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1	SENATE BILL NO. 26
2	INTRODUCED BY GRAHAM
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS
6	89-128, 89-1901, AND 89-2818, R.C.M. 1947."
7	
6	BE IT BHACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 89-105, R.C.M. 1947, is amended to
10	read as follows:
11	#89-105. Povor of department to construct vorke and to
12	ect beyond jurisdiction Construction of works by department.
13	(1) Subject to the approval of the board, the department
14	may construct works, the cost of the construction to be paid
15	wholly by means of or with the proceeds of revenue bonds
16	hereinafter authorized or of a grant to aid in financing the
17	construction from the United States or any instrumentality
18	or agency thereof and of other funds provided under the
19	authority of this act for the construction. Before
20	constructing a project, the department shall estimate the
21	cost of the project, the cost of maintaining, repairing, and
22	operating it, and the revenues to be derived therefrom, and
23	a project may not be constructed unless, according to the
24	estimates, the revenues to be derived will be sufficient to
25	pay the cost of maintaining, repairing, and operating it_{T}

INTRODUCED BILL

and to pay the principal and interest of revenue bonds which may be issued for the cost of the project; however, in connection with the issuance of revenue bonds, the failure of the department to make the estimates required by this section or to make them in proper form does not affect the validity or enforceability of those bonds or of the trust indenture, resolution, or other security therefor.

8 (2) Hewavery should should the bid of the lowest 9 responsible bidder on any capital improvement associated 10 with public works as defined in this section exceed the 11 department estimates of the cost of the improvements by more 12 than five por cost (5%), the department shall obtain approval from the water user association, whenever an 13 14 association is involved, before the bid is accepted; 15 however, capital improvements of an emergency mature 16 necessary to protect life or property or to supply immediate needs for water do not require such approval. 17

18 (3) The A purpose of this act is to meet, so far as possible, a state-wide statewide need for the conservation 19 and use of watery through the construction and operation of 20 projects designed for those purposes. The department say 21 sake istostiqutions as are seensery to plas and carry out a 22 comprehensive state-wide program of water concernation. The 23 24 projects to be finally constructed shall qualify as parts of 25 the atate wide statewide program and shall be approved by

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1 the board upon the showing of their prospective ability to 2 meet, through the sale of water or other services, the cost 3 of operation, saintenance, and repair and the asortization 4 of the cost of the construction, however, the The failure 5 of the board to determine the prospective ability of a 6 project does not affect the validity or enforceability of 7 the bonds or of the trust indenture, resolution, or other 8 security therefor.

9 (4) The department may exercise any of its powers:

(a) In in an adjoining state, unless the exercise of
that power is not permitted under the laws of that state or
of the United States.

(b) In in a national forest or public domain of the
United States adjoining, or located in, the state of
Bontana, unless the exercise of those powers is not
permitted under the laws of the United States;

17 (C) In in an adjoining country, unless the exercise of
18 those powers is not permitted under the laws of that country
19 or of the United States or under the treaties between that
20 country and the United States."

21 Section 2. Section 89-115, R.C.H. 1947, is amended to 22 read as follows:

23 *89-115. Water funds rates cale of water appeals
24 to board lease and cale of water rights and property
25 Hanagement of property - water contracts. (1) Subject to

1 this act and section 89-103.2, the department may fix and establish the prices, kaths, and charges at which the 2 resources and facilities made available under this act may 3 а be sold and disposed of; enter into contracts and agreements, and do those things which in its judgment are 5 necessary, convenient, or expedient for the accomplishment 6 7 of the purposes and objects of this act, under such general requiations rules and upon such terms, limitations, and ß 9 conditions as it prescribes +, the The department shall enter into the contracts and fix and establish the prices, rates, 10 and charges so as to provide at all times funds which will 11 12 be sufficient to pay all costs of operation and maintenance of the works authorized by this act, together with necessary 13 repairs thereto, and which will provide at all times 14 sufficient funds to neet and pay the principal and interest 15 16 of all bonds or loans as they severally become due and 17 payables, this Itis act does not authorize any change, alteration, or revision of those rates, prices, or charges 18 19 as established by any contract entered into under this act 20 except as provided by the contract.

21 (2) An incorporated water users association that is 22 sustaining and responsible for the operations of a works is 23 solely liable for any court action which may be brought 24 against it or the state of Montama for any injury or damages 25 occurring on the works caused by a failure to maintain safe

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1 working and operating conditions.

(3) A contract made by the department for the sale of 2 water, use of water, water storage, or other service, or for 3 the sale of any property or facilities, shall provide that, 11 in the event of a failure or default in the payment of 5 moneys specified in the contract to be paid to the 6 department, the department may, upon notice as is prescribed 7 in the contract, terminate the contract and all obligations я thereunder. The act of the department in ceasing on default q to furnish or deliver water, use of water, water storage, or 10 other service under the contract does not deprive the 11 department of , or limit any remedy provided by the contract 12 or by law for the recovery of moneys due or which may become 13 14 due under the contract.

15 (4) (a) A person aggrieved by a decision of the 16 department to terminate any contract under subsection (3) 17 may appeal to the board and be heard thereon by filing 18 written notice of the appeal with the department within 400 19 (10) days after receiving notice of termination of the 20 contract from the department. The termination of the 21 contract shall be stayed if an appeal is taken.

22 (b) If a dispute arises between the department and 23 another party regarding amounts owing or the terms and 24 conditions under a water marketing or water purchase 25 contract_T or under a contract for the construction or repair of works, that party may appeal to the board for a hearing
 thereon and a resolution of the dispute by filing written
 notice of the appeal with the department within thirty (30) days after the final decision of the department regarding
 the dispute.

б (5) Subject to the approval of the board under section 89-103.2. the department may sell, transfer to water user 7 associations, abandon, or otherwise dispose of any mights of 8 9 way rights-of-way, easements, or property when it determines that they are no longer needed for the purposes of this act-10 or lease or rent the same or otherwise take and receive the 11 12 income or profit and revenue therefrom. A determination shall be made by the department as to the market value of 13 14 rights-of way rights-of-way, easements, or property to be 15 sold, transferred, abandoned, or otherwise disposed of. 414 16 inser-profit-end-revenue-of-the-werks-and-all--neters 17 recoired -- from -- the -gale - of -dispecal - of -water - ase -of -water, 18 water-storager-or-other-servicer-and-from-the-operation-19 leasey -- cale-or-other-dispesition-of-the-verks, -- preperty-and 20 facilities-actuired-toder-this-act, shall-be-deposited-to 21 the-state-general-fund-" 22 Section 3. Section 89-401, R.C.H. 1947, is amended to 23 read as follows:

⁸⁸⁹⁻⁴⁰¹. Disposition of moneys collected. (1) For the
purpose of carrying out the provisions of the states

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1 Consectation-let,-acts-acondatory-thereto-and--dupplementary 2 thereof, chapter 1 of Title 89 and such other water resource authority, powers, and duties as are conferred upon the 3 ш department of natural resources and conservation by law, the 5 following moneys shall be deposited in the earmarked revenue 6 fund for the use of the department: 7 (a) all sums of money donated or contributed by the

8 federal government or any department or agencies thereof; 9 (b) all gifts, donations, bequests, and devises made

10 to the state therefore and proceeds of the sale thereof; and the proceeds of the sale or redeaption of and the interest 11 12 earned by the securities purchased or acquired by the security 13

thereof with money received under this subsection;

(c) all reimbursements for money advanced for the 14 payment of the assessments upon state, school granted 15 school-granted, and other public lands for the improvement 16 17 thereof as provided by law;

18 (d) all reimbursements for money advanced for the investigation and survey of reclamation, electrification, 19 20 and rehabilitation systems or projects proposed to be 21 financed in whole or in part by the reclamation of lands and 22 dyking, drainage, and dyking and drainage dams for 23 conservation of water to be used in reclamation of land or 24 stock reservoirs or for the construction, maintenance, and operation of plants or projects for the manufacture or 25

1	distribution of electric current; revolues arising from
2	projects-cerstructed-or-evned-by-the-department-in-excess of
3	costs-ofoperationandsaintenance,asdrepaymentof
4	principalandintoroctofanyaonoyaborrowedfor-tho
5	construction of the projector all same-payable as - rentals
6	dus for -vator uppy-printonences or speration uppn-any-project
7	eveedbythestateer-vhish-such-restals-are-due-and
8	pagable-under-azy-contract-er-agreenent-nade-by-angperson,
9	accodiationor-corporation-with the departments-all-sume of
10	zoney-received by the department for - the - ase - of - electric
11	current, in except of the weistenesses and operation upon any
12	electrification-system-oz-project ;
13	(e) all reimbursements for costs of surveys and
14	investigations for moneys advanced to counties, cities or
15	towns or their proportion of the cost thereof, or from any
16	other sources.
17	(2) The following shall be deposited in the state
18	<u>general fund:</u>
19	(a) all income or profit and revenue of the works and
20	all money received from the sale or disposal of water, use
21	of water, water storage, or other service and from the
22	<u>operation, lease, sale, or other disposition of the works.</u>
23	property, and facilities acquired under chapter 1 of Title
24	<u>89; agd</u>
25	(b) all sums received by the department for the use of

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1 electricity in excess of the maintainance and operation of

2 the electrification system or project."

