

1
2
3
4
5
6
7
8
9

SENATE BILL NO. 269
 INTRODUCED BY *Constance E. Smith* *Richard M. Ballou*

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 89-1301, R.C.M. 1947, TO INCREASE THE AMOUNT THAT MAY BE SPENT FOR THE PURCHASE OF EQUIPMENT RELATING TO IRRIGATION DISTRICTS FROM TWENTY-FIVE THOUSAND DOLLARS (\$25,000) TO SEVENTY-FIVE THOUSAND DOLLARS (\$75,000)."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 89-1301, R.C.M. 1947, is amended to
 12 read as follows:

13 "89-1301. Powers and duties of commissioners. The
 14 board of commissioners of every irrigation district
 15 established and organized under and by virtue of this act
 16 shall constitute the corporate authority of said district.

17 (1) The board shall have the power, and it shall be the duty
 18 of the members thereof, to manage and conduct the business
 19 and affairs of the district; adopt a corporate seal
 20 therefor; make and execute all necessary contracts; employ
 21 and appoint such agents, officers, and employees as may be
 22 required, and prescribe their duties.

23 (2) The board and its agents and employees shall have
 24 the right to enter upon any land to make surveys, and may
 25 locate the necessary irrigation works, including drainage

1 works and the line for any canal or canals, and necessary
 2 branches for the same, on any lands which in the judgment of
 3 the board may be deemed best suited for such location.

4 (3) The board shall have power and authority to
 5 appropriate water in the name of the district, to acquire by
 6 purchase, lease, or contract, water and water rights;
 7 additional waters and supplies of water, canals, reservoirs,
 8 dams and other works already constructed, or in the course
 9 of construction, with the privilege, if desired, to contract
 10 with the owner, or owners of such canals, reservoirs, dams
 11 and other works so purchased and in the course of
 12 construction, for the completion thereof and shall also have
 13 power and authority to acquire by purchase, lease, contract,
 14 condemnation, or other legal means, lands (and rights in
 15 lands) for rights of way, for reservoirs, for the storage of
 16 needful waters, and for dam sites, and necessary
 17 appurtenances, and such other lands and property as may be
 18 necessary for the construction, use, maintenance, repair,
 19 improvement, enlargement and operation of any district
 20 system of irrigation works.

21 (4) The board shall have power and authority to enter
 22 into, and do any acts necessary or proper for the
 23 performance of any agreements with any state, county,
 24 district of any kind, public or private corporation,
 25 association, firm or individual, or any number of them, for

1 the joint acquisition, construction, leasing, ownership,
 2 disposition, use, management, maintenance, repair, or
 3 operation of any rights, works or other property of a kind
 4 which might lawfully be acquired or owned by the irrigation
 5 district, and may acquire the right to store water in any
 6 reservoirs or to carry water through any canal, ditch, or
 7 conduit not owned or controlled by the district, and may
 8 grant to any owner or lessee of the right to the use of any
 9 water the right to store such water in any reservoir of the
 10 district or to carry such water through any canal, ditch or
 11 conduit of the district.

12 (5) But no purchase, lease or contract for purchase of
 13 any water, or water rights, or canals, or reservoirs, or
 14 reservoir sites, or dam sites, or irrigation works or other
 15 property of any nature or kind or for the making or
 16 purchasing of surveys, maps, plans, estimates and
 17 specifications, or for the purchase of machinery for pumping
 18 plants, or the erection of buildings, aqueducts and other
 19 structures necessarily used in connection with such pumping
 20 plants, for a price or rental in excess of ~~twenty-five~~
 21 ~~thousand--dollars--(\$25,000)~~ seventy-five thousand dollars
 22 (\$75,000), shall be final or binding upon the district, nor
 23 shall said sum be paid without the written consent or
 24 petition of at least a majority in number and acreage of the
 25 holders of title or evidence of title to the lands within

1 the district. Any splitting or division of such purchase,
 2 lease or contract with the purpose or intention of avoiding
 3 or circumventing the provisions of this section shall render
 4 such divided or split contract or contracts absolutely null
 5 and void.

6 (6) For the purpose of acquiring control over
 7 government land within the district and of complying with
 8 the provisions of the act of Congress of August 11, 1916,
 9 the board shall have authority to make such investigations,
 10 and base thereon such representations and assurances to the
 11 secretary of the interior, as may be requisite.

12 (7) The board may enter into any obligation or contract
 13 with the United States for the construction, operation, and
 14 maintenance of the necessary works for the delivery and
 15 distribution of water therefrom, and of the necessary
 16 drainage works; or for the assumption, as principal or
 17 guarantor, of indebtedness to the United States on account
 18 of district lands, under the provisions of the Federal
 19 Reclamation Act and all acts amendatory thereof or
 20 supplementary thereto, and the rules and regulations
 21 established thereunder; or the board may contract with the
 22 United States for a water supply under any act of Congress
 23 providing for or permitting such contract, and in case
 24 contract has been or may hereafter be made with the United
 25 States as herein provided, bonds of the district may be

