morris, Director, MACO, spoke in opposition to HB 92 on behalf of Mike Hutchins, Lake County, who is Chairman of the Montana Association of Reservation Counties. Mr. Morris said their stand is similar to Senator Gage's remarks on the need for clarification in the bill. They oppose the State getting into the business of specifically collecting taxes for the Reservation

Tribes. They feel if the State is going to impose a property tax, it should be a tax they would collect, recognizing in many cases the Reservation may encompass more than one county, and the counties should be responsible for collecting taxes on that property that is eligible for property taxes, and likewise, for the Tribal associations.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Jim Halverson if he owned property on the Reservation, and if it is taxed by the Tribe at the present time on a property tax basis. Mr. Halverson replied that he has a business, a shop, and a home, and they are not taxed by the Tribe. The Senator asked if he would want to be taxed by the Tribe and the State. Mr. Halverson replied, "No". Senator Towe said HB 92 will go a long ways towards preventing the double taxation, and asked if this is not a good idea. Mr. Halverson said if the Tribes would attempt to levy a tax against his property, he would prefer if he had to go to litigation over that tax, that his battle be against the Tribe and the Federal Government and not have to start with litigation against the county that sends the tax bill, and then the state, and then the Tribe and the Federal Government. Mr. Halverson said if the Tribe is to attempt to levy a tax against his property, the Tribe should be the one that collects it and not the State of Montana.

Senator Towe asked Dave Woodgerd about the House amendments to HB 92. Mr. Woodgerd said the amendments on Page 4 were somewhat contentious in the House. The DOR, and possibly the DOJ, supported the concept that a public hearing should be held. The problem is how informal the public hearing should be.

Senator Towe said the present rules enforced by the BIA regarding any tax measure they would approve requires a public hearing, or informational meeting, in which all parties have an opportunity for input. The Senator asked Mr. Woodgerd if this is this what is contemplated in HB 92. Mr. Woodgerd said his understanding is that that is the situation contemplated, and in addition, there are notice requirements and requirements for a synopsis of the proposed agreement.

Senator Towe asked Mr. Woodgerd if the amendment on Page 8 injects a new element into HB 92. Mr. Woodgerd said this amendment comes at the request of Rep. McCaffree who was concerned that if there is a distribution to the local government as a result of an agreement, there be language in the bill which would cover how the revenue would be disposed of. This is the intent of the language on Page 8.



Senator Towe asked if HB 92 would authorize agreements between the Tribes and local governments now. Mr. Woodgerd said the DOR has always operated under the assumption it was possible to have 3-party agreements between the State, local governments, and the Tribes. A local government could be a public agency.

Senator Towe asked for Mr. Woodgerd's comment on the amendment on Page 9, reinstating the role of the Revenue Oversight Committee. Mr. Woodgerd said that language is in the present law on motor fuels taxes to tribal governments.

Senator Towe asked Gary Wiens to explain his proposed amendment. Mr. Wiens said the intent of his amendment is to clarify the intent of the bill, which is to assure that when the State and the Tribes are sharing in the collection of the tax, that is the same tax they are, in fact, collecting, so the situation may never rise where a State was collecting a dissimilar, or different, tax for the Tribe. Senator Towe asked Mr. Wiens if it would be more appropriate to say these agreements would be limited to the imposition of taxes that are already in existence in the State of Montana. Mr. Wiens said the MT Electric Co-op Association would consider that.

Senator Van Valkenburg asked Mr. Woodgerd about the language on Page 3, Lines 20-23, stating the director of the state agency is the governing body, and if the essence of HB 92 is so the agreements don't have to come before the Legislature. Mr. Woodgerd said the essence of the bill is that the DOR always had some concerns that the State-Tribal Cooperative Agreements Act didn't allow the DOR to actually give money to a Tribe after it had been collected; there was no authorization to appropriate monies to the Tribe. The Senator asked how the governing body, with respect to the State, was presently interpreted in the Act. Mr. Woodgerd said he would guess it would be the Governor, but certainly there are three branches of government. It is his understanding that the State-Tribal Cooperative Agreements Act authorized the executive branch to enter into these agreements, which are overseen by the Legislature.

Senator Van Valkenburg asked why HB 92 is limiting the definition of governing body to only the director of the agencies. Mr. Woodgerd does not know how that language got into the bill. Senator Towe responded to the same question that on Page 9 of HB 92, it is the law of the State of Montana now that the Department of Transportation enters into the agreements regarding the highways, and the same thing applies to the DOR with regard to cigarette taxes; HB 92 returns the law to a parallel situation for other agreements.

Senator Van Valkenburg asked Ms. Fleury if there is any difference between Senator Towe's answer and her knowledge that "state agency" is in essence defined as the governing body of the state agency. Ms. Fleury said the issue of who can sign the agreements was discussed in the House. The sharing agreement for

motor fuel taxes specifically authorizes the Department of Transportation Director to sign those agreements. This makes sense to her in relation to her experience in the negotiation process because the Governor actually is not involved in the negotiations. The person who would understand the agreement and the whole negotiating process would be the director. The water compact agreements, however, require the Governor to sign them. Ms. Fleury said there are many cooperative agreements with various agencies, and if every agreement entered into between the State and the Tribes had to go to the Governor or to the legislative body for signing, she would see it as a barrier in entering into those agreements.

Senator Grosfield asked Mr. Woodgerd about the House amendments on Page 4, and why Fish and Game is listed on Line 3, since this bill is about taxes. Mr. Woodgerd replied that was an area of contention, and the consensus was that it was appropriate to include Fish and Game agreements.

Senator Yellowtail questioned the purpose of Section (3) on Page 6 of HB 92, that sets out conditions which must be satisfied as part of the agreements regarding taxation. The Senator asked if it is Rep. Tunby's intention to require some insurance or bonding requirement, as stated on Line 12, or must administrative expenses be a part of such an agreement, as stated in (d), or must there be an audit report, as stated in (e). Rep. Tunby said he supported the concept of the bill and these are more technical issues that he did not get involved in at all. In answer to the same question, Mr. Woodgerd replied that is what HB 92 is saying.

Senator Yellowtail asked if "if any" could be inserted after "bonding" on Line 12, Page 6. He is concerned about tying the hands of the negotiating parties to a very specific set of limited requirements. Mr. Woodgerd said the DOR would have no objection to that particular change.

**Closing by Sponsor:**

In response to the question of who signs the agreements, Rep. Tunby said the agreements will go to the Revenue Oversight Committee for review and comments, and then to the Attorney General for approval. It would be a decision of whether to adopt this process, or go back to the process of having the Legislature approve the agreements, or go to some other alternative.

**HEARING ON HB 437**

**Opening Statement by Sponsor:**

Rep. Dan Harrington, House District #68, presented HB 437, which deals with low-income property tax relief, and comes at the request of the County Assessor's Association. Rep. Harrington said that a person can no longer use depreciation and consideration of loss when applying for low-income property tax relief.

**Proponents' Testimony:**

Keith Colbo, representing the Montana Assessors Association, said HB 437 is attempting to change the definition of a business loss in the treatment of low-income property tax relief.

Dave Woodgerd said the DOR supports HB 437.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Towe asked the intention of HB 437. Mr. Colbo said HB 437 will treat business depreciation loss similar to the taxation method of other incomes.

Senator Towe asked why not use the term "Montana Adjusted Gross Income" so everyone will be familiar with the terms. Ken Morrison, DOR, said in the last session, the Legislature went from a standard gross income to determine what qualifies for the low income property tax break, to a net income approach, and allowed losses to off-set other income. The assessors were concerned about that was going too far. HB 437 is a middle ground between gross and net. This is a compromise that was reached, and the assessors are more comfortable in administering this type of approach.

Senator Towe asked for clarification of the wording, "before depreciation and without consideration for loss", on Lines 24 and 25, Page 1 of HB 437. Mr. Morrison said the DOR would consider net business income concerning whether someone qualifies for the low-income property reduction program before they track out depreciation. A person wouldn't be able to have a loss on their business and be able to use that loss to off-set other income, such as wage income.

Senator Towe asked if other business deductions that are authorized to arrive at adjusted gross income would not be accepted. Mr. Morrison said they would be allowed as a deduction in determining the income one could use to meet the test as to whether they would qualify for the low-income deduction.