3 Section 4. Section 89-125, R.C.H. 1947, is amended to
4 read as follows:

5 "89-125. Povers of department concerning vaters and 6 appropriations thereof Department conferred by this are 7 (1) The authority of the department conferred by this are 8 <u>chapter</u> extends and applies to rights to the natural flow of 9 the waters of this state which it may acquire, with the 10 approval of the board, by condemnation, purchase, exchange, 11 appropriation, or agreement.

12 (2) For the purpose of regulating the diversion of 13 those waters, the department may enter upon the means and 14 place of use of all appropriators for making surveys of 15 respective rights and seasonal needs.

16 (3) The department may take into consideration the 17 decrees of the courts of this state baying furisdiction. 18 which purport to adjudicate the waters of a stream or its 19 tributaries, and a fair, reasonable, and equitable 20 reconciliation shall be made between the claimants asserting 21 rights under different decrees and between decreed rights and asserted rights of appropriation not adjudicated by any 22 23 court.

(4) The department, at its discretion, may hold
hearings relating to the rights of respective claimants

after first giving such notice as it deems considers appropriater and make findings of the date and quantity of appropriation and use of all claimants which the department will recognize and observe in diverting the waters which it owns. The department may police and distribute to the owner of the recognized appropriation the waters due him upon request and under terms agreed upon.

8 (5) The department, when engaged in controlling and 9 dividing the natural flow of a stream under the authority 10 granted by this act chapter, is exercising a police power of 11 the state, and water commissioners appointed by any court 12 may not deprive the department of any of the waters owned or 13 administered under agreement with respective owners, but the 14 owner of a prior right contending that the department is not 15 recognizing and respecting the appropriation may resort to a 16 court for the purpose of determining whether or not the 17 rights of the claimant have been invaded, and the department 18 shall observe the terms of the final decree.

19 (6) When the department impounds or acquires the right 20 of appropriation of the waters of a streamy it may divert or 21 authorize the diversion at any point on the streamy or any 22 portion thereofy when it is done without injury to a prior 23 appropriator.

24 (7) - This act does not repeal or accel as existing
 25 estatute pertaining to the appropriation or use of water

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 pot-interfere-vith-rested sights to-the-res-of-vator,
 (8) --In---eddition--te--the--powers--seniormed--en--thedepartment-olgowhere-in-this-shepter,

5 [7] the The department may acquire water by purchase 6 option or agreement with the federal government from the 7 Fort Peck Reservoir for the purpose of sale, rent, or 8 distribution for industrial use. In such cases, the department is not required to construct any diversion or 9 appropriation facilities or works, and it may sell, rent, or 10 distribute such water at such rates and under such teras and 11 12 conditions as it considers appropriate."

13 Section 5. Section 89-319, B.C.H. 1947, is amended to
14 read as follows:

15 #89-319. Separate permit for each operation. (1)
16 Separate permits shall be issued for each operation.

17 <u>(2)</u> "Operation" means the performance of weather 18 modification and control activities entered into for the 19 purpose of producing or attempting to produce_y a certain 20 modifying effect within one (1) geographical area over one 21 continuing time interval not exceeding one (1) year."

Section 6. Section 89-823, R.C.H. 1947, is amended to
read as follows:

24 #89-823. Owners of water to sell surplus. Any person
25 having the right to use, sell, or dispose of water, and

1 engage is using, selling, or disposing of the same, who has a surplus of water not used or sold, or any person having a 2 3 surplus of water, and the right to sell and dispose of the same, is required, upon the payment or tender to the person D. 5 entitled thereto of an amount equal to the usual and 6 customary rates per inch cubic foot of water per second, to 7 convey and deliver to the person such the surplus of unsold 8 watery or so much thereof for which said the payment or 9 tender shall have been has been made, and shall continue so 10 to convey and deliver the same weekly so long as caid the 11 surplus of unused or unsold water exists and cald the 12 payment or tender be is made as aforesaid." 13 Section 7. Section 89-867, R.C.E. 1947, is amended to 14 read as follows: 15 #89-867. Definitions. Unless the context requires

15 "89-867. Definitions. Unless the context requires
16 otherwise, in this chapter <u>the following definitions apply</u>:
17 (1) "Water" means all water of the state, surface and
18 subsurface, regardless of its character or manner of
19 occurrence, including geothermal water.

(2) "Beneficial use" means a use of water for the
benefit of the appropriator, other persons, or the public,
including, but not limited to, agricultural (including stock
water), domestic, fish and wildlife, industrial, irrigation,
mining, municipal power, and recreational uses, provided,
beverer, that a g use of water for slurry to export coal

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from Montana is not a beneficial use. Slurry is a mixture
 of water and insoluble matter.

3 (3) "Appropriate" means to divert, impound, or
4 withdraw (including by stock for stock water) a quantity of
5 water, or, in the case of a public agency, to reserve water
6 in accordance with section 89-890.

7 (4) "Existing right" means a right to the use of water
8 which would be protected under the law as it existed prior
9 to July 1, 1973.

10 (5) "Groundwater" means any water beneath the land
11 surface or beneath the bed of a stream, lake, reservoir, or
12 other body of surface water, and which is not a part of that
13 surface water.

14 (6) "Well" means any artificial opening or excavation
15 in the ground, however made, by which groundwater is sought
16 <u>or can be obtained</u> or through which it flows under natural
17 pressures or is artificially withdrawn.

18 (7) "Permit" means the permit to appropriate issued by
19 the department under sections 89-880 through 89-887.

(8) "Certificate" means the certificate of water right
issued by the department under sections 89-879, 89-880(5),
and 89-888.

(9) "Declaration" means the declaration of an existing
 right filed with the department under section 89-872.

25 (10) "Waste" means the unreasomable loss of water

1 through the design or negligent operation of an 2 appropriation or water distribution facility, or the 3 application of water to anything but a beneficial use.

4 (11) "Political" subdivision" means any county, 5 incorporated city or town, public corporation, or district 6 created pursuant to state law, or other public body of the 7 state empowered to appropriate water, but not a private 8 corporation, association, or group.

9 (12) "Person" means an individual, association,
10 partnership, corporation, state agency, political
11 subdivision, and or the United States or any agency thereof.
12 (13) "Department" means the department of natural
13 resources and conservation provided for in Title 82A,
14 chapter 15.

15 (14) "Board" means the board of natural resources and
16 conservation provided for in section 821-1509.

17 (15)-#ist#__moans_the__fontane__fator_foo_lst_and any
 18 subsequent_amaisents_or_additions_theretor_f

19 Section 8. Section 89-2911, R.C.E. 1947, is amended to20 read as follows:

21 **89-2911. Definitions. Unless the context requires 22 otherwise, in this chapter the following definitions apply: 23 (*)(1) *Ground-water Groundwater* means any fresh 24 water beneath the land surface or beneath the bed of a 25 stream, lake, reservoir, or other body of surface water, and

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which is not a part of that surface water. Fresh water shall
 be doomed considered to be water fit for domestic,
 livestock, or agricultural use. The department, after
 notice and hearing, may fix definite standards for
 determining fresh water in any controlled groundwater
 <u>groundwater</u> area or subarea of the state.

7 (b) (2) "Aquifer" means any underground geological
8 structure or formation which is capable of yielding water or
9 is capable of recharge.

10 (+) (3) "Well" means any artificial opening or
11 excavation in the ground, however made, by which ground
12 water groundwater is sought or can be obtained or through
13 which it flows under natural pressures or is artificially
14 withdrawa.

15 (4) "Beneficial use" means a use of water for the 16 benefit of the appropriator, other persons or the public, 17 including, but not limited to, agricultural (including stock 18 water), domestic, fish and wildlife, industrial, irrigation, 19 mining, municipal, power, and recreational uses. 4 use of 20 water for slurry to export coal from Montana is not a 21 beneficial use. Slurry is a mixture of water and insoluble 22 matter,

23 (9) (5) "Person" means an individual, association,
24 partnership, corporation, state agency, political
25 subdivision, and or the United States or any agency thereof.

(f)(f) "Department" means the department of natural
 resources and conservation provided for in Title 82L,
 chapter 15.

