House BILL NO. 759 INTRODUCED BY Mont Alater Lab. Committee Day Chinam 1 z REQUESTED BY 3 4 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION 5 A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT TO AMEND SECTION 6 89-3504+ R-C-M- 1947, TO PROVIDE THAT THE LOCAL POLITICAL 7 8 SUBDIVISION SHALL REIMBURSE THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR ITS COSTS IN ADMINISTERING 9 10 AND ENFORCING FLOODPLAIN AND FLOODWAY MINIHUM STANDARDS. 11 WHERE THE POLITICAL SUBDIVISION HAS FAILED TO DO SO AND TO CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT COCAL 12 LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS 13 14 AFTER THE STATUTORY 6-MONTH DEADLINE."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 89-3504, R.C.M. 1947, is amended to
 read as follows:

arrangements with the United States geological survey, the
 United States army corps of engineers1 or any other state or
 federal agency for such acquisition.
 4 (b) Before the board establishes by order a designated

5 floodplain or a designated floodway, the department shall
6 consult with the affected political subdivisions.
7 Consultation shall include, but not be limited to, the
8 following:

9 (i) specifically requesting that the political 10 subdivisions submit pertinent data concerning flood hazards, 11 including flooding experiences, plans to avoid potential 12 hazards, estimates of economic impacts of flooding on the 13 community, both historical and prospective, and such other 14 data as considered appropriate;

(ii) notifying local officials, including members of 15 16 the county commission, city councils and planning boardy of 17 the progress of surveys, studies, and investigations and of 18 proposed findings, along with information concerning data 19 and methods employed in reaching such conclusions; and 20 (iii) encouraging local dissemination of information 21 concerning surveys, studies, and investigations, so that interested persons will have an opportunity to bring 22 relevant data to the attention of the department. 23 {2} When sufficient data have been acquired by the 24

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department, the board shall establish, by order, after a

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L public hearing, the designated floodplain within which a 2 political subdivision may establish land-use regulation. 3 When sufficient data have been acquired, the board shall 4 establish, by order, after a public hearing, the designated floodway within which a political subdivision may establish 5 land-use regulation. These designations shall be based upon 6 7 reasonable hydrological certainty. When the designated floodplain or the designated floodway has been established, 8 the department shall furnish this data to officials of the 9 political subdivision having jurisdiction over those areas 10 11 together with a map outlining the areas involved, a copy of this act, adopted rules of the board, and suggested minimum 12 standards adopted by the board. These standards and rules 13 14 shall reflect gradations in flood hazard based on criteria as outlined in section 89-3507(2). In adopting these 15 standardsy and rules, and--regulationsy the board shall 16 consider local input from the affected political 17 subdivisions. The department shall record all designated 18 floodplains or designated floodways established by the board 19 20 in the office of the county clerk and recorder of each 21 county in which those floodplains or floodways are found. The board may alter the floodplains or floodways at any 22 later time, by order, after a public hearing if a 23 24 re-evaluation reevaluation of the then available flood data 25 werrents warrant it. Notice of a hearing or order of the

board establishing or altering the floodplains or floodways shall be given by publishing the notice once each week for three--(3) consecutive weeks in a legal newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten-floy days prior to the date set for the hearing or the effective date of the order.

8 (3) Upon transmittal of the floodplain information to 9 officials of a political subdivision, the political 10 subdivision has six-tot months from the date of transmittal 11 to adopt land-use regulations which meet or exceed the 12 minimum standards of the board. If within the six-to)-month 13 <u>6-month</u> period the political subdivision has failed to adopt 14 the land-use regulations, the department shall enforce the 15 minimum standards within the designated floodplain or the 16 designated floodway as established by the board under 17 subsection (2) of this section, and no artificial 18 obstruction or nonconforming use shall may be established by 19 any person within the designated floodplain or the 20 designated floodway, unless specifically authorized by the 21 board.