Senator Eck said one reason a person could not use adjusted gross income is that it includes a lot of income that is tax exempt.


Senator Gage said he doesn't understand why a business loss doesn't enter into the situation in determining the income status for a particular year. If a businessman is barely struggling and does have some other income, he justifiably should come under this because his business is operating at a loss and he is supplementing that loss with other income sources until he can get to a point where it is no longer a loss. Mr. Morrison said it is very difficult to draft a test for low-income that meets everybody's needs. At the gross level, the DOR found a lot of people were not meeting the test because they had gross income off their business that was very large, but didn't have any spendable net income off the business. The DOR shifted over to net, using loss stops that are income, and the assessors felt they were seeing people qualifying who really should not qualify. The DOR then tried to bring it back a little, but not all the way. Either way, people will be excluded, but HB 437 is a middle-ground approach.

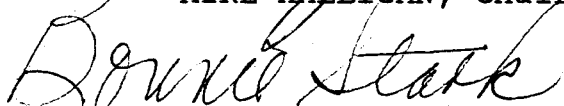
Closing by Sponsor:

Rep. Harrington said HB 437 will clarify the law regarding low-income property tax relief.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:00 a.m.

  
\_\_\_\_\_  
MIKE HALLIGAN, Chair

  
\_\_\_\_\_  
BONNIE STARK, Secretary

MH/bjs

## ROLL CALL

SENATE COMMITTEE      TAXATION

DATE \_\_\_\_\_

3-18-93

[illegible]

# HB 350

## DISCUSSION OF CHANGES PROPOSED FOR COAL BOARD LEGISLATION

**TITLE:**

Page 1, lines 7 thru 9 - limits amount of grants available to nondesignated local governments.

Page 2, lines 6 thru 8 - reduced "1 million" to "300,000".

Reason - Because we are limiting the eligibility for grants to the 90% awarding criteria for designated areas only, we are expanding the eligibility threshold to include smaller mines.

Page 2, lines 12 & 13 - separate this definition from (i) to allow the striking of "authorized by permit".

Reason - Because the existing law does not provide for a DSL permit for increasing the level of mining.

Page 2, line 13 - reduce the "3" years to "2" years.

Reason - Because we are proposing to more closely focus the use of Coal Board funds to a narrow time before such development.

Page 2, lines 18 & 19 - add the word "new"

Reason - Because only "new" plant facilities and not retrofitted facilities are covered.

Page 2, line 22 - reduce the "3" years to "2" years.

Reason - Same as above mentioned.

Page 3, line 3 - reduce "1 million" to "300,000".

Reason - Same as above mentioned

Page 3, lines 18 - 23 - strike all.

Reason - This amendment in committee makes room for following change.

Page 3, lines 24 & 25 thru Page 4, lines 1 thru 4 - Limiting the grants to non-designated local governments to 10%.

Reason - This is the heart of this proposal. This change limits the Coal Board's authority to award 90% of the grants "to those designated" and 10% to those not designated.

Page 5 lines 1 thru 15 - All new.

Reason - this proposed new subsection clarifies the time of the designation, and the limits of the 10 % non-designated eligibility.

Page 6, line 6 - Strike "biennium" and replace with "fiscal year".

Reason - This proposed change is to allow the unexpended balances of the local impact funds to be transferred on a more timely and effective basis.

Page 6, lines 9 & 10 - Effective date.

Reason - provides an effective date that coincides with the Fiscal Year.

**MONTANA'S  
COAL SEVERANCE  
TAX  
FY 94-95  
\$82,327,000**

**PERMANENT TRUST  
50.00%  
\$41,163,500  
(\$496,465,560)**

**APPROPRIATED FUNDS**

**LOCAL  
IMPACT  
6.65%**

**HIGHWAY  
TRUST  
12.00%**

**GENERAL  
FUND  
15.39%**

**EDUCATION  
11.40%**

**ALL  
OTHERS  
4.56%**

**LOCAL IMPACT ACCOUNT  
FY 1994 \$2.7 Million  
FY 1995 \$2.7 Million**

**MONTANA COAL BOARD  
7 MEMBER CITIZEN  
BOARD  
(Governor Appointed)**

**GRANTS TO  
LOCAL GOVERNMENTS  
(\$67.5 Million To Date)**

**REVERSION TO  
SCHOOL FOUNDATION  
(\$13 Million To Date)**

TESTIMONY FOR HB 350

SENATE TAXATION

EXHIBIT NO. 2  
DATE 3-18-93  
BILL NO. HB 350

Mr. Chairman, members of the Committee, for the record my name is Hershel Robbins and I represent the Musselshell County Development Corporation, City of Roundup, County of Musselshell, and Musselshell Valley Chamber of Commerce.

I am here in support of House Bill 350 and first, as an introduction to my testimony, I believe it is important to this issue for you to know that I served as Chairman of the Montana Coal Board from 1981 thru 1988. As such, I have a personal familiarity with the history of both the Local Impact Fund purpose and its practical application to that purpose.

The Montana Coal Board, a Gubernatorial appointed body that is missioned by law to administer the granting of Local Impact funds, has since its origins in 1975, distributed over \$67 million to local governments and school districts to mitigate the impacts brought to the "Coal Country" by large scale coal development. I know I might be prejudice, but let me say I think this Board has done a fine job in carrying out the intent of this law and helping real people solve real problems.

This bill changes the statutory instructions that are given to the Coal Board concerning who is eligible for these impact funds. Clearly it narrows this eligibility but still preserves the integrity of the Coal Board program. Over the past several legislative sessions serious challenges have been made to significantly alter or terminate the Coal Board in an attempt to provide money for budget balancing but fortunately, wisdom prevailed and the Local Impact account was preserved. Once again this bill substantiates that wisdom by focusing directly in on anticipated new impacts while still allowing for funding of Montana schools through the foundation program.



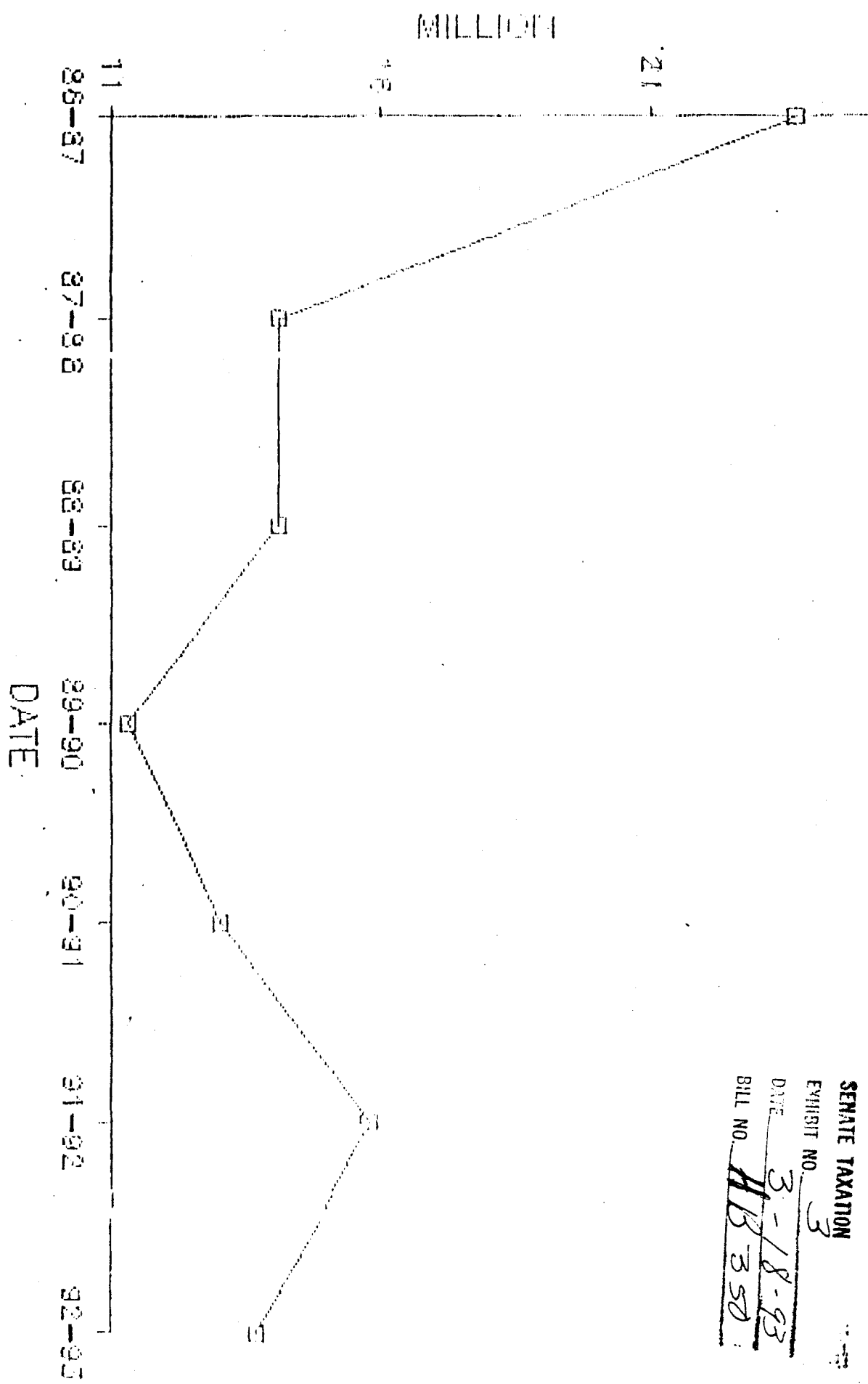
I am here today to express my support for this bill and its change to the focus of the future of the Coal Board. This bill when first introduced in the House was a good bill but now it is even a better bill. The changes proposed in this bill simply narrow the focus and purpose of this program. Where the existing law allows the Coal Board to award "at least 50%" of the grants to designated areas of impact the changes proposed require the Board to issue 90% of all grants to designated areas of impact. The remaining 10% is for nondesignated areas with impacts caused by an existing mine or when tax revenues are not available to mitigate impacts due to the closure of a mine or facility.