4 (4) (7) "Ground weber Groundwater area" means an area 5 which, as nearly as known facts permit, may be designated so 6 as to inclose a single and distinct body of ground water groundwater, which shall be described horizontally by 7 8 surface description in all cases and which may be limited 9 vertically by describing known geological formations should 10 conditions dictate this to be desirable. For purposes of 11 administration, large ground water groundwater areas may be 12 divided into convenient administrative units #known as 13 "subareas-".

14 (b) (8) "Board" means the board of natural resources
 15 and conservation provided for in section 821-1509.

(9) "Political subdivision" means any county, 16 17 incorporated_city_or_town__public_corporation__or__district 18 created pursuant to state law or other public body of the 19 state empowered to appropriate water, but not a private 20 corporation, association, or group." 21 Section 9. Section 89-899, B.C.M. 1947, is amended to 22 read as follows: #89-899. Legal assistance. (1) When requested by the 23

department, the attorney general and the county attorneys
within their respective counties shall perform legal

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services and conduct legal proceedings mecessary to carry
 out the purposes of this and <u>chapter</u>. The department may
 also employ legal counsel to enforce this and <u>chapter</u> and to
 conduct proceedings under it.

5 (2) If an appropriator who is a citizen of Montana 6 becomes involved in a controversy to which any agency of the 7 federal government or another state is a party, the 8 department may in its discretion intervene as a party or 9 provide necessary legal assistance to the citizen of 10 Bontana."

Section 10. Section 89-2930, R.C.H. 1947, is amended
to read as follows:

13 #89-2930. Duty of county attorneys and attorney general. The county attorneys and the attorney general of 14 15 the state shall perform such legal services and bring such legal proceedings in carrying out the purpose of this act 16 17 chapter within their respective counties as the department 18 shall may request. The department may also employ legal 19 counsel to enforce this chapter and to conduct proceedings 20 under it."

21 Section 11. Section 89-907, R.C.E. 1947, is amended to 22 read as follows:

23 #89-907. Filing written statement with department.
24 (1) Any person claiming an appropriative right to the use
25 of any water of any interstate tributary which right was

acquired after January 1, 1950, shall, within sisty 60 days
 after the approval of this ast <u>February 25, 1953</u>, or before
 he diverts any water, file with the department at its office
 in Helena, Hontana, a written statement containing the
 following information:

(a) The the name of the claimant and his address;

7 (b) Date <u>date</u> of appropriation or the date when the 8 water was first applied to a beneficial user:

9 (C) The the quantity of water claimed;

10 (d) The the name of the stream, river, or other source
11 of water from which the diversion is made, if it has a name,
12 and if it does not, such a description as will identify
13 identifying the same.

14 (e) #he the purpose for which the water is claimed and
15 the place of intended user:

16 (f) The the means of diversion-;

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17 (g) Whether whether or not a weir or other device for
18 measuring the water intended to be diverted has been
19 installed in his ditch or other means of diversion+;

(b) If if a notice of appropriation was filed with the
county clerk and recorder, as previded by social 89-810,
the name of the county where it was filed.:

(i) Whether whether the appropriation was made from an
adjudicated or nonadjudicated stream, river, or other source
of water.

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1 (2) The written statement shall be verified by the 2 affidavit of the claimant or someone in his behalf, which 3 affidavit must state that the matters and facts contained in 4 the written statement are true."

5 Section 12. Section 89-911, R.C.H. 1947, is an d to 6 read as follows:

7 *89-911. Domestic and stock uses act-vithin the act 8 <u>excepted</u>. Any appropriation of water from any interstate 9 tributary of the Yellowstone River made for domestic or 10 stock water uses shall <u>will</u> not come within the provisions 11 of this act, provided, that <u>chapter whenever</u> the capacity of 12 any a reservoir for stock water shall does not exceed twenty 13 20 acre-feet."

Section 13. Section 89-1015, B.C.E. 1947, is amended
to read as follows:

16 "89-1015. Complaint by dissatisfied user-precedure 17 on. Any a person owning or using any of the waters of such 18 the stream or ditch or extension of the ditchy who is 19 dissatisfied with the method of distribution of the waters of such the stream or ditch by such the water commissioner 20 or water commissionersy and who claims to be entitled to 21 22 more water than he is receiving, or is estimated to a right prior to that allowed him by such the water commissioner or 23 24 water commissioners, may file his written complaint, duly verified, setting forth the facts of such the claim. 25

1 Thereupon the judge shall fix a time for the hearing of such 2 petition- and shall direct that such notice be given to the parties interested in such the hearing as the judge say does 3 considers necessary. At the time fixed for such the 44 hearing, the judge must hear and examine the complainant and 5 such other parties as may appear to support or resist such 6 claing and also examine such the water commissioner or water 7 commissioners and witnesses as to the charges contained in 8 9 said the complaint. Upon the determination of the hearing, 10 the judge shall make such findings and order as he may-doop considers just and proper in-the-presides. If it shall 11 12 appear appears to the judge that the water commissioner or 13 water commissioners have not properly distributed the water 14 according to the provisions of the decree, the judge 15 shall give the proper instructions for such distribution. 16 The judge may remove such any water commissioner or water 17 commissioners and appoint some other person er persons in 18 his or-their stead, if he deems <u>considers</u> that the interests of the parties in the waters mentioned in such the decree 19 20 will be best subserved thereby, and if it shall-appear 21 appears to the judge that the said water commissioner or 22 water generic have has willfully failed to perform 23 their his duties, they be may be proceeded against for 24 contempt of court, as provided in contempt cases. The judge shall make such order as to the payment of costs of such the 25

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hearing as arr-appears appears to him to be just and proper."
 Section 14. Section 89-1202, R.C.M. 1947, is amended
 to read as follows:

*89-1202. Petition for organization. (1) For the 4 purpose of establishing and organizing an irrigation 5 district hereunder, a petition signed by the required number 6 of holders of title or evidence of title to lands within 7 sech the proposed district mentioned in the preceding 8 section shall be filed with the clerk of the district court q of the county in which the lands of the proposed district, 10 11 12 district, -and -no-one-county-onbraces the greater pertion of 13 said lands, thes and in that great said potition shall -- be 14 filed-in-the-county-which-embrades-a-greater portion-of-said 15 lands -- then -- eng -- one of the other counties embraded in -seid 16 17 proposed district the greatest portion of the lands of the 18 proposed district are located. Sach The petition shall set forth: 19

20 $\frac{1}{\sqrt{(4)}}$ the the name suggested for the proposed 21 district:

22 $\frac{2}{2}$ $\frac{b}{2}$ \frac

24 $\frac{\partial - (c)}{\partial - (c)}$ The the names of the holders of title or 25 evidence of title to the lands in the proposed district, 1 ascertained in the manner mentioned in the preceding 2 sections, and if any-such a holder is a nonresident of the 3 county or counties in which the proposed district lies. the ш post-office address of such the nonresident owner, if known: 5 4-(d) Generally generally, the source from which the б lands in the proposed district are to be irrigatedy and the character of the works, water rights, canals, and other 7 property proposed to be acquired or constructed for R 9 irrigation purposes in the proposed district:

10 5-(9) 1 a prayer that the lands embraced within the
11 proposed district be organized as an irrigation district
12 according to the <u>applicable</u> provisions of this act chapters
13 12 through 21 of Title 89.

14 <u>(2)</u> The petition shall be accompanied by:

15 (-1) (a) a map or plat of the proposed district_{ri} and

16 (2)(b) a good and sufficient bond or undertaking, to 17 be approved by the district court or judge thereof of the 18 county in which the petition is required to be filed under 19 the provisions of this set subsection (1), to pay all costs 20 in and about the proceedings preliminary to the organization 21 of the district in the event that set the organization 22 shall is not be effected.

23 (3) Here error or omission in the description of any 24 lands or in the mames of any of the holders of title or 25 evidence of title to lands shall not operate to does not

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render invalid any proceedings hereunder, or to deprive the
 district court of jurisdiction of the subject mattert.
 provided, such misdescribed lands or misnamed persons
 shell may not be included in said the district."

5 Section 15. Section 89-1204, R.C.M. 1947, is amended 6 to read as follows:

7 #89-1204. Hearing on petition and appointment of 8 commissioners. (?) At the time specified in the notice 9 mentioned in the preceding section, the district court in which the petition aforegaid is filed shall hear the 10 11 petition, but may adjourn such hearing from time to time, not exceeding three 3 weeks in all, and may continue the 12 13 hearing for want of sufficient notice or other good cause. 14 The court, upon application of the petitioners or any 15 interested person or persons interested, shall permit the 16 petition to be amended, and may order further or additional 17 notice to be given. Upon such hearing all interested persons 18 interested , whose lands or rights may be damaged or 19 benefited by the organization of the district or by the 20 irrigation works or improvements therein or to be acquired 21 or constructed as hereinafter set forth, say appear and 22 contest the necessity or utility of the proposed districty 23 or any part thereof, and the contestants and petitioners may 24 offer any competent evidence in regard thereto.