(4) The department shall maintain a record of all its
 administrative costs to administer and enforce the minimum
 standards within the designated floodplain or floodway, and
 the political subdivision having jurisdiction over the area

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1	<u>shall reimburse the department for such costs after billing</u>
2	by the department. A political subdivision which has failed
3	to adopt land-use regulations which meet or exceed the
4	minimum standards of the board within the 6-month period way
5	subsequentlyadopt_such_regulations_and+_if_approved_by_the
6	board: they shall be effective within the designated
7	floodplain or floodway and administered and enforced by the
8	political subdivision.
9	(5) When necessary for compliance with federal flood
10	insurance requirements, the board may shorten the <del>six-f6)</del>
11	month <u>6-month</u> period upon notification to the poliical
12	subdivision and publication of a notice thereof in a
13	newspaper of general circulation in the affected area once a
14	week for three (3) consecutive weeks."

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-End-

# STATE OF MONTANA

REQUEST NO. \_\_\_\_\_ 608-77

# FISCAL NOTE

Form BD-15 🖱

In compliance with a written request received <u>March 8</u>, 19 <u>77</u>, there is hereby submitted a Fiscal Note for <u>House Bill 759</u> pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

### DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 758 provides that local political subdivisions shall reimburse the Department of Natural Resources and Conservation for its costs in administering and enforcing floodplain and floodway minimum standards where the political subdivision has failed to do so.

FISCAL IMPACT - STATE:

None

FISCAL IMPACT - LOCAL:

Ten (10) counties have designated floodplains within their jurisdiction. Currently, eight (8) of the ten (10) counties are financing the administration and enforcement of floodplain regulations. There will be additional costs to those counties that do not enforce these regulations; however, it is difficult to estimate those counties that will be charged for enforcement and how much the charge will be.

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BUDGET DIRECTOR Office of Budget and Program Planning Date: \_\_\_\_\_\_7

Approved by Committee on Judiciary

House BILL NO. 759 1 INTRODUCED BY Mont Alater Sale Committee Day Channen 2 3 REQUESTED BY 4 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION 5 A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT TO AMEND SECTION 6 7 89-3504+ R-C-M+ 1947+ TO PROVIDE THAT THE LOCAL POLITICAL 8 SUBDIVISION SHALL REIMBURSE THE DEPARTMENT OF NATURAL 9 RESOURCES AND CONSERVATION FOR ITS COSTS IN ADMINISTERING 10 AND ENFORCING FLOODPLAIN AND FLOODWAY MINIMUM STANDARDS 11 WHERE THE POLITICAL SUBDIVISION HAS FAILED TO DU SO AND TO CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT LOCAL 12 13 LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS AFTER THE STATUTORY 6-MONTH DEADLINE." 14 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16

17 Section 1. Section 39-3504, R.C.M. 1947, is amended to 18 read as follows:

#89-3504. Program for delineation of floodplains and 19 floodways -- land-use regulations -- payment of department 20 expenses by political subdivision. (1) (a) The department 21 shall initiate a comprehensive program for the delineation 22 23 of designated floodplains and designated floodways for every watercourse and drainway in the state. It shall make a study 24 relating to the acquiring of flood datay and may enter into 25

SECOND READING

1 arrangements with the United States geological survey, the United States army corps of engineers1 or any other state or 2 federal agency for such acquisition. З.

(b) Before the board establishes by order a designated 4 floodplain or a designated floodway, the department shall 5 6 consult with the affected political subdivisions. Consultation shall includer but not be limited tor the 7 8 following:

9 (i) specifically requesting that the political subdivisions submit pertinent data concerning flood hazards, 10 11 including flooding experiences, plans to avoid potential 12 hazards, estimates of economic impacts of flooding on the 13 community, both historical and prospective, and such other 14 data as considered appropriate;

15 (ii) notifying local officials, including members of the county commission, city councils and planning board, of 16 17 the progress of surveys, studies, and investigations and of 13 proposed findings, along with information concerning data and methods employed in reaching such conclusions; and 19 20 (iii) encouraging local dissemination of information

21 concerning surveys, studies, and investigations, so that 22 interested persons will have an opportunity to bring **Z**3 relevant data to the attention of the department.