1 deposited with the United States at ninety per cent of their
 2 par value, to the amount to be paid by the district to the
 3 United States under any such contract, the interest on said
 4 bonds of the district and regularly paid to the United
 5 States to be applied as provided in such contract, and if
 6 bonds of the district are not so deposited, it shall be the
 7 duty of the board of commissioners to include as part of any
 8 levy or assessment provided for in section 89-1801, an
 9 amount sufficient to meet each year all payments accruing
 10 under the terms of any such contract; and the board may
 11 accept, on behalf of the district, appointment of the
 12 district as fiscal agent of the United States, or
 13 authorization of the district by the United States to make
 14 collections of moneys for or on behalf of the United States
 15 in connection with any federal reclamation project,
 16 whereupon the district shall be authorized to so act and to
 17 assume the duties and liabilities incident to such action,
 18 and the said board shall have full power to do any and all
 19 things required by the federal statutes now or hereafter
 20 enacted in connection therewith, and all things required by
 21 the rules and regulations now or that may hereafter be
 22 established by any department of the federal government in
 23 regard thereto, including the power to require the prompt
 24 payment of all charges as prerequisite to water service.

25 (8) Said board may also construct and maintain the

1 necessary dams, reservoirs, and works for the collection and
 2 distribution of water for the district, from one or more
 3 sources and from different and additional sources, and
 4 operate such works, and may secure in any of the manners in
 5 this act provided additional water supplies from the same or
 6 different sources, and do any and every lawful act necessary
 7 to be done in order that sufficient water may be furnished
 8 for irrigation purposes to all the lands in the district
 9 included at the time of its organization or at any time
 10 thereafter.

11 (9) The board is hereby authorized and empowered to
 12 take conveyances or other assurances for all property
 13 acquired by it under the provisions of this act, in the name
 14 of the district, to and for the uses and purposes herein
 15 expressed.

16 (10) The board is hereby authorized and empowered to
 17 institute and maintain any and all actions and proceedings,
 18 suits at law or in equity, necessary or proper in order to
 19 fully carry out the provisions of this chapter, or to
 20 enforce, maintain, protect, or preserve any and all rights,
 21 privileges, and immunities created by this act, or acquired
 22 in pursuance thereof, and in all courts, suits, or
 23 proceedings, the said board may sue, appear, and defend in
 24 person or by attorneys, and in the name of such irrigation
 25 district.

30269

1 (11) The board may adopt rules and bylaws governing the
2 calling and holding of meetings of the board, the manner of
3 transacting business thereat, and the publishing or posting
4 of the orders, resolutions, and proceedings of the board. It
5 shall be the duty of said board to pass or adopt bylaws,
6 rules and regulations for the apportionment and distribution
7 of water to the lands of the district, and for the
8 protection and preservation of the works and other property
9 of the district, which shall be printed in convenient form
10 for distribution in the district; and may therein require
11 the prompt payment of all taxes and assessments delinquent
12 for not to exceed two years as a prerequisite to water
13 service. All orders and resolutions shall be passed or
14 adopted by a majority of the commissioners by a yea and nay
15 vote, to be entered upon the records of the board.

16 (12) For the purpose of purchasing or constructing the
17 necessary irrigation canals or works, or acquiring the
18 necessary property and rights therefor, and otherwise
19 carrying out the provisions of this act, the board of
20 commissioners of any irrigation district must, as soon after
21 such district has been organized as practicable, formulate a
22 general plan for such purchase, construction, and
23 acquisition of such property, and shall cause such surveys,
24 examinations, and plans to be made as shall demonstrate the
25 practicability of such plans, as well as of procuring water

1 from other and different sources, the amount of land that
2 can be irrigated thereunder, and furnish the proper basis
3 for an estimate of the cost of carrying out such plan and
4 the value of any canal, works, property, or system of
5 irrigation proposed to be purchased. All such surveys,
6 examinations, maps, plans, and estimates shall be made by or
7 under the direction and supervision of an irrigation
8 engineer of well-known standing and competency, and all such
9 necessary surveys, examinations, maps, plans and estimates
10 must be certified to by him. When all such are completed, he
11 shall submit them with all proper field notes to, and file
12 them with, the board of commissioners, accompanied by his
13 report and recommendation thereon. This report shall include
14 a discussion of said plans by him submitted to said board,
15 of the question of water supply, of the sufficiency of the
16 works proposed to accomplish the desired results, of the
17 practicability of the proposed system from an engineering
18 standpoint, of the probability of being acquired or
19 constructed within the estimate of the cost stated, and such
20 general discussion and recommendation in regard to the
21 engineering and financial features of the whole matter as in
22 the judgment of such engineer shall be desirable for the
23 information of the people of the district. Such report shall
24 be accompanied by a map, when such is necessary for a proper
25 explanation or understanding of the same.

1 Upon receiving such report, said board of commissioners
2 shall proceed to determine the amount of money necessary to
3 be raised for the purchase or construction of said proposed
4 property, canals, or irrigation works, and system, and
5 within ten days after arriving at such determination shall
6 cause the secretary of said board to notify all persons or
7 corporations holding title or evidence of title to lands
8 within said district (ascertained as provided in section
9 39-1201) of the filing of said report and their
10 determination thereon. Said notices shall be given through
11 the United States mail by letter addressed to such person or
12 corporation at the last known post-office address of each
13 person or corporation aforesaid. A certificate of the
14 secretary of the board as to the fact of mailing said
15 notice, affixed to a copy of said notice and recorded in the
16 record book of said board of commissioners, shall be
17 sufficient and conclusive evidence of such fact.