25 (2) It-shall-be-the-daty-of-the The court to shall

1 hear and determine whether the requirements of sections 2 89-1201, 89-1202, and 89-1203 have been complied withy and 3 for that purpose shall hear all competent and relevant 4 testimony that may be offered.

5 (3) (a) The court may make such changes in the proposed district as may be deemed considered advisable, or б 7 as fact, right, and justice say require, bet shall act 8 erclude from such proposed district any land which is susceptible of irrigation from the same general source, and 9 by the same general system of works applicable to the other 10 11 lands of such the proposed district, say not be excluded from the proposed district if the owner or owners of such 12 13 the lands shall file in such the district court a written 14 request that such the lands be included, in-nech-district; 15 ner-shall--eny-lands-which-will-noty-in-the-judgacat-of-the 16 courty-be-besefited-by-irrigation-by-scene-of-said-system-of 17 workey-acr-shall-lands-elresdy-under-irrigationy--nor--lands 18 haring---water-richts-appurtenent-thereto,-ner-lands-that-can 19 be-irrigabed from-sepress-acro-foleible--than--the---district 20 21 the owner of such lands shall -- concent -- is -- writing -- to -- the 22 inclusion-of-such-lands-in-the-proposed-districty-as 23 24 subdivide--lands-insluded-within-the-petities-er-proposed at 25

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1	forty-lore-tracts-or-staller-sublivisiess-theresfy-provided,
2	howevery-that-where-a-district-is-formed-to-so-operate-with
3	the Daited-Statesy-landsproviouslyirrigatedandbawing
4	water
5	district-boundarios, if it shall appear to the court that
6	the pase will be benefited thereby; and provided further,
7	that all lands - having - vator - rights - appurtonant - thoreto,
8	ulich are-secred by a system of lexistion vorks supplying
9	aore - than tob thousand a snop of lands na y- in the
10	discretion of the court, be indiaded is the proposed
11	district on potition of at least a majority both in such
12	and
13	the lead-having-water-rights-appurtemant-thereto,-and-served
14	by the -same-system-of-irrigation-vorks,- lands-of-th o
15	district-mood-mot-be-costiguous,-and-any-particular-tract-or
16	tracto, freepodite of their location in the districty and
17	bo-ozciudod.
18	(b) Lands which will not, in the judgment of the
19	court, be benefited by irrigation from the works of the
20	proposed district; which are already under irrigation; which
21	have apportenant water rights; or which can be irrigated
22	from sources more feasible than the proposed district may
23	not be included in the district unless the owner of such
24	lands consents is writing to the inclusion,
25	(c) Notwithstanding the provisions of subsection

1	(3) (b), whenever a district is formed to cooperate with the
2	United States, lands previously irrigated and having
3	appurtenant water rights may be included within the district
4	boundaries if it appears to the court that the lands will be
5	benefited by inclusion,
6	(d) <u>All lands baving apportement water rights.</u> served
7	by an irrigation works system supplying more than 10,000
8	acres, may, in the discretion of the court, be included in
9	the proposed district upon petition by at least a sajority.
10	both in number and acreage, of the holders of title or
11	evidence of title to the lands served by the irrigation
12	system and having appurtenant water rights.
13	(e) Lands of the district need not be contiguous. The
14	location of a particular tract in the proposed district is
15	<u>not a bar to exclusion.</u>
16	(4) For purposes of including or excluding land from a
17	proposed district, the court may subdivide any tract into
18	40-acte or smaller parcels.
19	(4) (5) If, on final hearing, it is found by the court
20	that the petition does not substantially comply with the
21	aforesaid requirements of this act, or that the facts
22	therein stated are not sustained by the evidence, then the
23	court shall dismiss the petition at the cost of the
24	petitioners, and shall make and enter an order to that
25	effect s, but if it is found that said the petition

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1 substantially complies with said the requirements, and that 2 the facts therein stated are sustained by the evidence, then the court shall make and enter an order: 3

8 4-(a) Setting setting forth said findings and allowing 5 said the petition:

6 7 3. (c) Giving giving accurate descriptions of the lands 8 included within the proposed district:

9 4-(d) Dividing dividing the proposed district into 10 three, five, or seven divisions, as may be advisable in view 11 of the size of the district:

12 5v(e) appointing as commissioner one 13 competent person for each division of the district, having 14 the qualifications as provided by section 89-1205.

15 (5) (6) Such The finding and order shall be are 16 conclusive upon all the owners of lands within the district 17 that they have assented to and accepted the applicable 18 provisions of this act; chapters 12 through 21 of Title 89 19 and shall be are final unless appealed from to the supreme court within simty 60 days from the day of entry of such the 20 order. A copy of such the order, duly certified to by the 21 22 clerk of said the district court, shall be filed for record 23 within thirty 30 days after such the order is made and eatered with the county clerk and recorder of the county 24 25 wherein where the lands included within even the district

are situated +. provided, heverer, ... there ... shall be ... esited 1 from such copy lands lands not situated in the county in 2 3 which such the copy is filed shall be cuitted from the copy. (6) (7) Every irrigation district so established a hereusder is hereby declared to be a public corporation for 5 6 the promotion of the public welfare, and the lands included therein shall constitute all the tamable and assessable 7 8 property of such district for the purposes of this act 9 chapters 12 through 21 of Title 89." 10 Section 16. Section 89-1205, R.C.H. 1947, is amended 11 to read as follows: 12 #89-1205. Qualifications of commissioners and term of 13 14 hold the position of gay be a commissioner unless he be is 15 an owner of land within the district and shall be is a resident of the county in which the division of the

17 district, or some portion thereof, for which such 18 semissioners so the commissioner is elected, is situated.

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[2] The commissioners appointed as -- aforesaid shall 19 20 hold their respective offices until the second Saturday in 21 April following their appointment, and until their 22 respective successors are elected and qualified as end in 23 the same for the state the state of the state the 24 commissioners shall qualify in the same manner as justices 25 of the peace, and chall give a bond -in the sum of -two

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thousand --- dollars,-- conditioned-upon-the-faithful-porformance 1 2 of-bip-dution-to-bo-bado--payable--to--the--state--for--the bonofit -- of -- the districter which The bond for a commissioner 3 а shall be approved by the district court or judge thereof and 5 filed in the office of the clerk of said the courte. provided, that is Ip case any district organized established 6 7 under this title chapter is appointed fiscal agent of the United States, or is authorized by the United States is 8 authorised to make collections of moneys for and on behalf 9 10 of the United States in connection with any federal reclamation project, each such commissioner shall execute a 11 12 further and additional official bond in such sum as the 13 secretary of the interior may require, conditioned for the faithful discharge of the duties of his officer and the 14 faithful discharge by the district of its duties as fiscal 15 16 or other agent of the United States under any such appointment or authorization, and any such bond may be sued 17 upon by the United States, or by any person injured by the 18 failure of such the cossissioner or the district to fully, 19 20 promptly, and completely perform their respective duties." 21 Section 17. Section 89-1208, R.C.H. 1947, is amended to read as follows: 22

r89-1208. Compensation <u>and expenses</u> of commissioners penalty for interest in contract bends of commissioners.
 (1) The commissioners, when sitting as a board or when

1 engaged in the business of the district, shall each receive 2 an apount not to exceed twenty dollars (\$20), per a day for 3 services, and, in addition thereto, their mecessary expenses a in attending meetings, or when otherwise engaged on district 5 business, including premiums on qualifying bonds and any 6 other bonds required of them in connection with their 7 office, provided such expenses and per diem be are approved by a unanimous wote of said the board, and a mileage 8 9 allowance of swelve 12 cents (\$.12) per a mile in attending 10 board meetings or when engaged in the business of the irrigation district. 11

12 [2] Bo commissioner or any other officer named in this 13 act shall may in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the 14 15 board, or in the profits derived therefrom, and for any violation of this provision, such officer shall be decade is 16 guilty of a misdemeanor and his conviction thereof shall 17 18 work forfeiture of his office and he shall be punished by 19 fine--- mot--- exceeding-- five-- hundred dellars- (\$500,00)- or -by 20 isprisesect. in the coupty jeil-not croeding. siz. (6) ... coatha 21 or by both such fine and imprisoneest as provided in 22 94-7-401.