24 (2) When sufficient data have been acquired by the department, the board shall establish, by order, after a 25

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public hearing, the designated floooplain within which a 1 political subdivision may establish land-use regulation. 2 When sufficient data have been acquired, the board shall 3 establish, by order, after a public hearing, the designated 4 5 floodway within which a political subdivision may establish land-use regulation. These designations shall be based upon 6 7 reasonable hydrological certainty. When the designated floodplain or the designated floodway has been established. 3 9 the department shall furnish this data to officials of the political subdivision having jurisdiction over those areas 10 11 together with a map outlining the areas involved, a copy of this act, adopted rules of the board, and suggested minimum 12 13 standards adopted by the board. These standards and rules shall reflect gradations in flood hazard based on criteria 14 as outlined in section 89-3507(2). In adopting these 15 standardsy and rules, end--regulationsy the board shall 16 17 consider local input from the affected political subdivisions. The department shall record all designated 18 floodplains or designated floodways established by the board 19 20 in the office of the county clerk and recorder of each 21 county in which those floodplains or floodways are found. 22 The board may alter the floodplains or floodways at any 23 later time, by order, after a public hearing if a 24 re-evaluation reevaluation of the then available flood data 25 warrants warrant it. Notice of a hearing or order of the

board establishing or altering the floodplains or floodways shall be given by publishing the notice once each week for three--(3) consecutive weeks in a legal newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten-(10) days prior to the date set for the hearing or the effective date of the order.

(3) Upon transmittal of the floodplain information to 8 officials of a political subdivision, the political 9 10 subdivision has six-t6; months from the date of transmittal 11 to adopt land-use regulations which meet or exceed the minimum standards of the board. If within the six-(6)-month 12 13 <u>6-month</u> period the political subdivision has failed to adopt 14 the land-use regulations, the department shall enforce the 15 minimum standards within the designated floodplain or the 16 designated floodway as established by the board under 17 subsection (2) of this section, and no artificial 18 obstruction or nonconforming use shall may be established by 19 any person within the designated floogplain or the 20 designated floodway. unless specifically authorized by the board. 21

(4) <u>The department shall maintain 'a record of all\_its</u>
 administrative costs to administer and enforce the minimum
 standards within the designated floodplain or floodway, and
 the political subdivision baying jurisdiction over the area

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shall reimburse the department for such costs after billing L 2 by the department. A political subdivision which has failed 3 to adopt land-use regulations which meet or exceed the 4 minimum standards of the board within the 6-month period may 5 subsequently\_adopt\_such\_regulations\_and. if approved by the 6 board, they shall be effective within the designated 7 floodplain or floodway and administered and enforced by the 8 political\_subdivision. (5) When necessary for compliance with federal flood 9 insurance requirements, the board may shorten the six-(6) 10 11 month 6-month period upon notification to the poliical subdivision and publication of a notice thereof in a 12 newspaper of general circulation in the affected area once a 13 week for threa-(3) consecutive weeks." 14

-End-

INTRODUCED BY mont gloten Sol. Committee Day China 1 2 3 REQUESTED BY 4 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION 5 A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT TO AMEND SECTION 6 89-3504, R.C.M. 1947, TO PROVIDE THAT THE LOCAL POLITICAL 7 3 SUBDIVISION SHALL REIMBURSE THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR ITS COSTS IN ADMINISTERING 9 10 AND ENFORCING FLOODPLAIN AND FLOODWAY MINIMUM STANDARDS 11 WHERE THE POLITICAL SUBDIVISION HAS FAILED TO DO SO AND TO CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT LOCAL 12 LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS 13 AFTER THE STATUTORY 6-MONTH DEADLINE." 14 15

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 39-3504, R.C.M. 1947, is amended to
 read as follows:

19 \*\*89-3504. Program for delineation of floodplains and 20 floodways -- land-use regulations <u>-- payment of department</u> 21 <u>expenses by political subdivision</u>. (1) (a) The department 22 shall initiate a comprehensive program for the delineation 23 of designated floodplains and designated floodways for every 24 watercourse and drainway in the state. It shall make a study 25 relating to the acquiring of flood datay and may enter into arrangements with the United States geological survey, the
 United States army corps of engineers, or any other state or
 federal agency for such acquisition.

4 (b) Before the board establishes by order a designated
5 floodplain or a designated floodway. the department shall
6 consult with the affected political subdivisions.
7 Consultation shall includer but not be limited tor the
8 following:

9 (i) specifically requesting that the political 10 subdivisions submit pertinent data concerning flood hazards, 11 including flooding experiences, plans to avoid potential 12 hazards, estimates of economic impacts of flooding on the 13 community, both historical and prospective, and such other 14 data as considered appropriate;

15 (ii) notifying local officials, including members of 16 the county commission, city council, and planning boardy of 17 the progress of surveys, studies, and investigations and of 18 proposed findings, along with information concerning data 19 and methods employed in reaching such conclusions; and 20 (iii) encouraging local dissemination of information 21 concerning surveys, studies, and investigationsy so that

22 interested persons will have an opportunity to bring 23 relevant data to the attention of the department.