18 (13) Said board shall have power generally to do and
19 perform all such other acts as shall be necessary or
20 appropriate to fully carry out the purposes of this act."

-End-

3B 269

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 269

INTRODUCED BY CONOVER, E. SMITH, ETCHART, MCCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
89-1301, R.C.M. 1947, TO INCREASE THE AMOUNT THAT MAY BE
SPENT FOR THE PURCHASE OF EQUIPMENT RELATING TO IRRIGATION
DISTRICTS FROM TWENTY-FIVE THOUSAND DOLLARS (\$25,000) TO
~~SEVENTY-FIVE~~ EIGHTY THOUSAND DOLLARS ~~(\$75,000)~~ (\$80,000)."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-1301, R.C.M. 1947, is amended to
read as follows:

"89-1301. Powers and duties of commissioners. The
board of commissioners of every irrigation district
established and organized under and by virtue of this act
shall constitute the corporate authority of said district.

(1) The board shall have the power, and it shall be the duty
of the members thereof, to manage and conduct the business
and affairs of the district; adopt a corporate seal
therefor; make and execute all necessary contracts; employ
and appoint such agents, officers, and employees as may be
required, and prescribe their duties.

(2) The board and its agents and employees shall have
the right to enter upon any land to make surveys, and may
locate the necessary irrigation works, including drainage

works and the line for any canal or canals, and necessary
branches for the same, on any lands which in the judgment of
the board may be deemed best suited for such location.

(3) The board shall have power and authority to
appropriate water in the name of the district, to acquire by
purchase, lease, or contract, water and water rights;
additional waters and supplies of water, canals, reservoirs,
dams and other works already constructed, or in the course
of construction, with the privilege, if desired, to contract
with the owner, or owners of such canals, reservoirs, dams
and other works so purchased and in the course of
construction, for the completion thereof and shall also have
power and authority to acquire by purchase, lease, contract,
condemnation, or other legal means, lands (and rights in
lands) for rights of way, for reservoirs, for the storage of
needful waters, and for dam sites, and necessary
appurtenances, and such other lands and property as may be
necessary for the construction, use, maintenance, repair,
improvement, enlargement and operation of any district
system of irrigation works.

(4) The board shall have power and authority to enter
into, and do any acts necessary or proper for the
performance of any agreements with any state, county,
district of any kind, public or private corporation,
association, firm or individual, or any number of them, for

1 the joint acquisition, construction, leasing, ownership,
 2 disposition, use, management, maintenance, repair, or
 3 operation of any rights, works or other property of a kind
 4 which might lawfully be acquired or owned by the irrigation
 5 district, and may acquire the right to store water in any
 6 reservoirs or to carry water through any canal, ditch, or
 7 conduit not owned or controlled by the district, and may
 8 grant to any owner or lessee of the right to the use of any
 9 water the right to store such water in any reservoir of the
 10 district or to carry such water through any canal, ditch or
 11 conduit of the district.

12 (5) But no purchase, lease or contract for purchase of
 13 any water, or water rights, or canals, or reservoirs, or
 14 reservoir sites, or dam sites, or irrigation works or other
 15 property of any nature or kind or for the making or
 16 purchasing of surveys, maps, plans, estimates and
 17 specifications, or for the purchase of machinery for pumping
 18 plants, or the erection of buildings, aqueducts and other
 19 structures necessarily used in connection with such pumping
 20 plants, for a price or rental in excess of ~~twenty-five~~
 21 ~~thousand--dollars--(\$25,000)~~ seventy-five EIGHTY thousand
 22 dollars ~~(\$75,000)~~ (\$80,000), shall be final or binding upon
 23 the district, nor shall said sum be paid without the written
 24 consent or petition of at least a majority in number and
 25 acreage of the holders of title or evidence of title to the

1 lands within the district. Any splitting or division of such
 2 purchase, lease or contract with the purpose or intention of
 3 avoiding or circumventing the provisions of this section
 4 shall render such divided or split contract or contracts
 5 absolutely null and void.

6 (6) For the purpose of acquiring control over
 7 government land within the district and of complying with
 8 the provisions of the act of Congress of August 11, 1916,
 9 the board shall have authority to make such investigations,
 10 and base thereon such representations and assurances to the
 11 secretary of the interior, as may be requisite.

12 (7) The board may enter into any obligation or
 13 contract with the United States for the construction,
 14 operation, and maintenance of the necessary works for the
 15 delivery and distribution of water therefrom, and of the
 16 necessary drainage works; or for the assumption, as
 17 principal or guarantor, of indebtedness to the United States
 18 on account of district lands, under the provisions of the
 19 Federal Reclamation Act and all acts amendatory thereof or
 20 supplementary thereto, and the rules and regulations
 21 established thereunder; or the board may contract with the
 22 United States for a water supply under any act of Congress
 23 providing for or permitting such contract, and in case
 24 contract has been or may hereafter be made with the United
 25 States as herein provided, bonds of the district may be

1 deposited with the United States at ninety per cent of their
 2 par value, to the amount to be paid by the district to the
 3 United States under any such contract, the interest on said
 4 bonds of the district and regularly paid to the United
 5 States to be applied as provided in such contract, and if
 6 bonds of the district are not so deposited, it shall be the
 7 duty of the board of commissioners to include as part of any
 8 levy or assessment provided for in section 89-1801, an
 9 amount sufficient to meet each year all payments accruing
 10 under the terms of any such contract; and the board may
 11 accept, on behalf of the district, appointment of the
 12 district as fiscal agent of the United States, or
 13 authorization of the district by the United States to make
 14 collections of moneys for or on behalf of the United States
 15 in connection with any federal reclamation project,
 16 whereupon the district shall be authorized to so act and to
 17 assume the duties and liabilities incident to such action,
 18 and the said board shall have full power to do any and all
 19 things required by the federal statutes now or hereafter
 20 enacted in connection therewith, and all things required by
 21 the rules and regulations now or that may hereafter be
 22 established by any department of the federal government in
 23 regard thereto, including the power to require the prompt
 24 payment of all charges as prerequisite to water service.