23 (3) The commissioners of said an irrigation district
 24 shall each furnish a bond in the penal sum of treaty-five
 25 hundred-dellars (\$2,500.00), with corporate survey

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1 conditioned for the faithful performance of their duties 2 under this acty, and the The secretary shall furnish bond, З with corporate surety, in the sum of enc-thousand-dellars 11 -(\$1,000-00), conditioned for the faithful performance of his 5 duties pursuant to this acty and for the proper and safekeeping of the records and documents of said the 6 7 district, in all cases where the obligations of said the 8 district, either existing or proposed, total two-hundred and 9 fifty thousand dollars (\$250.000.00) or over. In all other 10 cases the bond for seid the commissioners shall be in the 11 sum of one-thousand-dollars-(\$1,000,00). *

Section 18. Section 89-1220, R.C.H. 1947, is amended
to read as follows:

14 #89-1220. Purpose. This act is not intended to 15 conflict in any way sith present statutes governing 16 irrigation districts, but is for the sole purpose of making 17 it possible for one or more irrigation districts to function 18 jointly through a central control agency for the purpose of 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended 21 to read as follows:

22 *89-1311. Qualification of electors - and nature of 23 voting rights, how determined. (1) At all elections held 24 under the provisions of this act, except as herein otherwise 25 expressly provided, the following holders of titley or evidence of title, to lands within the district, herein designated electors, shall be are entitled to vote: 4.(a) all all persons having the gualifications of electors under the constitution and general and school laws of the state; 2.(b) Guardians quardians, executors, administrators, and trustees residing in the state; 3.(c) Denostic <u>domestic</u> corporations, by their dely organised <u>authorized</u> agents.

10 [2] In all elections held under this act, each elector 11 shall be is permitted to cast one vote for each forty 40 12 acres of irrigable land, or major fraction thereof, owned by 13 such the elector within the district, irrespective of the 14 location of such the irrigable lands within the tracts 15 designated by the commissioners for assessment and taxation 16 purposesy or within congressional subdivisions, platted lots 17 or blocks, (except as hereinafter provided for), election 18 precincts, or district divisions, but any elector owning any 19 less than forty 40 acres of irrigable land shall be is 20 entitled to one vote. Until actual determination of the 21 irrigable area under the proposed plan of reclasation 22 proposed is hed determined, all land included within the 23 boundaries of the district shall be deemed to be considered 24 irrigable land for election purposes. 25 (3) Where Whenever land is owned by co-owners, said

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1 the owners may designate one of their numbers or an agents 2 to cast the vote for said the owners, and one vote only for each forty 40 acres of irrigable landy or major fraction 3 thereof, shall may be cast by said the voting co-owner or a. 5 agent. Whenever land is under contract of sale to a 6 purchaser residing within the state, such the purchaser may 7 wote on behalf of the owner of said the land. When woting, 8 the agent of a corporation, or of co-owners, or the co-owner 9 designated for purpose of voting, or the purchaser of land 10 under contract of sale, as the case way be, shall file with 11 the secretary of the districty or with the election 12 officials, a written instrument of his authority, executed 13 and acknowledged by the proper officers of said the corporation, or by said the co-owners, or by the owner of 14 15 such land under contract of sale, as the case may be, and 16 thereupon seek the agent or co-owner, or purchaser, as the 17 case may be, shall-be-deesed is an elector within the 18 meaning of this act. Where Whenever the total irrigable acreage within any one district has been platted or 19 subdivided into lots or blocks to the extent of five-per 20 cent (5%) or more of the total acreage of the district, each 21 22 elector shall be is permitted to cast one wote for each one acre of irrigable land or major fraction thereof owned by 23 such the elector within the district, irrespective of the 24 25 location of such irrigable lands within the tracts

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designated by the commissioners for the assessment and 1 2 taxation purposes or within the congressional subdivisions. 3 but any elector owning any less than one 1 acre of irrigable land within said the district shall be is entitled to one 4 vote. The balloting shall take place in the following 5 6 manner: Hen-{10} votes or less, separate ballots vill be 7 used; more than ten-(10) votes, the elector shall vote in 8 blocks of tes 10 using one ballot for each tes 10 votes and 9 separate ballots for odd votes over multiples of tem 10. The 10 election shall otherwise conform with the provisions set-out 11 in-costics of 89-1308 of this chapter. It chall be the duty 12 of the the chairman of the commissioners, or such 13 commissioner as he may delegate, 40 shall determine before each election whether the provisions of this peragraph 14 15 subsection are in force or whether the provisions heretofore 16 set out shall apply." 17 Section 20. Section 89-1319, B.C.E. 1947, is amended 18 to read as follows:

19 *89-1319. Application of act. This act shall apply 20 only when twenty 20 or more owners of land with water rights 21 appurtemant thereto, serving at least two thousand asses of 22 land contiguous in location or of seasonably compact area; 23 all are being served by one stream and its branches or from 24 one source of water supply, and in which the rights to the 25 use of water shall have been determined by decree of a court

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of competent jurisdiction and at least 2,000 acres of land, 1 2 contiguous in location or of reasonably compact area, are з being served by the single stream or source." 4 Section 21. Section 89-1320, E.C.H. 1947, is amended 5 to read as follows:

6 #89-1320. Petition_--hearing_ and metide--order of 7 court-consistioners. Whenever the owners of land and water 8 rights, as described in section 89-1319, desire to organize for the purposes mentioned in this act, a petition to that 9 10 effect, signed by not less than sisty-per seat 60% of the 11 individual landowners who shall represent not less than 12 fifty-one per sent 51% of the irrigable acres to be affected 13 by such the proposed district and fifty-one-per-sent 51% of 14 the inches cubic feet of water per second decreed or 15 adjudicated in the stream in from which such the irrigation 16 district is to operate, shall be filed with the clerk of the 17 district court of the county or counties in which even the 18 district is to be created. It-is-provided, -however, -that-for 19 For the purposes purpose of determining whether the 20 requirement requirements of acreage and cubic feet of water inches per second has have been met by the petition, water 21 22 diverted from the adjudicated stream and distributed under 23 ether irrigation districts other than the one to be created 24 under this act, shall pay not be considered; however, such 25 water and acreage shall be required to pay any and all

1 assessments the same as other water and acreage affected by 2 irrigation districts created under this act. Upon filing of 3 said the petition, the court shall set a date for a hearing on the petition- and a written notice not less than five 5 4 5 days prior to such the hearing shall be mailed to each 6 landowner or water right owner affected by the proposed 7 district. If the court finds, from such hearing, that an 8 irrigation district, as prayed for in the petition, is 9 feasible and practical, the court shall issue an order 10 creating such the irrigation district, which shall constitute the authority for the district to function for 11 12 the purposes and intent as outlined in this act. The court 13 shall appoint five commissioners, who shall be are 14 landowners or water right owners, affected by such districty 15 to act until the first annual meeting, an provided hereafter.* 16 17 Section 22. Section 89-1322. R.C.H. 1947, is amended

to read as follows: 19 *89-1322. Duty of trustees-limit on, levy, to-cover 20 expense-detersization of levy- and indebtedness ether than 21 warrant indebtodness set to be created. The board of 22 trustees shall be authorised to may develop the source of 23 supply i to clean, isprove, and develop the channel of the 24 streamy; and the do and perform other work on the main distributing system as will be beneficial to the better 25

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distribution of the waters of such the decreed water right 1 stream, but in no case shall may the board, to cover the 2 expenses of such work, levy to exceed twenty-five 25 cents 3 ù. per acre in any one year. It-is-ferther-provided, that when Whenever waters of the stream under the irrigation districty 5 6 created by this act, are commingled with other waters or it 7 is difficult to determine 4000 how many acres are irrigable by the water rights held in such the stream, the acre basis 8 9 of levy shall be determined by the number of inches cubic 10 feet of water per second owned by such party or parties at 11 the rate of ease inch of water, statutory-accounted .025 cubic feet of water per second to the acre. It--is-further 12 provided, that the The board shall have as authority to Hay 13 14 not issue bonds or the incur any indebtedness other than 15 warrant indebtedness under the limitations proposed imposed 16 by law."

Section 23. Section 89-1411, R.C.H. 1947, is amended
to read as follows:

19 "89-1411. Seeping and notice publication Notice of 20 hearing. On such petition being filed, the district court or 21 judge thereof shall make an order fixing the time and place 22 of for a hearing same and directing that notice thereof be 23 given. Thereupon the clerk of said the court shall cause to 24 be published at least once a week for two 2 successive 25 calendar weeks, in the official a newspaper of general

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1 circulation in the county where said the petition is filed, 2 a notice stating the time and place <u>fixed</u> by the district 3 court fired when and where the hearing on seid the petition will be had and containing a brief statement of the matters B 5 set forth in said the petition and the object thereofts if If any portion of the lands sought to be excluded from the 6 7 district lies within any other county or counties, then 8 said the notice shall also be published as provided above provided in the official a newspaper of such general 9 10 circulation in the other county or counties. The first 11 publication of said the motice shall be may not be less than 12 thisty 30 days prior to the time mentioned in said the 13 notice for said the hearing."