I believe these changes bring back the integrity of the original purpose of these funds. It tells all of Montana that a coal impact fund is necessary. It tells all of Montana that new designated areas will be eligible for the bulk of the funds but existing impact areas are not forgotten and if there are no current impacts requiring such assistance, these funds will be sent on to all Montana to support education.

Mr. Chairman, members of the committee, this is a good bill, no it is more than that - it is an excellent bill. It has real integrity. It continues the original philosophy of Montana's Coal Severance Tax. It helps people when they need it. It continues the commitments to a healthy "Coal County" and to a healthy Montana. I urge your support and a "Do Pass" vote in this Committee.

Thank you.

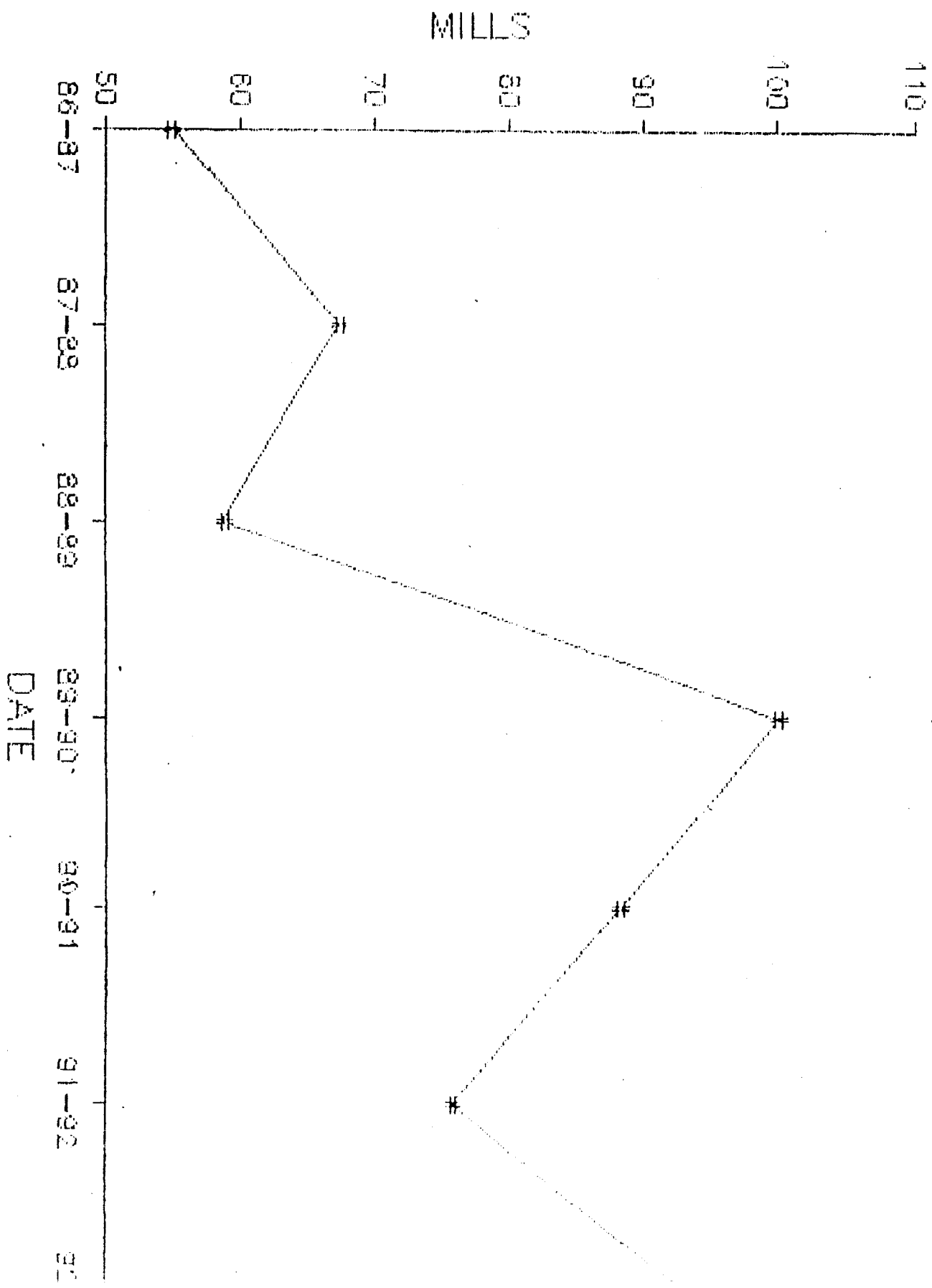
DOES NOT INCLUDE ROAD FUND OR NURSING HOME ECONOMIC FUND  
*Valuation*