25 (8) Said board may also construct and maintain the

1 necessary dams, reservoirs, and works for the collection and
 2 distribution of water for the district, from one or more
 3 sources and from different and additional sources, and
 4 operate such works, and may secure in any of the manners in
 5 this act provided additional water supplies from the same or
 6 different sources, and do any and every lawful act necessary
 7 to be done in order that sufficient water may be furnished
 8 for irrigation purposes to all the lands in the district
 9 included at the time of its organization or at any time
 10 thereafter.

11 (9) The board is hereby authorized and empowered to
 12 take conveyances or other assurances for all property
 13 acquired by it under the provisions of this act, in the name
 14 of the district, to and for the uses and purposes herein
 15 expressed.

16 (10) The board is hereby authorized and empowered to
 17 institute and maintain any and all actions and proceedings,
 18 suits at law or in equity, necessary or proper in order to
 19 fully carry out the provisions of this chapter, or to
 20 enforce, maintain, protect, or preserve any and all rights,
 21 privileges, and immunities created by this act, or acquired
 22 in pursuance thereof, and in all courts, suits, or
 23 proceedings, the said board may sue, appear, and defend in
 24 person or by attorneys, and in the name of such irrigation
 25 district.

1 (11) The board may adopt rules and bylaws governing the
 2 calling and holding of meetings of the board, the manner of
 3 transacting business thereat, and the publishing or posting
 4 of the orders, resolutions, and proceedings of the board. It
 5 shall be the duty of said board to pass or adopt bylaws,
 6 rules and regulations for the apportionment and distribution
 7 of water to the lands of the district, and for the
 8 protection and preservation of the works and other property
 9 of the district, which shall be printed in convenient form
 10 for distribution in the district; and may therein require
 11 the prompt payment of all taxes and assessments delinquent
 12 for not to exceed two years as a prerequisite to water
 13 service. All orders and resolutions shall be passed or
 14 adopted by a majority of the commissioners by a yea and nay
 15 vote, to be entered upon the records of the board.

16 (12) For the purpose of purchasing or constructing the
 17 necessary irrigation canals or works, or acquiring the
 18 necessary property and rights therefor, and otherwise
 19 carrying out the provisions of this act, the board of
 20 commissioners of any irrigation district must, as soon after
 21 such district has been organized as practicable, formulate a
 22 general plan for such purchase, construction, and
 23 acquisition of such property, and shall cause such surveys,
 24 examinations, and plans to be made as shall demonstrate the
 25 practicability of such plans, as well as of procuring water

1 from other and different sources, the amount of land that
 2 can be irrigated thereunder, and furnish the proper basis
 3 for an estimate of the cost of carrying out such plan and
 4 the value of any canal, works, property, or system of
 5 irrigation proposed to be purchased. All such surveys,
 6 examinations, maps, plans, and estimates shall be made by or
 7 under the direction and supervision of an irrigation
 8 engineer of well-known standing and competency, and all such
 9 necessary surveys, examinations, maps, plans and estimates
 10 must be certified to by him. When all such are completed, he
 11 shall submit them with all proper field notes to, and file
 12 them with, the board of commissioners, accompanied by his
 13 report and recommendation thereon. This report shall include
 14 a discussion of said plans by him submitted to said board,
 15 of the question of water supply, of the sufficiency of the
 16 works proposed to accomplish the desired results, of the
 17 practicability of the proposed system from an engineering
 18 standpoint, of the probability of being acquired or
 19 constructed within the estimate of the cost stated, and such
 20 general discussion and recommendation in regard to the
 21 engineering and financial features of the whole matter as in
 22 the judgment of such engineer shall be desirable for the
 23 information of the people of the district. Such report shall
 24 be accompanied by a map, when such is necessary for a proper
 25 explanation or understanding of the same.

1 Upon receiving such report, said board of commissioners
2 shall proceed to determine the amount of money necessary to
3 be raised for the purchase or construction of said proposed
4 property, canals, or irrigation works, and system, and
5 within ten days after arriving at such determination shall
6 cause the secretary of said board to notify all persons or
7 corporations holding title or evidence of title to lands
8 within said district (ascertained as provided in section
9 89-1201) of the filing of said report and their
10 determination thereon. Said notices shall be given through
11 the United States mail by letter addressed to such person or
12 corporation at the last known post-office address of each
13 person or corporation aforesaid. A certificate of the
14 secretary of the board as to the fact of mailing said
15 notice, affixed to a copy of said notice and recorded in the
16 record book of said board of commissioners, shall be
17 sufficient and conclusive evidence of such fact.