14 Section 24. Section 89-1616, R.C.B. 1947, is amended 15 to read as follows:

16 #89-1616. Pepalty for interfering Interference with 17 commissioners or with distribution system - penalty. Any 18 person who shall in any manner interfore interferes with the 19 commissioners of an irrigation districty or their lawful 20 agent or employee in the carrying out of the powers 21 conferred by this act, or who shall shange changes or tanper 22 tampers with any lock box, head gate, or other device for 23 the apportionment or distribution of water- installed by or under the authority of such the commissioners, or who shall 24 25 in any manner obstructs or shange changes the flow

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1 of water in the distribution system of any irrigation 2 district without authority of the commissioners of the 3 districty shall, in the discretion of the commissioners, be 4 subject to a forfeiture of his right to the delivery of 5 water through the distribution system of the districty so 6 long as such acts shall continue, and shall likewise be is 7 punishablo-by-a-fino-of-not-lens-than-tea--dellass---(#10,00)-8 9 isprisoneest-is-the-county-dail-for-act-lege-thas-ose---(1) 10 11 12 imprisonment obstructing a public officer or criminal 13 aischief, as appropriate, and is punishable as provided by 14 94-7-302 or 94-6-102, as applicable." 15 Section 25. Section 89-1701, R.C.H. 1947, is amended 16 to read as follows:

17 #89-1701. Limitations on debt-incurring power. (1) The 18 board of commissioners or other officers of the district 19 shall-have no power-to may not incur any debt or liability 20 whatever, either by issuing bonds or otherwise, except as 21 22 Czcoss-of--stob---orpross---protisions--shall--be---shd-resain 23 abcolgtoly-woidy-oxcopt-that-for-the-perpose-of-organisation 24 er-for-asy-of-the issediate-purposes-of-this-asty-or-to-aste 25

1 2 4 indebtedness of as many dollars as there are - to res - in - the à. 5 therefor. No irrigation district may become indebted, in any 6 manner or for any purpose in any one year, in an amount 7 8 exceeding 15% of the assessed valuation of the district. 9 except as provided in subsection (2). 10 [2] (a) For the purpose of organization: for any of 11 the issediate purposes of this chapter: to make or purchase 12 surveys, plans, and specifications: for streas gauging and 13 gathering data: or to make any repairs occasioned by any 14 calamity or other unforeseen contingency, the board of 15 commissioners may, in any one year, incur the indebtedness 16 of as many dollars as there are acres in the district and 17 may cause warrants of the district to issue therefor. 18 (b) For the purpose of organization, for any of the 19 immediate purposes of this chapter, or to meet the expenses 20 occasioned by any calamity or other unforeseen contingency. 21 the board of commissioners may, is any one year, incur (in 22 addition to the 15% limitation of subsection (1)) and 23 additional indebtedness not exceeding 105 of the assessed 24 valuation of the district and may cause warrants of the 25 district to issue therefor.

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1	(c) The limitation of subsection (1) does not apply to
2	<u>varrants issued for unpaid interest on the valid bouds of</u>
3	any irrigation district.
4	(d) The limitation of subsection (1) does not apply to
5	any boads issued under this chapter pursuant to a provision
6	<u>which expressly supersedes the limitation.</u>
7	(3) Any debt or liability incurred in excess of the
8	ligitations provided by the irrigation district laws is
9	Toid."
10	Section 26. Section 89-1703, R.C.B. 1947, is amended
11	to read as follows:
12	#89-1703. Petition for bonds and action-thereon
13	issuance of bonds. (1) For-the-purpose of providing the
14	necessary-funds-for-constructing-the-mesoscery-irrigation
15	canals and worksy including drainage worksy works works for
16	the generation and distribution of electrical energy within
17	caid-districty-andacquiringtheaccossarypropertyand
18	cighta—therefor,-and-for-the-purpose-of-20quiring-hy
19	purchase,erethervise,vaters,waterrighte,ethte ,
20	rosorroirs,rosorroir-sitos,-and-irrigation-vortey-drainage
21	workey-and-works-for-the-generation-and-distribution-of
22	electrical energy constructed, or partially constructed, and
23	for
24	o r to be thereafter increated incident to -such - construction
25	oracquicitionofsuchvorksandpropertyisoluding

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1	administrativo, onginooping-and-logal-expenses,-and-forthe
2	assurption, as principal. or guaranter, of indobtodness to
3	the-Quited-States-on-account-of-district-lands,-and-forthe
4	purpese-ofothorvicocarryingout-the-provisions-of-this
5	acty-and-of-providing-a-cur-cufficient-to-paytheinterest
6	onall-of-such-bonds for-five-(5) years,-or-loss,-the-board
7	of-coasissioners of any districty heretofore or heresftor
8	organisedunder the provisions of this ast, -nay-authorise
9	and issue the negotiable seapen bonds of - the - districty - as
10	andin-the-manage-haroizefter-provided,-1-sus-sufficient-to
11	rodean - or pay ally or any portiony of the emisting
12	indobtaines
13	bonds,-dolingwont-interest-scorpens-and-assreed-interestyer
14	Varrantey-together-with-all-delinguent-and-accrued-interesty
15	whether such indebtedness he due er not due, or which has or
16	137-1@0110@-boccso-payable-at-the-optics-of-the-districty
17	or by concent of the bondholdery or by any lawful actan y
18	487beinsludedacaportion-of-the-poecesary-funds-for
19	which said bonds are authorized and signed. The board of
20	commissioners of a district established under the provisions
21	of chapter 12 of Title 89 may authorize and issue negotiable
22	<u>coupon bonds for the district for the purpose of providing</u>
23	the necessary funds:
24	(a) for constructing the necessary irrigation canals
25	and works, including drainage works, and constructing works

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1	for the generation and distribution of electricity within
2	the district and for acquiring the property and rights
3	necessary therefor:
4	<u>(b) for acquiring, by purchase or otherwise, waters,</u>
5	<u>vater rights, canals, reservoirs, reservoir sites,</u>
6	irrigation works, drainage works, and works for the
7	generation and distribution of electricity, whether such
8	vorks are constructed or partially constructed:
9	(c) for meeting the expense incurred incident to the
10	construction or acquisition of such works and property,
71	including administrative, engineering, and legal expenses;
12	(d) for assuming, as principal or quarantor,
13	indebtedness to the United States on account of district
14	lande:
15	(e) for providing a sufficient amount of money to pay
16	the interest on all negotiable coupon bonds of the district
17	for a period not exceeding 5 years:
18	(f) for redeeming or paying all or any portion of the
19	existing indebtedness of the district, evidenced by
20	outstanding bonds; delinguent interest coupons and accrued
21	isterest; or warrants, together with all delinguent and
22	accrued interest, whether such indebtedness has or may
23	hereafter become payable at the option of the district, by
24	consent of the bondholders or by any lavial means; or
25	(g) for otherwise carrying out the provisions of the

1 irrigation district laws.

2 (2) No bonds provided for in this section shall may be authorized or issued by or on behalf of any irrigation 3 district organized hereunder, and no contract shall gay be 4 5 made with the United States as provided in section 89-1301, provided, except upon a petition signed by at least sixty 6 per-centur-(60%), in number and acreage, of the holders of 7 title or evidence of title to lands included within said the 8 district, or by seventy five per centum at least {75%}, in 9 10 number and acreage, of the holders of title or evidence of 11 title to such lands who are residents of the county or counties in which lands of the district are situated. Such 12 The petition shall be addressed to the board of 13 commissionerst, shall set forth the aggregate amount of 14 bonds to be issued, and the purpose or purposes thereof +_ 15 shall have attached thereto an affidavit verifying the 16 17 signatures to said the petitions, and shall be filed with the secretary of the board of commissioners. When bondsy 18 19 herever, are issued for the sole purpose of redeeming or 20 paying the existing and outstanding bonds or warrants, or both, including delinguent and accrued interest, of such 21 district, such bonds may be authorized and issued in the 22 manner provided for by sections 89-1712 and 89-1713. 23

24 (3) Upon the filing of such the petition, the board of
 25 commissioners shall, by appropriate order or resolution,

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authorize and direct the issuance of the bonds of the 1 district to the amount and for the purpose or purposes 2 3 specified in the petition; fix the numbers, denominations, and maturity or maturities of easid the bonds; specify the ш rate of interest thereons and whether payable annually or 5 6 semiannually; designate the place of payment of said the bonds and the interest coupons, within or without the state 7 of Sontana; prescribe the form of said the bonds and 8 9 interest coupons to be attached thereto; and provide for the 10 levy of a special tax, or assessment as provided in this act 11 provided on all the lands in the district for the irrigation 12 and benefit of which said the district was organized and 13 said the bonds are issued, or said the contract is to be 14 made, sufficient in amount to pay the interest on and principal of said the bonds when due and all amounts to be 15 16 paid to the United States under any contract between the 17 district and the United States, acompanying which bonds of 18 the district have not been deposited with the United States as provided in section 89-1301 provided. 19

20 (4) If contract is to be made with the United States
21 as <u>provided</u> in section 89-1301 provided, and bonds are not
22 to be deposited with the United States in connection with
23 such the contract, the board of commissioners meed not
24 authorize the issuance of bonds, or if bonds are required in
25 addition to such the contract, the commissioners may

authorize bonds only for the amount needed in addition to
 such the contract. Such order or resolution shall also
 provide for the confirmation proceedings in the district
 court bereinafter mentioned as provided in 89-1704."