SENATE TAXATION  
 EXHIBIT NO. 3  
 DATE 3-18-93  
 BILL NO. HB 350

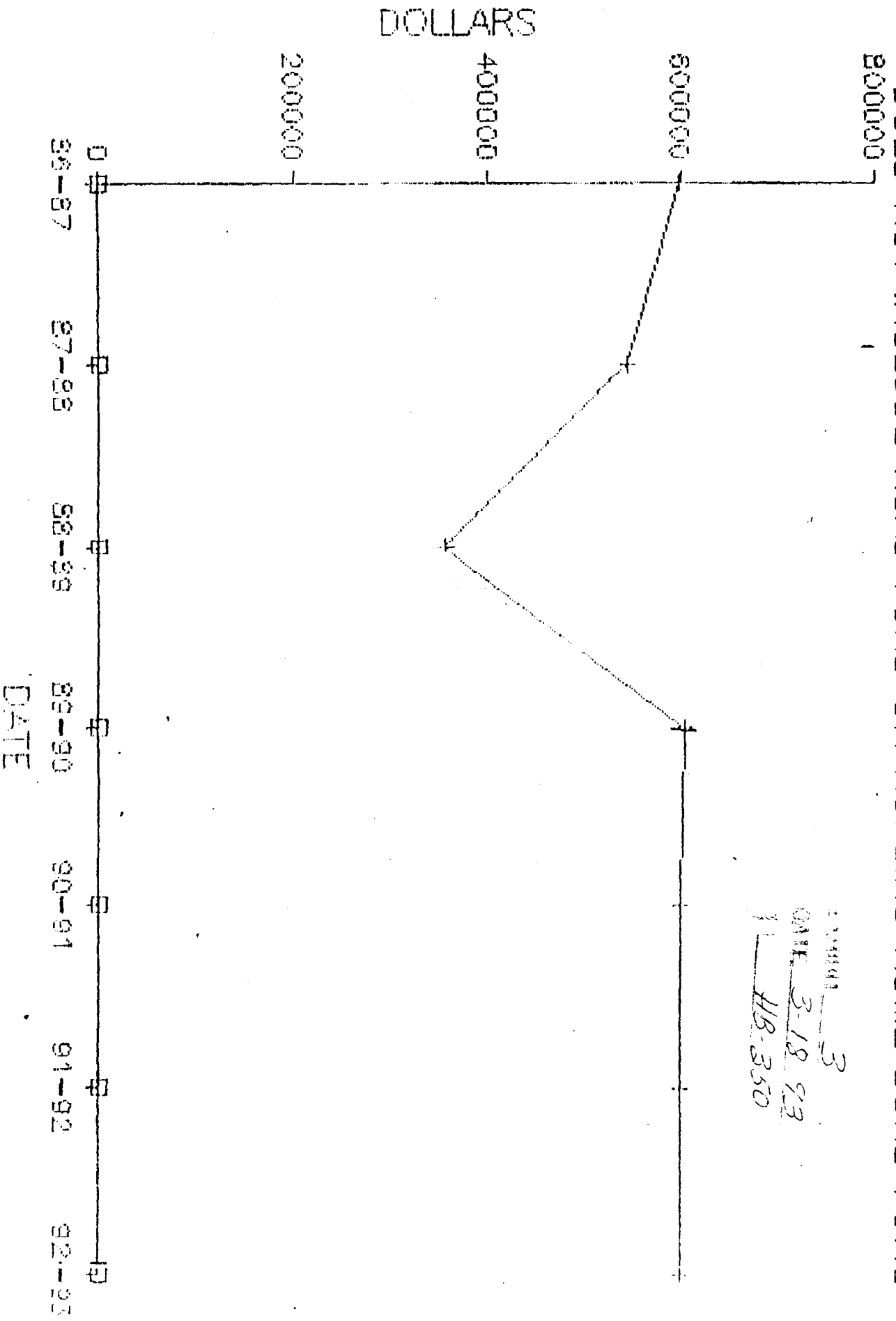
# MILL LEVY IN MOORECLOVE TOWNSHIP

DOES NOT INCLUDE ROAD FUND OR NURSING HOME BOND FUNDS



# DOLLAR AMOUNT MUSSELSHELL COUNTY

DOES NOT INCLUDE ROAD FUND OR NURSING HOME BOND FUND



DATE 3-18-93  
HB-350

# MUSSELSHELL COUNTY ROAD FUND MILLS

MILLS

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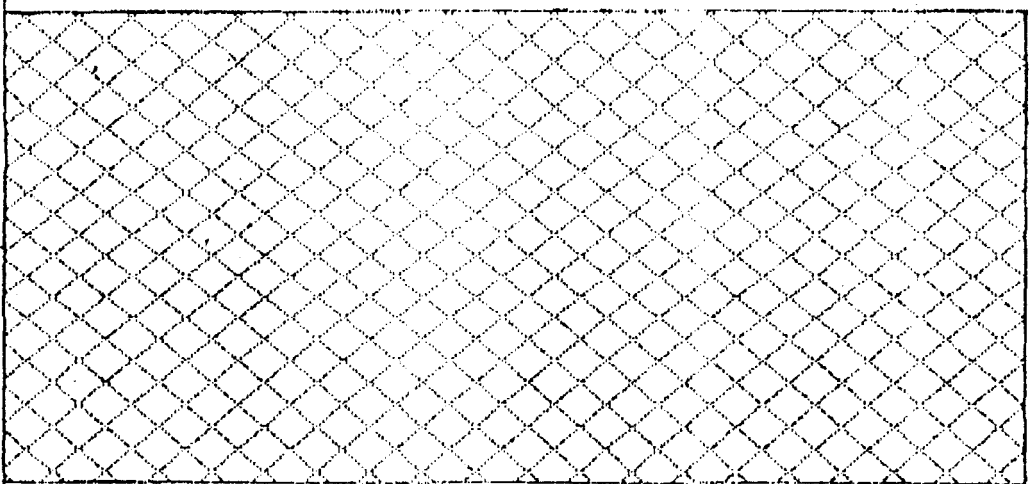
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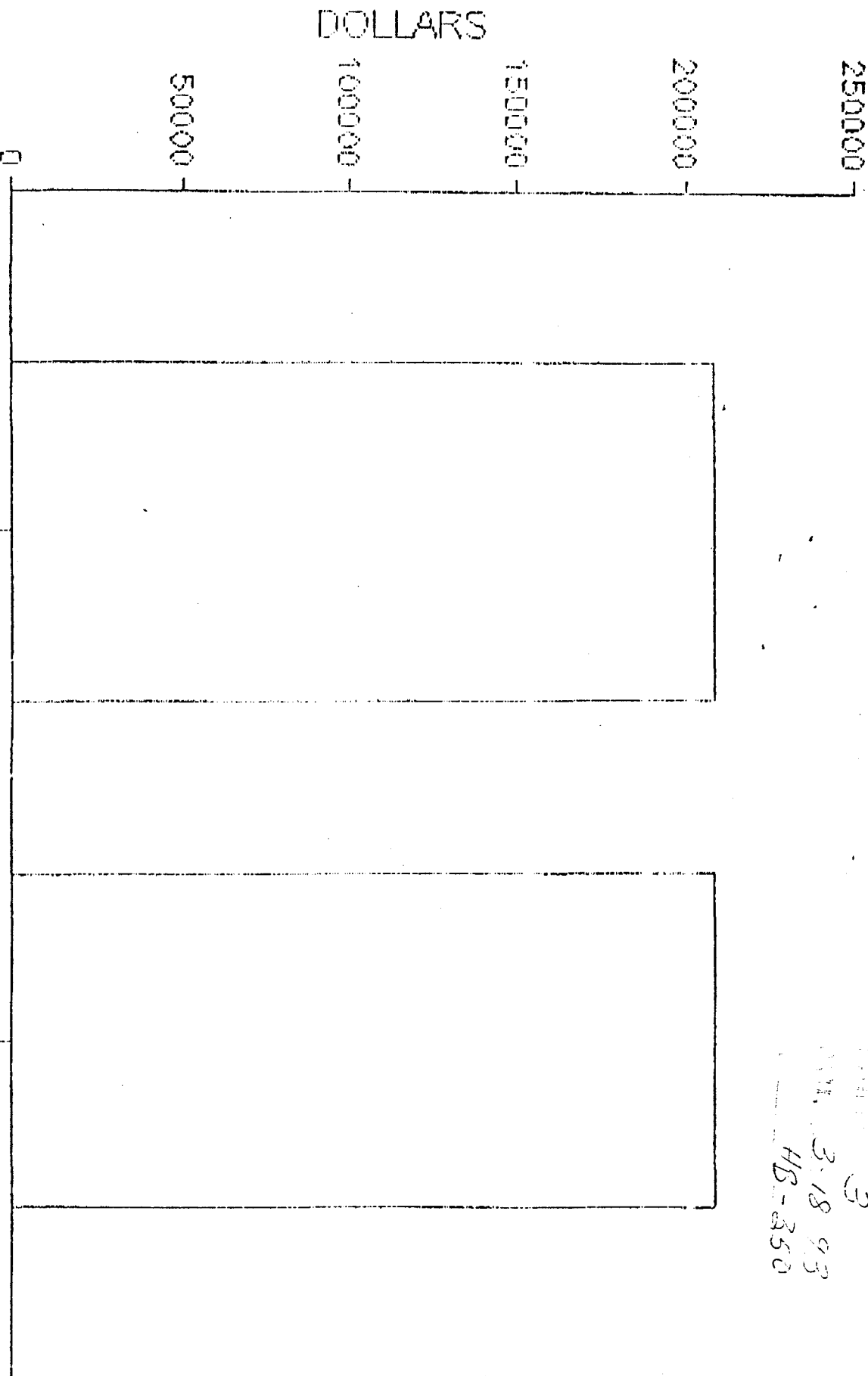
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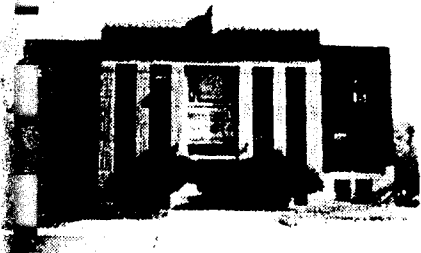
# MUSSELSHELL COUNTY ROAD FUND