18 (13) Said board shall have power generally to do and
19 perform all such other acts as shall be necessary or
20 appropriate to fully carry out the purposes of this act."

-End-

SENATE BILL NO. 269

INTRODUCED BY CONOVER, E. SMITH, ETCHART, MCCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 89-1301, R.C.M. 1947, TO INCREASE THE AMOUNT THAT MAY BE SPENT FOR THE PURCHASE OF EQUIPMENT RELATING TO IRRIGATION DISTRICTS FROM TWENTY-FIVE THOUSAND DOLLARS (\$25,000) TO SEVENTY-FIVE EIGHTY THOUSAND DOLLARS ~~(\$75,000)~~ (\$80,000)."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 89-1301, R.C.M. 1947, is amended to read as follows:

"89-1301. Powers and duties of commissioners. The board of commissioners of every irrigation district established and organized under and by virtue of this act shall constitute the corporate authority of said district.

(1) The board shall have the power, and it shall be the duty of the members thereof, to manage and conduct the business and affairs of the district; adopt a corporate seal therefor; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties.

(2) The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works, including drainage

works and the line for any canal or canals, and necessary branches for the same, on any lands which in the judgment of the board may be deemed best suited for such location.

(3) The board shall have power and authority to appropriate water in the name of the district, to acquire by purchase, lease, or contract, water and water rights; additional waters and supplies of water, canals, reservoirs, dams and other works already constructed, or in the course of construction, with the privilege, if desired, to contract with the owner, or owners of such canals, reservoirs, dams and other works so purchased and in the course of construction, for the completion thereof and shall also have power and authority to acquire by purchase, lease, contract, condemnation, or other legal means, lands (and rights in lands) for rights of way, for reservoirs, for the storage of needful waters, and for dam sites, and necessary appurtenances, and such other lands and property as may be necessary for the construction, use, maintenance, repair, improvement, enlargement and operation of any district system of irrigation works.

(4) The board shall have power and authority to enter into, and do any acts necessary or proper for the performance of any agreements with any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for

1 the joint acquisition, construction, leasing, ownership,
 2 disposition, use, management, maintenance, repair, or
 3 operation of any rights, works or other property of a kind
 4 which might lawfully be acquired or owned by the irrigation
 5 district, and may acquire the right to store water in any
 6 reservoirs or to carry water through any canal, ditch, or
 7 conduit not owned or controlled by the district, and may
 8 grant to any owner or lessee of the right to the use of any
 9 water the right to store such water in any reservoir of the
 10 district or to carry such water through any canal, ditch or
 11 conduit of the district.

12 (5) But no purchase, lease or contract for purchase of
 13 any water, or water rights, or canals, or reservoirs, or
 14 reservoir sites, or dam sites, or irrigation works or other
 15 property of any nature or kind or for the making or
 16 purchasing of surveys, maps, plans, estimates and
 17 specifications, or for the purchase of machinery for pumping
 18 plants, or the erection of buildings, aqueducts and other
 19 structures necessarily used in connection with such pumping
 20 plants, for a price or rental in excess of ~~twenty-five~~
 21 ~~thousand--dollars--(\$25,000)~~ seventy-five EIGHTY thousand
 22 dollars ~~(\$75,000)~~ (\$80,000), shall be final or binding upon
 23 the district, nor shall said sum be paid without the written
 24 consent or petition of at least a majority in number and
 25 acreage of the holders of title or evidence of title to the

1 lands within the district. Any splitting or division of such
 2 purchase, lease or contract with the purpose or intention of
 3 avoiding or circumventing the provisions of this section
 4 shall render such divided or split contract or contracts
 5 absolutely null and void.

6 (6) For the purpose of acquiring control over
 7 government land within the district and of complying with
 8 the provisions of the act of Congress of August 11, 1916,
 9 the board shall have authority to make such investigations,
 10 and base thereon such representations and assurances to the
 11 secretary of the interior, as may be requisite.

12 (7) The board may enter into any obligation or
 13 contract with the United States for the construction,
 14 operation, and maintenance of the necessary works for the
 15 delivery and distribution of water therefrom, and of the
 16 necessary drainage works; or for the assumption, as
 17 principal or guarantor, of indebtedness to the United States
 18 on account of district lands, under the provisions of the
 19 Federal Reclamation Act and all acts amendatory thereof or
 20 supplementary thereto, and the rules and regulations
 21 established thereunder; or the board may contract with the
 22 United States for a water supply under any act of Congress
 23 providing for or permitting such contract, and in case
 24 contract has been or may hereafter be made with the United
 25 States as herein provided, bonds of the district may be

1 deposited with the United States at ninety per cent of their
 2 par value, to the amount to be paid by the district to the
 3 United States under any such contract, the interest on said
 4 bonds of the district and regularly paid to the United
 5 States to be applied as provided in such contract, and if
 6 bonds of the district are not so deposited, it shall be the
 7 duty of the board of commissioners to include as part of any
 8 levy or assessment provided for in section 89-1801, an
 9 amount sufficient to meet each year all payments accruing
 10 under the terms of any such contract; and the board may
 11 accept, on behalf of the district, appointment of the
 12 district as fiscal agent of the United States, or
 13 authorization of the district by the United States to make
 14 collections of moneys for or on behalf of the United States
 15 in connection with any federal reclamation project,
 16 whereupon the district shall be authorized to so act and to
 17 assume the duties and liabilities incident to such action,
 18 and the said board shall have full power to do any and all
 19 things required by the federal statutes now or hereafter
 20 enacted in connection therewith, and all things required by
 21 the rules and regulations now or that may hereafter be
 22 established by any department of the federal government in
 23 regard thereto, including the power to require the prompt
 24 payment of all charges as prerequisite to water service.