5 Section 27. Section 89-1704, R.C.S. 1947, is amended 6 to read as follows:

7 #89-1704. Confirmation by district court. (1) Within ten-{10} days after the adoption of the order or resolution 8 9 mentioned in the preceding section, the board of commissioners shall file a petition in the district court of 10 11 the judicial district where is leasted the office of 12 said the boardy is located to determine the validity of the 13 proceedings had relative to the issuance of said the bonds 14 and to the levy of said the special tax or assessment.

15 (2) Such action shall be in the nature of a proceeding
16 in rem, and jurisdiction of all parties interested shall be
17 had by <u>giving</u> notice given as hereinafter provided. Such The
18 petition shall set forth;

19 (1) (a) generally, the establishment and organization
20 of the district;

(2) (b) a certified copy of the petition mentioned in
 the preceding section;

23 (2) (c) a certified copy of the order or resolution
 24 mentioned in the preceding section;

25 (4) (d) a prayer for the confirmation of the

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proceedings of the board stated in the petition, and for the
 confirmation of the bond issue and the special tax or
 assessment levied to pay the bonds and interest thereon.

4 (2) (3) Upon the filing of said this petition in the 5 district court, the court or - ludge - the real shall fix the 6 time for the hearing of said the petition, which shall say 7 not be less than fifteen-(15) days from the date of filing 8 the petition in said the court, and shall order the clerk of 9 the court to give notice of the filing of said the petition 10 and the date of the hearing thereony by publication at least 11 once a week for two 2 calendar weeks in a newspaper 12 published or of general circulation in the county where the 13 office of the board of commissioners of the district is 14 situatedy and also by posting a written or printed copy of such notice in at least three public places in each division 15 16 of the district, the first of such publications and such posting to be not less than fifteen (15) days prior to the 17 18 date fixed for said the hearing.

19 (3) (4) (4) feid The notice shall state the substance of 20 the petition and the time and place fixed for the hearing 21 thereon, and that any person interested in or whose rights 22 may be affected by the issuance or sale of said the bonds, 23 or the levy of said the special tax or assessment, or the 24 proceedings had or to be had by the said board of 25 commissioners with respect to said such matters, may, on or before the day fixed for the hearing of seid the petition,
 deser to or answer said the petition, and may appear at said
 the hearing and contest the granting of the prayer of said
 the petition, and the entry of any order of confirmation
 pursuant therets.

(5) Any person interested in or whose rights may be 6 7 affected by the issuance or sale of said the bonds, or the 8 levy of said the special tax or assessment, or the proceedings had or to be had by the board of commissioners 9 of the district in connection with said such matters, and 10 11 the entry of any order of confirmation pursuent-theretoy may 12 enter his appearance in such proceedings and desur-to of answer said the petition and contest the granting of the 13 14 prayer of said the petition.

15 (4) (6) The provisions of Title 93 respecting the 16 deserver -or answer to a verified complaint shall be are 17 applicable to a deserver or an answer to said the petition. 18 The persons so desarring to or answering said the petition 19 shell-be are the defendants in the proceeding, and the board 20 of commissioners shall be is the plaintiff. Every material 21 statement of the petition, not specifically controverted by 22 the answery shall be taken as true, and every holder of 23 title or evidence of title to lands included in the district 24 failing to answer or-denue-to the petition shall be doomed 25 considered to admit as true all the material statements

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hereof thereof. The procedure in such action shall be
 determined by Title 93.

(5) (7) Upon the hearing, the district court shall find 3 u and determine whether the provisions and requirements of the preceding section have been complied with- and whether 5 notice of the filing of the petition in the district court 6 7 and of the time and place of the hearing theseen has been 8 dely given for the time and in the manner beroin prescribed-9 and shall---have---pewer--end-jerisdistion-to may examine and 10 determine the regularity, legality, and validity of the proceedings had preliminary and relative to the issuance of 11 the bonds, and the levy of the special tar or assessment in 12 the petition mentioned, and the legality and validity of 13 said the bonds and special tax or assessment, and any and 14 15 all actions taken by the board of commissioners in 16 connection with said such matters, and shall hear all 17 objections filed to said the proceedings, or any part thereof, or to the issuance of $\frac{1}{100}$ the bonds, or the levy 18 19 of the said special tax or assessment or any portion thereof. The court, in inquiring into the regularity, 20 legality, and validity of said the proceedings, shall 21 22 disregard any error, omission, or other irregularity which 23 does not affect the substantial rights of the parties to 24 said the proceedings. The court may ratify, approve, and 25 confirm said the proceedings in whole or in party and may

ratify, approve, and confirs said the bonds and special tax 1 or assessment, and enter its judgment enderroe accordingly. 2 (6) From any such judgment er-decree an appeal may 3 be taken to the supreme court at any time within sen-..(10)ш 5 days from the entry of such the judgment endesce. Such The appeal shall be taken, perfected, and heard in the manner 6 7 prescribed by Title 93 covering appeals from district courts to the supreme court. If no such appeal **be is taken within** 8 the is time aforesaid, or if taken and the judgment or 9 decree of the district court be is affirmed by the supreme 10 11 court, such the judgment or degree shall be forever 12 13 boads-aad-said-special-taz-or-assessest-aad-the-same-shall 14 Rever-vo-ciled isto question is cortoin the state is 15 final. The costs of said the proceedings shall be allowed or 16 apportioned between the parties in the discretion of the 17 court." Section 28. Section 89-1705, R.C.M. 1947, is amended 18 to read as follows: 19 *89-1705. Details relating to bonds. (1) All bonds 20 21 issued under the provisions of this act shall be payable in 22 gold-seis-of-the-United-States-of-the-standard-weight--and 23 finances -- [finances]--eristing-at-the-tim-ef-the-issue;-and shall run for a period not longer than forty-(40) years from 24

25 their date, but may contain a clause providing for their

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1 prior redenption and payment, at the option of the board of 2 commissioners of the district, on any interest payment date after five- (5) years from their date. Instead of straight 3 maturity bonds, bonds may be issued to mature serially at 4 5 such times and in such amounts as the board of commissioners shall determine, but no bonds so issued shall may run for a 6 7 longer period than forty-(40) years from the date of issue. 8 said The bonds shall bear interest from their date until paid, payable annually or semiannually, with the 9 10 installments of interest to date of maturity of principal to 11 be evidenced by appropriate coupons attached to each bond. 12 Said The bonds and interest coupons shall be payable at such 13 place or places, within or without the state of Bontana, as 14 the board of commissioners shall prescribe.

15 (2) Such The bonds shall be of such demomination or 16 demominationsy and in such formy as the board of 17 commissioners shall prescribe. An issue of bonds is bereby 18 defined to be all the bonds issued in accordance with a 19 resolution or order of the board of commissioners. Each 20 issue of the bonds of a district shall be numbered 21 consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of commissioners 22 23 shall fix the date of said the bonds, or they may divide any 24 issue into two (2) or more divisions and fir different dates 25 for the bonds of each respective division. The date of any bond must be subsequent to the order or resolution
 authorizing it and prior to its delivery to a purchaser from
 the district.