24 (2) When sufficient data have been acquired by the25 department, the board shall establish, by order, after a

THIRD READING

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public hearing, the designated floodplain within which a 1 political subdivision may establish land-use regulation. 2 з When sufficient data have been acquired, the board shall 4 establish, by order, after a public hearing, the designated floodway within which a political subdivision may establish 5 5 land-use regulation. These designations shall be based upon reasonable hydrological certainty. When the designated 7 8 floodplain or the designated floodway has been established, the department shall furnish this data to officials of the 9 political subdivision having jurisdiction over those areas 10 together with a map outlining the areas involved, a copy of 11 this act, adopted rules of the board, and suggested minimum 12 standards adopted by the board. These standards and rules 13 shall reflect gradations in flood hazard based on criteria 14 15 as outlined in section 89-3507(2). In adopting these 15 standardsy and rules, end--regulationsy the board shall 17 consider local input from the affected political subdivisions. The department shall record all designated 18 19 floodplains or designated floodways established by the board in the office of the county clerk and recorder of each 20 21 county in which those floodplains or floodways are found. 22 The board may alter the floodplains or floodways at any later time, by order, after a public hearing if a 23 24 re-evaluation reevaluation of the then available flood data 25 warrants warrant it. Notice of a hearing or order of the board establishing or altering the floodplains or floodways shall be given by publishing the notice once each week for three--(3) consecutive weeks in a legal newspaper published or of general circulation in the area involved, the last

4 or of general circulation in the area involved, the last
5 publication of which shall be not less than ten-(10) days
6 prior to the date set for the hearing or the effective date
7 of the order.

8 (3) Upon transmittal of the floodplain information to 9 officials of a political subdivision, the political 10 subdivision has six-(6) months from the date of transmittal 11 to adopt land-use regulations which meet or exceed the 12 minimum standards of the board. If within the six-(6)-month 13 5-month period the political subdivision has failed to adopt the land-use regulations, the department shall enforce the 14 15 minimum standards within the designated floodplain or the 16 designated floodway as established by the board under 17 subsection (2) of this section, and no artificial 18 obstruction or nonconforming use shall may be established by any person within the designated floodplain or the 19 20 designated floodway, unless specifically authorized by the 21 board.

(4) The department shall maintain a record of all its
 administrative costs to administer and enforce the minimum
 standards within the designated floodplain or floodway. and
 the political subdivision having jurisdiction over the area

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1 shall reimburse the department for such costs after billing 2 by the department. A political subdivision which has failed 3 to adopt land-use regulations which meet or exceed the 4 minimum standards of the board within the 6-month period may 5 subsequently\_adopt\_such\_regulations\_and, if approved by the 6 board, they shall be effective within the designated 1 floodplain or floodway and administered and enforced by the 8 political subdivision. 9 [5] When necessary for compliance with federal flood 10 insurance requirements, the board may shorten the six-f6; 11 month <u>6-month</u> period upon notification to the poliical 12 subdivision and publication of a notice thereof in a

13 newspaper of general circulation in the affected area once a

14 week for three-f3; consecutive weeks."

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-End-

March 11, 1977

# STANDING COMMITTEE REPORT Senate Committee on Local Government

That House Bill No. 759, third reading, be amended as follows:

1. Amend title, line 6.
Following: "ENTITLED: "AN ACT"
Strike: "AN ACT"

2. Amend title, lines 7 through ll.
Following: "To"
Strike: lines 7 through ll in their entirety.

3. Amend page 1, section 1, lines 20 through 21.
Following: "regulations"
Strike: "--payment of department expenses by political subdivision"

4. Amend page 4, section 1, lines 22 through line 2 on page 5.
Following: "(4)"
Strike: lines 22 through "department." on line 2 on page 5