DOLLARS

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HB-350



DATE



# County of Musselshell

ROUNDUP, MONTANA

BOARD OF COUNTY COMMISSIONERS  
SUE M. OLSON  
DELLY GEBHARDT  
RYAN W. ADOLPH

JANE E. MANG  
Clerk & Recorder  
MARY C. NELSON  
Treasurer  
Supt. of Schools  
Assessor  
G. PAUL SMITH  
Sheriff  
VICKI KNUDSEN  
County Attorney  
DONA C. ROBSON  
Clerk of District Court  
JOHN RAE  
Coroner  
COLETTE Y. MADISON  
Public Administrator  
ROBERT E. MIHALOVICH  
Justice of the Peace

March 17, 1993

SENATE TAXATION COMMITTEE  
8:00 p.m., Room 413  
Senator Mike Halligan, Chair

SENATE TAXATION  
EXHIBIT NO. 4  
DATE 3-18-93  
BILL NO. AB 350

For the record, I am Sue Olson, Musselshell County Commissioner.

Meridian Minerals has recently been granted a mine permit to mine coal located in Musselshell County. In order to understand the financial ramifications of the impact from this mine, I feel the Committee needs to have an understanding of our county's current financial status.

I have passed out 5 graphs that show the following: The first graph is the valuation in Musselshell County beginning with FY 86-87 which was approximately 24 million dollars, through FY 92-93 where our valuation is just under 14 million dollars. For purposes of comparison, I have used the classification valuation for the county which includes the Local Government Severance Tax.

The next graph is the Mill Levy. As the valuation goes down the mill levy goes up and as the valuation goes up the mill levy goes down.

The third graph is the property tax dollar amount raised each year by the county. For the last 4 years we have been at the property tax dollar limit as to what we can raise in property taxes under I-105.

The fourth graph is the mill levy for our road fund. In FY 86-87 it was 9.51 mills and in FY 92-93 it is 22.643 mills. As the last graph shows, both raise the same amount of tax dollars, although our taxpayer continues to pay more in taxes.

In FY 86-87 Musselshell County received \$200,000 in revenue sharing. Revenue sharing does not exist now. The County had \$612,027 in non-tax revenues in the general fund. We have estimated we will receive \$399,480 in non-tax revenue in the general fund this year. We continue to receive less and less in non-tax revenue. We do not mill any levy in the bridge fund, the airport fund, the fair fund, or for senior services. These funds were cut several years ago to have money to fund mandated programs.

Musselshell County does not have any resources to deal with the impacts that will occur when the new mine is opened. Musselshell County is at the maximum property tax dollar amount that can be raised from property taxes under I-105. Our assessed valuation will need to increase by 10 million dollars before we are able to raise one more dollar in property taxes.

Based on a 9% tax on business equipment, Meridian Minerals would have to invest over 111 million dollars in equipment before Musselshell County's I-105 cap is exceeded. Meridian Minerals has projected a 12 million dollar investment the first year of operation, 58 million the 2nd year, and 69 million the 3rd year. This includes the railroad spur. The first two years of investments by Meridian Mineral will not exceed the 105 cap so no additional property tax dollars will be received in FY 94-95 or 95-96.

Projections of clean coal produced are 300,000 ton the 1st year, 1.5 million the second year and 3 million the 3rd year. Coal produced in 1993 would be a minimal amount. The flat tax on coal produced in calendar year 1994 would be received in



November of 1995 and May of 1996. Based on this information, Musselshell County will not receive any appreciable revenue from the flat tax on coal before 1996.

Let us analyze the flat tax as to the amount of revenue it will return to the County. The gross proceeds flat tax on 4% on 300,000 ton of clean coal with a contract price of \$15.00 per ton at the mine would raise approximately \$180,000 which would be distributed to the taxing jurisdictions within the county. The school districts will receive about 70% of the tax dollars and the remaining 30% would be distributed among Musselshell County's numerous funds, i.e. general fund, road fund, district court fund. This amount would be approximately \$54,000. To add one person to either our road department or the law enforcement department would cost not less than \$26,000. These additions will be necessary to deal with the impacts from the mine.

What do all these figures mean? Musselshell County will not have any additional revenue to deal with impacts from the mine before November of 1996 at the very earliest. We will be hard pressed to find enough funds to cover additional man power needs until then.

Immediate impacts to the road department will occur this year. Additional maintenance will be required on the county roads in the area of the mine.

The Divide Loop Road MUST be rebuilt. The EIS estimates listed \$300,000 to overlay the existing pavement. An overlay would not fix the road. When the test pit coal was hauled out, major deterioration of the road occurred. Musselshell County spent \$18,000 on asphalt plus workers and equipment to repair the break-up areas. Meridian Minerals provided the hauling for the asphalt.

It was not a good repair job. The road has to be widened as most of it has a 22

EXHIBIT 4  
DATE 3-18-93  
# HB-350

foot base. It has very little drainage, culverts need to be replaced, several sharp corners widened, guard rails installed, an additional gravel base added and a complete overlay of asphalt to make it safe for the amount of truck traffic it will have for the two years of hauling. Estimates of cost for this are between \$800,000 and 1 million dollars.

Other needs the County will have if and when the impact from the mine occurs are for additional equipment in the road department, and additional car for the law enforcement department, a need to update the ambulance, and more human service help. This only addresses the needs of the County. The elementary school is at capacity for students. If the mine brings in employees that relocate in the Roundup area the need for additional classrooms is apparent.

In order to finance these projects, equipment, and other needs that will occur. Musselshell County must have financial help. We look to the coal board impact funds for this help.

The lion's share of the coal severance tax money goes to the State of Montana. This provided millions of dollars to the State. 6.5% of the coal severance tax goes into impact funds. Coal companies pay this tax on coal they are mining to deal with the impacts the mines create in local areas. If local taxpayers have to pay for the impacts created by mining companies why would local areas encourage development of a mine? The system set-up for dealing with local impacts is good and needs to be retained. The Musselshell County Commissioners urge your support of HB 350. I would like to thank the Committee and Rep. Mason for the work done in regards to this bill. Thank You.

COUNTY MILL PROFILES					
County	Class	Mill Value	Average	88-92	Ave
Rosebud	1	\$177,796	\$91,192	-20.9	-13.4
Treasure	6	4,907	6,936	-4.5	-2.2
Big Horn	1	26,495	91,192	-76.7	-13.4
Richland	3	22,203	20,754	-63.4	-13.1
Powder River	5	6,146	9,944	-62.8	-17.5
Musselshell	4	6,779	11,817	-52.2	-27.5
Yellowstone	1	190,275	91,192	-16.4	-13.4
Garfield	6	5,419	6,936	-23	-2.2
Prairie	6	4,296	6,936	-13.2	-2.2
Custer	4	14,413	11,817	-15.2	-27.5
Carter	6	7,554	6,936	40.3	-2.2
Average: The average value of a mill in all counties of the same class					
88-92: The percent of change in that value from 1988-1992					
Ave: The average percent change in all counties in that same class					

Mills Levied

COUNTY MILLS LEVIED		
County	Genr'l Fund Mills	Total Mills Levied
<i>State Average:</i>	<b>30.1</b>	<b>80.8</b>
Rosebud	2.34	11.25
Treasure	45.16	78.46
Big Horn	28.88	47.93
Richland	20.25	57.41
Powder River	81.93	122.65
Musselshell	29.79	75.77
Yellowstone	25.87	76.96
Garfield	30	108.04
Prairie	32.29	110.82
Custer	34.49	96.7
Carter	22	96.09
Genr'l Fund Mills: Mills levied for county general fund, 1992		
Total Mills Levied: for 1992		