25 (8) Said board may also construct and maintain the

1 necessary dams, reservoirs, and works for the collection and
 2 distribution of water for the district, from one or more
 3 sources and from different and additional sources, and
 4 operate such works, and may secure in any of the manners in
 5 this act provided additional water supplies from the same or
 6 different sources, and do any and every lawful act necessary
 7 to be done in order that sufficient water may be furnished
 8 for irrigation purposes to all the lands in the district
 9 included at the time of its organization or at any time
 10 thereafter.

11 (9) The board is hereby authorized and empowered to
 12 take conveyances or other assurances for all property
 13 acquired by it under the provisions of this act, in the name
 14 of the district, to and for the uses and purposes herein
 15 expressed.

16 (10) The board is hereby authorized and empowered to
 17 institute and maintain any and all actions and proceedings,
 18 suits at law or in equity, necessary or proper in order to
 19 fully carry out the provisions of this chapter, or to
 20 enforce, maintain, protect, or preserve any and all rights,
 21 privileges, and immunities created by this act, or acquired
 22 in pursuance thereof, and in all courts, suits, or
 23 proceedings, the said board may sue, appear, and defend in
 24 person or by attorneys, and in the name of such irrigation
 25 district.

1 (11) The board may adopt rules and bylaws governing the
 2 calling and holding of meetings of the board, the manner of
 3 transacting business thereat, and the publishing or posting
 4 of the orders, resolutions, and proceedings of the board. It
 5 shall be the duty of said board to pass or adopt bylaws,
 6 rules and regulations for the apportionment and distribution
 7 of water to the lands of the district, and for the
 8 protection and preservation of the works and other property
 9 of the district, which shall be printed in convenient form
 10 for distribution in the district; and may therein require
 11 the prompt payment of all taxes and assessments delinquent
 12 for not to exceed two years as a prerequisite to water
 13 service. All orders and resolutions shall be passed or
 14 adopted by a majority of the commissioners by a yea and nay
 15 vote, to be entered upon the records of the board.

16 (12) For the purpose of purchasing or constructing the
 17 necessary irrigation canals or works, or acquiring the
 18 necessary property and rights therefor, and otherwise
 19 carrying out the provisions of this act, the board of
 20 commissioners of any irrigation district must, as soon after
 21 such district has been organized as practicable, formulate a
 22 general plan for such purchase, construction, and
 23 acquisition of such property, and shall cause such surveys,
 24 examinations, and plans to be made as shall demonstrate the
 25 practicability of such plans, as well as of procuring water

1 from other and different sources, the amount of land that
 2 can be irrigated thereunder, and furnish the proper basis
 3 for an estimate of the cost of carrying out such plan and
 4 the value of any canal, works, property, or system of
 5 irrigation proposed to be purchased. All such surveys,
 6 examinations, maps, plans, and estimates shall be made by or
 7 under the direction and supervision of an irrigation
 8 engineer of well-known standing and competency, and all such
 9 necessary surveys, examinations, maps, plans and estimates
 10 must be certified to by him. When all such are completed, he
 11 shall submit them with all proper field notes to, and file
 12 them with, the board of commissioners, accompanied by his
 13 report and recommendation thereon. This report shall include
 14 a discussion of said plans by him submitted to said board,
 15 of the question of water supply, of the sufficiency of the
 16 works proposed to accomplish the desired results, of the
 17 practicability of the proposed system from an engineering
 18 standpoint, of the probability of being acquired or
 19 constructed within the estimate of the cost stated, and such
 20 general discussion and recommendation in regard to the
 21 engineering and financial features of the whole matter as in
 22 the judgment of such engineer shall be desirable for the
 23 information of the people of the district. Such report shall
 24 be accompanied by a map, when such is necessary for a proper
 25 explanation or understanding of the same.

1 Upon receiving such report, said board of commissioners
2 shall proceed to determine the amount of money necessary to
3 be raised for the purchase or construction of said proposed
4 property, canals, or irrigation works, and system, and
5 within ten days after arriving at such determination shall
6 cause the secretary of said board to notify all persons or
7 corporations holding title or evidence of title to lands
8 within said district (ascertained as provided in section
9 89-1201) of the filing of said report and their
10 determination thereon. Said notices shall be given through
11 the United States mail by letter addressed to such person or
12 corporation at the last known post-office address of each
13 person or corporation aforesaid. A certificate of the
14 secretary of the board as to the fact of mailing said
15 notice, affixed to a copy of said notice and recorded in the
16 record book of said board of commissioners, shall be
17 sufficient and conclusive evidence of such fact.

18 (13) Said board shall have power generally to do and
19 perform all such other acts as shall be necessary or
20 appropriate to fully carry out the purposes of this act."