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ı	HOUSE BILL NO. 759
2	INTRUDUCED BY MONT. WATER SUB. COMMITTEE, DAY, CHAIRMAN
ز	REQUESTED BY
4	THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT <del>an-act</del> to amend section
1	89-3504, R.C.N. 1947, TO <del>PROVIDE-THATTHELOCALPOLITICAL</del>
8	<del>SUBBIVISIONSHALLREIMBURSETHEBEPARTMENTBFNATURAL</del>
9	RESOURCES-AND-CONSERVATION-FOR-ITSCOSTSINADMINISTERING
10	ANDENFORGINGFLOODPLAINANDFLOODWAYMINIMUM-STANDARDS
11	WHERE-THE-POLITICAL-SUBDIVISION-HAS-FAILED-TO-DO-SOANDTO
12	CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT LOCAL
13	LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS
14	AFTER THE STATUTORY 6-MONTH DEADLINE."
15	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA:
17	section 1. Section 89-3504, R.C.M. 1947, is amended to
18	read as follows:
19	"89-3504. Program for delineation of floodplains and
20	floodways land-use regulations <u>payment-of-department</u>
21	expenses-by-political-subdivision. (1) (a) The department
22	shall initiate a comprehensive program for the delineation

of designated floodplains and designated floodways for every

watercourse and drainway in the state. It shall make a study

relating to the acquiring of flood data, and may enter into

arrangements with the United States geological survey, the
 United States army corps of engineers, or any other state or

3 federal agency for such acquisition.

(b) Before the board establishes by order a designated
floodplain or a designated floodway, the department shall
consult with the affected political subdivisions.
Consultation shall includer but not be limited tor the
following:

9 (i) specifically requesting that the political 10 subdivisions submit pertinent data concerning flood hazards, 11 including flooding experiences, plans to avoid potential 12 hazards, estimates of economic impacts of flooding on the 13 community, both historical and prospective, and such other 14 data as considered appropriate;

(ii) notifying local officials, including members of 15 16 the county commission, city council, and planning board, of the progress of surveys, studies, and investigations and of 17 18 proposed findings, along with information concerning data 19 and methods employed in reaching such conclusions; and 20 (iii) encouraging local dissemination of information concerning surveys, studies, and investigations, so that 21 22 interested persons will have an opportunity to bring 23 relevant data to the attention of the department. 24 (2) When sufficient data have been acquired by the

25 department, the board shall establish, by order, after a

REFERENCE BILL

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public nearing, the designated floodplain within which a 1 2 political subdivision may establish land-use regulation. When sufficient data have been acquired, the board shall 3 establish, by order, after a public hearing, the designated 4 5 floodway within which a political subdivision may establish land-use regulation. These designations shall be based upon 6 reasonable hydrological certainty. When the designated 7 8 floodplain or the designated floodway has been established. 9 the department shall furnish this data to officials of the political subdivision having jurisdiction over those areas 10 together with a map outlining the areas involved, a copy of 11 12 this act, adopted rules of the board, and suggested minimum 13 standards adopted by the board. These standards and rules 14 shall reflect gradations in flood hazard based on criteria 15 outlined in section 89-3507(2). In adopting these as 16 standards, and rules, and--requiretions, the board shall 17 consider local input from the affected political 18 subdivisions. The department shall record all designated 19 floodplains or designated floodways established by the board 20 in the office of the county clerk and recorder of each 21 county in which those floodplains or floodways are found. 22 The board may alter the floodplains or floodways at any 23 later time, by order, after a public hearing if a 24 re-evoluation reevaluation of the then available flood data 25 warrants warrant it. Notice of a hearing or order of the board establishing or altering the floodplains or floodways shall be given by publishing the notice once each week for three--(3) consecutive weeks in a legal newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten-(10) days prior to the date set for the hearing or the effective date of the order.

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1 shall-reimburse-the-department-for-such-costs-after--billing È by--the-deportmentr A political subdivision which has failed 3 to adopt land-use regulations which meet or exceed the 4 minimum standards of the board within the 6-month period may 5 subsequently\_adopt\_such\_regulations\_and+\_if\_approved\_by\_the 6 board, they shall be effective within the designated 7 floodplain or floodway and administered and enforced by the 8 political\_subdivision. 9 (5) When necessary for compliance with federal flood 10 insurance requirements, the board may shorten the six-(6) 11 month <u>6-month</u> period upon notification to the poliical 12 subdivision and publication of a notice thereof in a 13 newspaper of general circulation in the affected area once a 14 week for three-(3) consecutive weeks."

-End-

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