Per Cap Expenditures

EXHIBIT 5  
DATE 3-13-93  
HB-350

County Budgets - Per Capita Expense			
County	Per Cap. Exp.	% of PCI	PCI
<i>State Average</i>	<i>\$621.66</i>	<i>4.06%</i>	<i>\$15,304</i>
Rosebud	536.22	3.84%	13,973
Treasure	822.80	4.33%	19,014
Big Horn	652.32	5.37%	12,146
Richland	461.57	3.09%	14,955
Powder River	1440.50	9.46%	15,228
Musselshell	419.72	2.83%	14,815
Yellowstone	253.88	1.47%	17,272
Garfield	797.42	4.50%	17,740
Prairie	625.13	3.74%	16,709
Custer	209.96	1.30%	16,178
Carter	1822.20	12.27%	14,856
Per Cap. Exp: Per Capita Expenditure to County Budgets (16 funds)			
% of PCI: Per Capita Expenditure %age of Per Capita Income			
PCI: Per Capita Income			

# Exceeding Mill Levy Limits

<u>County:</u>	<u>Gen Fund</u>	<u>Dist Crt</u>	<u>Roads</u>	<u>Bridges</u>	<u>Weeds</u>
Rosebud					
Treasure	X				X
Big Horn	X				
Richland			X	X	
Powder River			X		
Musselshell	X	X			
Yellowstone	X	X			
Garfield	X	X	X		
Prairie	X	X			X
Custer	X	X			
Carter		X			X

# COUNTY POPULATION CHANGES

<u>COUNTY</u>	<u>POPULATION CHANGE</u>
---------------	--------------------------

<i>State Average:</i>	<b>+1.5%</b>
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Rosebud	+ 5%
Treasure	(11%)
Big Horn	+ 2%
Richland	(14.3%)
Powder River	(20.5%)
Musselshell	( 7.8%)
Yellowstone	+ 4.8%
Garfield	( 4.2%)
Prairie	(32.8%)
Custer	(10.8%)
Carter	(19.7%)

1. POPULATION: (PREFACE)

Eastern Montana counties have seen significant erosion in their economic base due to many factors, including severe population declines and dramatic drops in oil and gas production. The ability for many eastern counties to maintain basic services is being stretched--even slight impacts from neighboring developments add heavy burdens.

By taking just a cursory look at some basic data for eleven coal producing and adjacent counties, we see that neighboring counties of coal producers often have no resources to handle new burdens. The most obvious ones resulting from this review (surely there are more) are Carter, Custer, Prairie, Garfield and Powder River.

2. COUNTY MILL PROFILES:

A mill in eastern Montana can sometimes be worth only one-third of the average mill in a county of the same class (Big Horn). Simply, a mill doesn't earn as much here as a mill elsewhere in the state. Of the eleven counties in our quick review, all except two (Custer and Carter) have lost mill value at rates faster than other counties of the same class. Garfield's mill devalued 10 times faster than its counterparts.

While changing the state's net proceeds tax on oil and gas to a flat tax affected taxable valuations, so too did the precipitous decline of oil and gas production. For whatever reason, six counties in this group are financially strapped by mill values which bring in significantly fewer dollars than other similar class counties.

3. COUNTY MILLS LEVIED:

In most cases, this means that many eastern counties must levy more mills in order to provide for the basic services of county government. The unshaded counties all levy more mills than the state average in order to meet either general fund obligations or for total appropriations. (NOTE: Carter is less than average for Genr' Fund but more for Total Mills Levied).

4. PER CAPITA EXPENDITURES IN COUNTY BUDGETS:

This results in residents paying more for the same services (or even less) than in other counties. For example, taxpayers in more than half (6 of 11) of our sampled counties pay more than the state average, some as much as two-times more (Powder River and Carter). (NOTE: Prairie is less for % of PCI but more for Per Cap Exp).

5. EXCEEDING MILL LEVY LIMITS:

Essential government services are often provided under these circumstances by simply exceeding the mill levy limit in one or more of the budget categories. The General Fund, District Court, Roads & Bridges and Weed control are categories which are being exceeded by all except one county (Rosebud) in our survey. Seven counties are over the cap for General Fund mills, six for District Court (five exceed both limits). Richland, Powder River and Garfield assess more than allowed for roads or bridges (Richland exceeds both limits).



Amendments to House Bill No. 350  
Third Reading Copy

Requested by Senator Yellowtail  
For the Committee on Taxation

Prepared by Jeff Martin  
March 16, 1993

SENATE TAXATION

EXHIBIT NO. 6

DATE 3-18-93

BILL NO. HB 350

1. Title, line 7.  
Following: "LOANS;"  
Insert: "INCLUDING CERTAIN NEWLY CONSTRUCTED RAILROADS IN THE  
DESIGNATION FOR COAL IMPACT GRANTS;"
2. Page 1, line 23.  
Strike: "10%"  
Insert: "5%"
3. Page 2, line 14.  
Strike: "or"  
Following: line 14  
Insert: "(iii) a newly constructed railroad serves a new, existing,  
or expanding coal mine;"  
Re-number: subsequent subsection
4. Page 2, line 23.  
Strike: "50"  
Insert: "100"
5. Page 3, line 1.  
Strike: "(1)(b)(iii)"  
Insert: "(1)(b)(iv)"
6. Page 3, line 24.  
Following: "(3)"  
Insert: "(a)"  
Strike: "EACH YEAR"  
Insert: "beginning July 1, 1993, and ending June 30, 1995"
7. Page 4, line 1.  
Following: "IT"  
Insert: "each year"
8. Page 4.  
Following: line 4  
Insert: "(b) Except as provided in 90-6-205(5)(b), beginning July  
1, 1995, and thereafter, the coal board may not award more  
than 20% of the funds appropriated to it each year for grants  
and loans to governmental units and state agencies for meeting  
the needs caused by coal development to local governmental  
units other than those governmental units designated under  
subsection (1)."
9. Page 5, lines 3 and 7.  
Following: "mine"

Insert: ", railroad,"

10. Page 5, line 9.

Following: "10%"

Insert: "and beginning July 1, 1995, up to 20%"

March 18, 1993  
8:00am, Room 413/415

SENATE TAXATION

EXHIBIT NO. 7

DATE 3-18-93

BILL NO. HB 350

*Taxation*  
**SENATE ~~NATURAL RESOURCE~~ COMMITTEE**  
Sen. Mike Halligan, Chairman

Mr. Chairman, members of the Committee, my name is Gerald Himelspach, Powder River County Commissioner. Mr. Chairman, Powder River County goes on record in support of HB350, with the proposed amendments.

Our county in on the border with Rosebud County, and our concern is that this bill reflect the impacts caused by coal mine development and by the construction of a coal-related railroad facility to support the proposed mine development in Rosebud.

Our county endorses the amendments to include specific designations that will reflect the on-going of impacts associated with existing mine operation. Our county is the only county at this time that will be impacted by a coal-related railroad facility servicing a neighboring counties mine. Under the bill as currently written, we would not qualify for coal impact relief. These amendments would allow Powder River County to qualify for impact dollars should the Tongue River railroad be placed into construction.

Our second concern is one we share with other coal and coal impact counties, as to the language included in Page 5, Line 4: "...contributing sufficient tax revenue to the designated government unit..." I would remind the Committee members that under I-105, counties are limited not in the number of mill levy's they can assess, but in the total dollars they can collect from their 1986 mill levy's.

This means, that when a county does have increased valuation in the county from a coal mine, they can only benefit from that valuation up to a specified dollar amount. After that point, there will be no new revenue to the county to fund cost of impacts.

As passed from the House, this bill would provide for 10% of appropriated monies, at that time \$5.5 million. Now, with the House Appropriations having appropriated only administration costs and estimated loans and grants, the designation under which existing mine counties would qualify provides \$195,655 over two years. Clearly that isn't even enough for two good road grants, much less relief for railroad impacts.

EXHIBIT 7  
DATE 3-18-93  
HB-350

Therefore, we are asking the committee to include specific designation for the railroad and to expand the distance and population qualification to allow the available funds under this legislation to better reflect the intent of the House in providing the "10%" revenues in coal impact relief.

We would appreciate the committee's consideration of these amendments. Thank you.