-End-

1 SENATE BILL NO. 269
2 INTRODUCED BY CONOVER, E. SMITH, ETCHART, MCCALLUM
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 89-1301, R.C.M. 1947, TO INCREASE THE AMOUNT THAT MAY BE
6 SPENT FOR THE PURCHASE OF EQUIPMENT RELATING TO IRRIGATION
7 DISTRICTS FROM TWENTY-FIVE THOUSAND DOLLARS (\$25,000) TO
8 SEVENTY-FIVE EIGHTY THOUSAND DOLLARS ~~(\$75,000)~~ (\$80,000)."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 89-1301, R.C.M. 1947, is amended to
12 read as follows:
13 "89-1301. Powers and duties of commissioners. The
14 board of commissioners of every irrigation district
15 established and organized under and by virtue of this act
16 shall constitute the corporate authority of said district.
17 (1) The board shall have the power, and it shall be
18 the duty of the members thereof, to manage and conduct the
19 business and affairs of the district; adopt a corporate seal
20 therefor; make and execute all necessary contracts; employ
21 and appoint such agents, officers, and employees as may be
22 required, and prescribe their duties.
23 (2) The board and its agents and employees shall have
24 the right to enter upon any land to make surveys, and may
25 locate the necessary irrigation works, including drainage

1 works and the line for any canal or canals, and necessary
2 branches for the same, on any lands which in the judgment of
3 the board may be deemed best suited for such location.
4 (3) The board shall have power and authority to
5 appropriate water in the name of the district, to acquire by
6 purchase, lease, or contract, water and water rights;
7 additional waters and supplies of water, canals, reservoirs,
8 dams and other works already constructed, or in the course
9 of construction, with the privilege, if desired, to contract
10 with the owner, or owners of such canals, reservoirs, dams
11 and other works so purchased and in the course of
12 construction, for the completion thereof and shall also have
13 power and authority to acquire by purchase, lease, contract,
14 condemnation, or other legal means, lands (and rights in
15 lands) for rights of way, for reservoirs, for the storage of
16 needful waters, and for dam sites, and necessary
17 appurtenances, and such other lands and property as may be
18 necessary for the construction, use, maintenance, repair,
19 improvement, enlargement and operation of any district
20 system of irrigation works.
21 (4) The board shall have power and authority to enter
22 into, and do any acts necessary or proper for the
23 performance of any agreements with any state, county,
24 district of any kind, public or private corporation,
25 association, firm or individual, or any number of them, for

1 the joint acquisition, construction, leasing, ownership,
 2 disposition, use, management, maintenance, repair, or
 3 operation of any rights, works or other property of a kind
 4 which might lawfully be acquired or owned by the irrigation
 5 district, and may acquire the right to store water in any
 6 reservoirs or to carry water through any canal, ditch, or
 7 conduit not owned or controlled by the district, and may
 8 grant to any owner or lessee of the right to the use of any
 9 water the right to store such water in any reservoir of the
 10 district or to carry such water through any canal, ditch or
 11 conduit of the district.

12 (5) But no purchase, lease or contract for purchase of
 13 any water, or water rights, or canals, or reservoirs, or
 14 reservoir sites, or dam sites, or irrigation works or other
 15 property of any nature or kind or for the making or
 16 purchasing of surveys, maps, plans, estimates and
 17 specifications, or for the purchase of machinery for pumping
 18 plants, or the erection of buildings, aqueducts and other
 19 structures necessarily used in connection with such pumping
 20 plants, for a price or rental in excess of ~~twenty-five~~
 21 ~~thousand--dollars--(\$25,000)~~ seventy-five EIGHTY thousand
 22 dollars (\$75,000) (\$80,000), shall be final or binding upon
 23 the district, nor shall said sum be paid without the written
 24 consent or petition of at least a majority in number and
 25 acreage of the holders of title or evidence of title to the

1 lands within the district. Any splitting or division of such
 2 purchase, lease or contract with the purpose or intention of
 3 avoiding or circumventing the provisions of this section
 4 shall render such divided or split contract or contracts
 5 absolutely null and void.

6 (6) For the purpose of acquiring control over
 7 government land within the district and of complying with
 8 the provisions of the act of Congress of August 11, 1916,
 9 the board shall have authority to make such investigations,
 10 and base thereon such representations and assurances to the
 11 secretary of the interior, as may be requisite.

12 (7) The board may enter into any obligation or
 13 contract with the United States for the construction,
 14 operation, and maintenance of the necessary works for the
 15 delivery and distribution of water therefrom, and of the
 16 necessary drainage works; or for the assumption, as
 17 principal or guarantor, of indebtedness to the United States
 18 on account of district lands, under the provisions of the
 19 Federal Reclamation Act and all acts amendatory thereof or
 20 supplementary thereto, and the rules and regulations
 21 established thereunder; or the board may contract with the
 22 United States for a water supply under any act of Congress
 23 providing for or permitting such contract, and in case
 24 contract has been or may hereafter be made with the United
 25 States as herein provided, bonds of the district may be

1 deposited with the United States at ninety per cent of their
 2 par value, to the amount to be paid by the district to the
 3 United States under any such contract, the interest on said
 4 bonds of the district and regularly paid to the United
 5 States to be applied as provided in such contract, and if
 6 bonds of the district are not so deposited, it shall be the
 7 duty of the board of commissioners to include as part of any
 8 levy or assessment provided for in section 89-1801, an
 9 amount sufficient to meet each year all payments accruing
 10 under the terms of any such contract; and the board may
 11 accept, on behalf of the district, appointment of the
 12 district as fiscal agent of the United States, or
 13 authorization of the district by the United States to make
 14 collections of moneys for or on behalf of the United States
 15 in connection with any federal reclamation project,
 16 whereupon the district shall be authorized to so act and to
 17 assume the duties and liabilities incident to such action,
 18 and the said board shall have full power to do any and all
 19 things required by the federal statutes now or hereafter
 20 enacted in connection therewith, and all things required by
 21 the rules and regulations now or that may hereafter be
 22 established by any department of the federal government in
 23 regard thereto, including the power to require the prompt
 24 payment of all charges as prerequisite to water service.