TESTIMONY OF  
ROBERT KOYAMA  
ON BEHALF OF THE  
BIG HORN COUNTY COMMISSIONERS  
BEFORE  
SENATE NATURAL RESOURCE COMMITTEE  
March 18, 1993

SENATE TAXATION

EXHIBIT NO. 8

DATE 3-18-93

BILL NO. HB 350

Mr. Chairman, members of the Committee, for the record my name is Robert Koyama, Commissioner in Big Horn County. I am here on behalf of the Big Horn County Commissioners to urge that you give a do pass to HB350.

Our county has too often been referred to as one of Montana's "coal rich" counties. We are indeed fortunate to have Decker East and West, Spring Creek, Westmorland and other mines in our county. These mines have provided jobs and tax base to an otherwise agricultural county.

However, like all counties, we operate under the limitations of I-105 which caps the dollar amount of tax revenues we can raise. Unlike many other counties in Montana, the presence of coal mines in our county creates expenditures to service those mines that exceed the ability of our tax base to provide.

This year we will be patching Highway 314, after saving monies in our road fund for three years to get the \$50,000 to pay our share of the cost with the state to repair this secondary road.

The existence of this road has been a boon not only to the mine, but to the counties and companies that purchase its coal: because the road broaden access to the mine, the mine was able to expand its market and today coal at the mine sells for \$22 a ton, instead of \$34 a ton in 1984.

However, this \$50,000 means that there will be no improvements to any other roads in our county, only simple maintenance. Under this bill, without the proposed amendments, Big Horn County will be without recourse to funds to provide proper repair to this road in the future.

We also provide protection at Decker with the location of a deputy, housed in a trailer house. This trailer house was possible because of coal impact funds and its eventual replacement with a permanent structure is not possible without coal impact funds. Without amendment, HB350 leave's ineligible for impact relief.

Significant to our future is the reality of taxable valuation loss and the cap imposed by I-105. Costs are going up and support to these mines and their impact are on-going. The resource riches of our county and the work of our people have produced a vital source of state tax revenues. The state relies on that income, and we consider it unfair that the state will assume that the roads that carry the coal and tax dollars to the state will continue to stay in repair without coal impact dollars.

SENATE TAXATION

EXHIBIT NO. 9

DATE 3-18-93

BILL NO. HB 350

SENATOR NATHE'S TESTIMONY BEFORE THE HOUSE  
NATURAL RESOURCES COMMITTEE - HB 0350

"Mr. CHAIRMAN . . .

In your deliberations to revise the authority and scope of the Coal Board, I urge you to retain provisions for the Board to provide grants for ground-water evaluations throughout the life of any mine that impacts aquifers and ground-water. In the past, those grants have been critical for these purposes, and I'd hate to see us ignore these long-term impacts. Staff from the Bureau of Mines and Geology are here today and can describe impacts on aquifers caused by coal mining."



Suggested Changes to HB 0350/03

Page 1, line 9, following "GOVERNMENTS;", insert:

"PRESERVING GRANT AUTHORITY FOR GROUNDWATER AND AQUIFER EVALUATIONS;"

Page 1, strike lines 22,23,24; insert:

"development:

(i) a net increase in the estimated population of at least 10% over one of the 3-year periods specified in subsection (4); or

(ii) alterations of aquifers or groundwater conditions;"

Page 2, following line 22, insert:

"(iv) an existing mine continues to impact aquifers or groundwater conditions;"

Page 3, line 1, following "(1)(b)(iii)", insert:

"or (1)(b)(iv)"

Page 3, line 11, following "year", insert:

"; or (iii) a mine or coal-burning facility located in an adjacent Province or State that may impact aquifers or groundwater conditions in Montana."

Page 4, line 5, following "subsection (1)", insert:

"(a)(i), (b)(i), and (b)(ii)."

Page 4, following line 25, insert:

"(7) The designations determined for aquifer and groundwater purposes are not limited by time or availability of local tax revenue."

Page 5, line 1; replace "(7)" with "(8)".

Page 6, following line 8, insert:

"NEW SECTION. Section 3. Intent for groundwater grants. This act supports the need for long-term evaluations of mining-impacted aquifers and groundwater conditions."

Page 6, line 9, replace "Section 3" with "Section 4".

SENATE TAXATION  
HOUSE BILL #92

SENATE TAXATION

EXHIBIT NO. 10

DATE 3-18-93

BILL NO. 15892

First, understand my objection to House Bill #92 is an economic issue and not a racial issue.

Federal Policy is "To Promote Tribal self-sufficiency and economic development to the Indians". To promote Tribal self-sufficiency and economic development means taxation, it does not mean taxation of the Indian though. Tribal taxation means assessment upon Non-Indian owned properties.

The principle argument against Tribal taxation is taxation without representation, double taxation, and discrimination. Not a penny of Tribal tax funds goes to pay for roads, schools, local government or health care.

The Tribes do not have a tax base among their own, so they look to the traditional tax base of the local government.

This bill allows the State of Montana to negotiate itself and some counties into the position of being the tax collector for Tribal government.

Some Tribal governments now assess taxes upon Non-Indian owned properties like pipelines, utility lines, railroads and facilities located on Tribal or Trust lands. Any attempt by the Tribes to levy taxes against Non-Indian deeded property will be met with violent objection and resistance. State and counties need not be caught in the middle of such conflict. The five percent (5%) administration fee will not begin to cover the collection and litigation costs.

. This bill also allows the state to negotiate away a share of the taxes now assessed against Non-Indians doing business on Indian lands. In doing so, the state will in fact be subsidizing Tribal

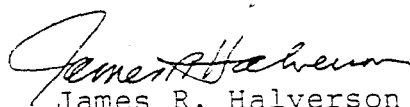
government. The courts have ruled that Tribal government as well as the state has authority to tax those Non-Indians doing business on Indian land. For the state to share or relinquish its right to tax Non-Indian businesses will erode the tax base and further limit the state and counties ability to provide public service that are received and enjoyed by Indian and Non-Indian alike.

Gambling, Fish and Game and water rights agreements have been difficult to negotiate with the Tribal government. House Bill #92 will only elevate the level of bureaucracy, be expensive to administer and add another source of controversy to the already strained relations between the state, local government and Tribal government.

We are all well aware, that Tribal members living on reservations are exempted from paying any state or local taxes and that legislation is necessary for the return to the Tribes, the taxes paid by tribal members through purchase of gasoline, alcohol, and cigarettes. House Bill #92, as it is written, is not that legislation. Over the years congress has declined to protect the right of Non-Indian and Indian Non-Tribal members living in these reservations. Lets not have the State of Montana doing the same thing.

In closing: return to the Tribes or Tribal members those taxes collected through purchase of cigarettes, alcohol and gasoline as well as possible sales tax, but do not permit the state to become the collector of taxes levied by Tribal governments.

I ask that you give this bill a DO NOT PASS.



James R. Halverson  
Chairman

ROOSEVELT COUNTY COMMISSIONERS

SENATE TAXATION

EXHIBIT NO. 11

DATE 3-18-93

BILL NO. HB 92

REMARKS OF DAN GEER, GLACIER COUNTY COMMISSIONER  
SENATE TAXATION COMMITTEE, MARCH 18, 1993

Chairman Halligan and Committee Members:

HB 92 states, "in recognition that both the state and tribal governments must be trusted to act responsibly", leaves me with a feeling of apprehension. The additions and deletions in current law that HB 92 makes, gives me the same feeling as seeing a burglar in front of my house with a crow-bar in his hands, as I am about to leave town. There is nothing I can do until the damage is done. In researching HB 92, the most frequent answer I have been given is, "That will need to be negotiated later." Any bill with so many unknowns and variables can easily create more problems that it solves.

What business does the state have collecting taxes for a sovereign nation? This creates the setting for a tribe to assess taxes that it hasn't in the past because of no means in place to collect them. If the state enters into the business of collecting a tax that has no limits, present business will be driven away, while new business's will stay away.

HB 92 does nothing to eliminate the possibility of double taxation on reservations in the future, unless the intent is to aid in the removal of businesses from the reservation. Currently, on the Blackfeet Reservation, Glacier Electric Cooperative is paying slightly over \$29,000.00 a year to the Blackfeet Tribe as a possessory interest tax; the county taxes

on the same property on the Reservation is just over \$6,000.00 each year. How would HB 92 benefit either side or Glacier Electric and its members? I have found public meetings held after negotiations between two groups to be of limited value when the affected people are not allowed to participate in negotiations.