25 (8) Said board may also construct and maintain the

1 necessary dams, reservoirs, and works for the collection and
 2 distribution of water for the district, from one or more
 3 sources and from different and additional sources, and
 4 operate such works, and may secure in any of the manners in
 5 this act provided additional water supplies from the same or
 6 different sources, and do any and every lawful act necessary
 7 to be done in order that sufficient water may be furnished
 8 for irrigation purposes to all the lands in the district
 9 included at the time of its organization or at any time
 10 thereafter.

11 (9) The board is hereby authorized and empowered to
 12 take conveyances or other assurances for all property
 13 acquired by it under the provisions of this act, in the name
 14 of the district, to and for the uses and purposes herein
 15 expressed.

16 (10) The board is hereby authorized and empowered to
 17 institute and maintain any and all actions and proceedings,
 18 suits at law or in equity, necessary or proper in order to
 19 fully carry out the provisions of this chapter, or to
 20 enforce, maintain, protect, or preserve any and all rights,
 21 privileges, and immunities created by this act, or acquired
 22 in pursuance thereof, and in all courts, suits, or
 23 proceedings, the said board may sue, appear, and defend in
 24 person or by attorneys, and in the name of such irrigation
 25 district.

1 (11) The board may adopt rules and bylaws governing the
 2 calling and holding of meetings of the board, the manner of
 3 transacting business thereat, and the publishing or posting
 4 of the orders, resolutions, and proceedings of the board. It
 5 shall be the duty of said board to pass or adopt bylaws,
 6 rules and regulations for the apportionment and distribution
 7 of water to the lands of the district, and for the
 8 protection and preservation of the works and other property
 9 of the district, which shall be printed in convenient form
 10 for distribution in the district; and may therein require
 11 the prompt payment of all taxes and assessments delinquent
 12 for not to exceed two years as a prerequisite to water
 13 service. All orders and resolutions shall be passed or
 14 adopted by a majority of the commissioners by a yea and nay
 15 vote, to be entered upon the records of the board.

16 (12) For the purpose of purchasing or constructing the
 17 necessary irrigation canals or works, or acquiring the
 18 necessary property and rights therefor, and otherwise
 19 carrying out the provisions of this act, the board of
 20 commissioners of any irrigation district must, as soon after
 21 such district has been organized as practicable, formulate a
 22 general plan for such purchase, construction, and
 23 acquisition of such property, and shall cause such surveys,
 24 examinations, and plans to be made as shall demonstrate the
 25 practicability of such plans, as well as of procuring water

1 from other and different sources, the amount of land that
 2 can be irrigated thereunder, and furnish the proper basis
 3 for an estimate of the cost of carrying out such plan and
 4 the value of any canal, works, property, or system of
 5 irrigation proposed to be purchased. All such surveys,
 6 examinations, maps, plans, and estimates shall be made by or
 7 under the direction and supervision of an irrigation
 8 engineer of well-known standing and competency, and all such
 9 necessary surveys, examinations, maps, plans and estimates
 10 must be certified to by him. When all such are completed, he
 11 shall submit them with all proper field notes to, and file
 12 them with, the board of commissioners, accompanied by his
 13 report and recommendation thereon. This report shall include
 14 a discussion of said plans by him submitted to said board,
 15 of the question of water supply, of the sufficiency of the
 16 works proposed to accomplish the desired results, of the
 17 practicability of the proposed system from an engineering
 18 standpoint, of the probability of being acquired or
 19 constructed within the estimate of the cost stated, and such
 20 general discussion and recommendation in regard to the
 21 engineering and financial features of the whole matter as in
 22 the judgment of such engineer shall be desirable for the
 23 information of the people of the district. Such report shall
 24 be accompanied by a map, when such is necessary for a proper
 25 explanation or understanding of the same.

1 Upon receiving such report, said board of commissioners
2 shall proceed to determine the amount of money necessary to
3 be raised for the purchase or construction of said proposed
4 property, canals, or irrigation works, and system, and
5 within ten days after arriving at such determination shall
6 cause the secretary of said board to notify all persons or
7 corporations holding title or evidence of title to lands
8 within said district (ascertained as provided in section
9 89-1201) of the filing of said report and their
10 determination thereon. Said notices shall be given through
11 the United States mail by letter addressed to such person or
12 corporation at the last known post-office address of each
13 person or corporation aforesaid. A certificate of the
14 secretary of the board as to the fact of mailing said
15 notice, affixed to a copy of said notice and recorded in the
16 record book of said board of commissioners, shall be
17 sufficient and conclusive evidence of such fact.

18 (13) Said board shall have power generally to do and
19 perform all such other acts as shall be necessary or
20 appropriate to fully carry out the purposes of this act."

-End-