If the state needs to refund taxes to tribal members, the legislature should write a bill that specifically addresses those taxes and repayment.

The legislature has no business passing HB 92 allowing the state to collect personal and real property taxes on behalf of a nation sovereign to the state, from tax-paying citizens and businesses who own property on reservations. I urge you to vote NO on HB 92.

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March 17, 1993

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MYRA M. MUNSON

REGISTRATION  
 E. FILE NO. 12  
 DATE 3-18-93  
 BILL NO. 4B92

Senate Committee on Taxation  
 State Capitol  
 Helena, Montana

Re: H.B. 92 (our files 116.38) (125.38)

Gentlepersons:

We serve as general counsel to the Assiniboine and Sioux Tribes of the Fort Peck Reservation. The Tribes support of the concept of H.B. 92, and offer the following comments.

This bill would authorize broader inter-governmental agreements between the State and Indian tribes. This would include tax sharing and administration agreements outside of the motor fuels and cigarette tax areas.

The Fort Peck Tribes during 1992 concluded agreements with the State to share motor fuel taxes and alcoholic beverages taxes, as well as an agreement concerning the enforcement of state cigarette sales taxes to non-Indians on the Fort Peck Reservation.

I will briefly describe these agreements.

Under the gasoline tax agreement, the Tribes will receive 40 percent of all gasoline tax collections (less actual agricultural refunds) on the Reservation.

Senate Committee on Taxation

March 17, 1993

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The 40 percent figure was calculated by taking the 1990 census figures for all residents and tribal members residing on the Reservation.<sup>1/</sup> The gasoline tax agreement requires the Tribes to enact a gasoline tax identical to the state tax, and change the tax rate from time to time if state law changes. The parties also agree to a single tax. The State agrees to collect the tribal tax as well as the state tax, and pay over to the Tribes the tax revenues that reflect gasoline purchased on the Reservation by tribal members, less (1) a one percent administrative fee, (2) actual agricultural refunds, and (3) the portion of the motor fuel taxes collected (16 percent) which the State pays to the counties. The agreement requires distribution of tax revenues from the State to the Tribes each calendar quarter.

The State and Tribes reached the same basic agreement to share liquor, wine and beer taxes as on gasoline taxes. Here, too, the Tribes agree to enact tribal liquor, wine and beer taxes identical to the State taxes. The State will collect these and make payments to the Tribes. As with the gasoline tax, 40 percent of all revenues collected will be paid to the Tribes, reflecting a deduction of amounts paid to the cities and towns and the State's administrative fees.

The cigarette sales tax agreement establishes a total annual Reservation quota of 60,000 cartons of cigarettes to be delivered to all Indian retailers on the Reservation for sale to Indians. This quota can be changed by agreement between the Tribes and State if it proves not to be an accurate estimate of cigarettes purchased by Indians on the Reservation. Under the agreement, each Indian smokeshop on the Reservation is licensed by the Tribes. Each smokeshop provides the Tribes with the amount of cigarettes it sold to Indians in the past year. The Tribes then establish a quota for each smokeshop it licenses. The Tribes can change the allocation between the smokeshops. Each smokeshop can designate any wholesaler or wholesaler to sell it untaxed cigarettes

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<sup>1/</sup> The Bureau of Indian Affairs has reported to the State that persons enrolled in the Tribes comprise 48 percent of the total Reservation population. Since the 16 percent portion of the taxes paid to the counties is excluded, it was agreed that the Tribes would share in 84 percent of all motor fuel taxes collected on the Reservation. (This tribal share is 48 percent of 84 percent or 40.3 percent.) A one percent administrative fee deduction reduces this share to 39.9 percent, which we agreed to round to 40 percent.

at any time through the year, until its quota is exhausted. The overall Reservation quota cannot be changed, however, without the State's agreement.

No other tax free cigarettes are delivered to any Indian smokeshop operator on the Fort Peck Reservation. The Tribes have enacted and are enforcing an ordinance licensing smokeshops, requiring any licensed Indian retailer selling cigarettes on the Reservation to a non-Indian to collect state taxes on those sales, and requiring the retailer to pay the taxes at the time the retailer receives the cigarettes from the distributor. No unlicensed Indian retailer will be allowed to sell tax free cigarettes on the Reservation.

The last Legislature authorized all of these agreements -- except the one on alcoholic beverages, which we understand will be authorized if this bill is enacted. We think it is preferable to enact this bill rather than have each type of tax agreement or the agreements themselves submitted to the Legislature for approval. Therefore, we support the enactment of H.B. 92.

The Fort Peck Tribes have taken the lead in the past ten years in working with State leaders to resolve other controversies -- by compacts concerning water rights and gaming. For several decades, tribes and the State wrangled and litigated about jurisdiction, water rights and taxing authority. Many cases were filed and decided in courts, particularly in the 1960s and 1970s. Even successful lawsuits, however create tensions between the State and tribes.

In recent years, the Assiniboine and Sioux Tribes have tried to resolve these kinds of disputes by negotiations. It was the first tribe, for example, to conclude a water compact with Montana. That compact, which was ratified by the Legislature and Tribal Executive Board in 1985, quantifies the Fort Peck reserved water rights. It also settled litigation between the Tribes and the State, protects certain existing non-Indian uses, provides for the Tribes to market water and establishes a neutral Board to settle any disputes concerning water used by Indians -- which is recognized as within tribal jurisdiction -- and that used by non-Indians under state law and jurisdiction.

The Assiniboine and Sioux Tribes have also concluded a gaming compact with Montana, as well as two amendments to it during this past year. The original gaming compact authorized the Tribes to operate gambling machines



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EXHIBIT

12

DATE

3-18-93

HB-92

and simulcast horse racing. The Tribes' main purpose in entering into this initial compact was to protect existing gaming machines already operating on our Reservation: (1) at the casino operated by the Wolf Point Indian Community Organization, (2) in a few Indian businesses, which under the compact must now become management contractors of not more than 20 machines the Tribes will own. The Tribes were not sure what other gaming they might want to permit in the future, so the Tribes agreed with the State to continue to negotiate at least once annually for the next three years to consider additional gaming operations.

The Tribes want to continue to work with State leaders to resolve common problems. Tribes have close interrelationships with the State of Montana, and what benefits tribes usually benefits the State. We are confident this is so with H.B. 92, and the Fort Peck Tribes support the bill. The present legislation follows on the path we have begun by working a common solution to an important problem we share.

Kind personal regards,

Sincerely,



Reid Peyton Chambers

RPC/cmt

SENATE TAXATION

EXHIBIT NO. 13

DATE 3-18-93

BILL NO. HB 350

# THE MONTANA COAL BOARD

*An Historical Perspective*

1975-1992

"We came  
We did &  
We're proud"

written by:  
KIMBERLY C. GILBERT

edited by:  
MURDO A. CAMPBELL

The original is stored at the Historical Society at 225 North Roberts Street,  
Helena, MT 59620-1201. The phone number is 444-2694.

DATE 3-18-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 92, 350, 437

Name	Representing	Bill No.	Check One	
			Support	Oppose
<del>Herschel Robinson</del>	<del>MVD, <sup>and Teacher</sup> Corp</del>	<del>350</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JIM HALVERSON	ROOSEVELT COUNTY	HB 92	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALLAN R LOWRY	GLACIER COUNTY	HB 92	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Don Geer	Glacier County	HB 92	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jerry Wiens	HA. Elec. Co-op Assoc		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Wayne Van Vorst	MBMA		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gordon Morris	MACO/Reservation Counties	HB 92	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mervin Miller	MT. Bur of Mines & Geol	HB 350	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Keith L. Colbo	MT Assessors Assoc	H. B 437	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Damm	SELF	H.B. 92	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deanne Sandholm	A.H.	H.B. 92	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP ROBERT CLARK	H.P. 31	HB 350	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Joe M. Olson	Missoula City	HB 350	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Donald H. Hines	Powder River Co.	HB 350	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim Mackler	MT. Coal Council	HB 350	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathleen Fleury FOR Caleb Shields	ASSINIBOINE-SIOUX TRIBES OF FT. PECK	HB 92	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ann & Reid Chambers	INDIAN Reservation			

### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

BILLS BEING HEARD TODAY: SB 350

Check One

Support Oppose

[illegible]

F10