(3) All bonds issued hereunder shall be signed by the а president and attested by the secretary of the board under 5 the corporate seal of the district, and each of the interest 6 7 coupons to be attached to said the bonds shall be executed by the signatures of seid the president and secretary. Bach 8 bond shall be signedy and each interest coupon shall be 9 10 executed, by the president and secretary of the board of commissioners who may be in office at the date of said the 11 bond and coupons, or at any time thereafter prior to the 12 delivery of said the bond to the purchaser thereof from the 13 district. 14

15 (4) The board of commissioners may provide for the registration of bonds in their discretion. The secretary of 16 the board of commissioners and county treasurer, each shall 17 18 each keep a record of the bonds soldy or otherwise disposed ofr: their date, number, amount, saturity, or saturities; 19 to whom soldy; rate of interesty; and the place or places of 20 21 payment thereof." Section 29. Section 89-1713, R.C.H. 1947, is amended 22

23 to read as follows:

24 #89-1713. Purpose of bonds — petition, requirements.
25 and contents of. (1) hay in irrigation district may issue

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such refunding bonds for the purpose of redeeming or paying 1 the indebtedness, or any portion thereof, of the district, 2 whether represented by existing and outstanding bonds, 3 interest coupons thereof, or warrants, or-both, including 21 5 accrued and unpaid interest on said the bonds, coupons, and warrants, and whether such indebtedness be is due or not 6 duey or which has or may hereafter become payable at the 7 8 option of the district. or by consent fof the bondholders or warrant holders, or by any legal means, and 9 whether such indebtedness be is now existing or may 10 11 hereafter be created, and there-shall-not be funds in the treasury of such the district are not available for the 12 payment of the same. Such The refunding bonds may be issued 13 in one or more series. The petition for such the refunding 14 bonds, signed, as required by law, by at least sist, por 15 sentum (60%) in number and acreage of the holders of title 16 or evidence of title to the lands included within said the 17 districty and addressed to the board of directors or 18 commissioners of the district, may contain the following 19 specifications, in addition to the matters now required by 20 21 la w------:

(a) Hew how many series of bonds shall be issued; and
(b) The the terms, conditions, and liens of the said
bonds, and the terms and conditions upon which each of said
the series of bonds shall be exchanged for outstanding bonds

1 of said the districty if the same are to be exchanged and not sold**;, and any such specifications whon sot forth in the** 2 said---petition---shall---be-controlling-upon-the-said-beard-of 3 ti. diractors-or-commissioners-The-petitioners-chall-set-forth 5 with -- particularity -- in -- such - specifications-the - contract-of 6 erchango-to-be-mado-and-they-shall--bayo--powr--to--lnoludo 7 8 or-rights,-oevenant-and-condition-whatseever-that-shall-be 9 dooxod---by-tho-said-potitioners-to-bo-for-tho-bost-intorosts 10 of-the-seid-district;-and-that-the-beard--of--directors--or 11 60221261626--0f--the--district--chill--have--the--perez-te 12 <u>##\$}0Figo---and---diregt---the---igguange---ef---the----beads</u> 13 14 irrigation - district - thereby. 15 (2) The specifications provided for in subsection (1). 16 when set forth is the petition, are controlling upon the 17 board of directors or compissioners. The petitioners shall 18 in the specifications set forth the contract of exchange to 19 be made, with particularity. The contract may include any 20 term, requirement, grapt, transfer of property or rights. 21 covenant, or condition considered by the petitioners to be 22 in the best interest of the district. The petition shall 23 state that the board of directors or cognissioners of the 24 district may authorize and direct the issuance of bonds 25 according to the specifications of the petition, make any 1 such contract, and bind the irrigation district under the

2 costract."

3 Section 30. Section 89-1801, R.C.N. 1947, is amended
4 to read as follows:

5 #89-1801. Tax or assessent to pay bonds and interest. 6 (1) All bonds and the interest thereon issued hereunder-7 and all payments due or to become due to the United States 8 under any contract between the district and the United 9 States, accompanying which bonds of the district have not 10 been deposited with the United States as provided in section 11 89-1301 provided, shall be paid by revenue derived from a 12 special tax or assessment levied as bereinafter provided 13 upon all the lands included in the district. except upon 14 such those lands as that have been included in such the 15 district on account of the exchange or substitution of water 16 under the provisions of section 89-1611, if any there bey 17 are any. and all the all lands in the district at the time 18 said the bonds are issuedy and all lands subsequently included which are so chargeable under the provisions of 19 20 this acty shall be and remain liable to be taxed and 21 assessed for the payment of said the bonds and interesty and 22 all payments due or to become due to the United States under 23 any contract between the district and the United States, 24 accompanying which bonds of the district have not been deposited with the United States as provided in section 25

1 89-1301 previded.

2 (2) It- chall-be-the duty-of-the The board of 3 commissioners of the district, in the order or resolution ā. authorizing and directing the issuance of bonds of the 5 district, mentioned in section 89-1703, to shall provide for 6 the annual levy and collection of a special tay or 7 assessment upon all the lands included in the district and 8 subject to taxation and assessment ac aforemid, sufficient 9 in amount to meet the interest on said the bonds promptly 10 when and as the same accrues, and to discharge the principal thereof at their maturity, or respective maturities, and to 11 meet all payments due or to become due to the United States 12 13 under any contract between the district and the United States, accompanying which bonds of the district have not 14 been deposited with the United States as provided in section 15 16 89-1301 provided, at the times such payments by such 17 contract become due and payable. Where then straight 18 saturity bonds are issued, is-shall-be-the-duty-of the board 19 of commissioners of the district to shall create and 20 maintain a sinking fund sufficient to pay and discharge said 21 the bonds at maturity. If said the bonds shall be are issued for twenty (20) years or less, there shall be annually 22 23 levied for such the sinking fund a special tax or 24 assessment, as aforesaid, sufficient to produce a net amount 25 represented by the quotient found by dividing the aggregate

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ascunt of the principal of the bonds by the number of years 1 2 the bonds have to run; but if said the bonds are issued for more than treaty (20) years, then it that is not be 3 ш necessary to levy a special tax or assessment for sinking 5 fund until the treation 20th year prior to the maturity of the bonds, at which time and each year thereafter there 6 7 shall be levied and collected a special tax or assessment 8 sufficient to produce a set sum equal to one-tweatieth 41/201 part of the aggregate amount of the principal of the 9 10 bonds.

11 (3) A certified copy of such resolution shall be filed with the clerk of the board of county commissioners of each 12 county in which the lands of the irrigation district lie, 13 14 and the special tax or assessment therein provided for shall 15 be levied and collected as bereisafter prescribed, and when so collected shall, by the county treasurer having custody 16 17 of the funds of the district, be placed in a special fund and used solely for the payment of all encurve due or to 18 19 20 the district and the United States, aggorganing-which bonds 21 of -- tho -- district -- bare -- pet -- been -- dependence -- vith -- the -- Vaited 22 States as in costion 89-1301-provided, and for -- the -- payment 23 of--the-interest-on-and-prisebpal-of-said-bonds-then-duey-se 24 long-as-any-of-seid-bonds-or-the--into rest- soupens--therete apportaining -- ponsis -- ortetanding -- and -- uspaid bonds issued 25

1 under the provisions of this chapter and interest thereon. 2 so long as any of the bonds or interest coupons remain 3 outstanding and unpaid. Whenever the payments are made for 4 amounts due or to become due to the United States, under a 5 contract between the district and the Guited States. 6 accompanying which bonds of the district have not been 7 deposited with the United States as provided in 89-1301, the special fund shall be known as the United States contract 8 9 fund. 10 (4) In the event that for any reason any a special tax

11 or assessment hereinahove provided for cannot or chall may 12 not be levied and collected in time to meet any interest falling due on any bonds issued hereender, then the board of 13 14 commissioners shall have the power and authority, and it 15 shall be their duty, to provide for and pay such interest when due, either out of any of the funds in hand in the 16 treasury of the district not otherwise appropriated, or by 17 31 varrants drawn against the next district tax or assessment 19 levied or to be levied. Said These warrants shall be in 20 addition to those mentioned in section 89-1701.

(5) The board of commissioners shall have power and authority to direct the investment of the funds in any bond sinking fund afereratidy in interest-bearing securities₇ whenever in their judgment the same investment may be to the best interest of the district. But-all <u>All</u> such securities shall be converted into cash in time to meet the principal
 on the bonds, payable from such sinking fund promptly at
 their maturity."

Section 31. Section 89-1803, R.C.E. 1947, is amended
to read as follows:

6 "89-1803. All irrigable lands chargeable alike. (1) All irrigable lands in each irrigation district, except such 7 8 lands as have been that are included within such the district on assessed because of the exchange or substitution 9 of water, under the provisions of section 89-1611, shall pay 10 11 at the same rate for all purposes for which maid the lands 12 are charged + providing however, except as othervise 13 provided by law. that there There may be a minimum charge of 14 five---dellars-(\$5.00) against each separately owned tract of 15 land regardless of its size, as hereisafter provided in 16 section 89-1804, and except that whenever whenever water 17 used for the irrigation of any lands within an irrigation 18 district shall be is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping 19 to each separate elevation shall be apportioned and levied 20 21 upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be 22 detersined fair and equitable by the board of commissioners 23 24 after considering the facts in each case. Such This apportionment shall be made by the board of commissioners 25

and included each year in the assessment provided for by
 contion 89-1804.

(2) The amount of such the assessment for maintenance, 3 operation, and pumping of water to each separate elevation, . whenever there are different elevations, shall be deterrined 5 6 by the board of commissioners in such manner, and upon such notice to the persons interested in said the district, as 7 said the board in its rules and segulations may provides. 8 and provided further, that where Shenever a contract shall 9 have has been made with the United States, the lands within 10 the district, whether originally included or later annexed 11 to the district, shall pay in accordance with the federal 12 reclamation laws and the public notices, orders, and 13 14 regulations issued thereunder, and in compliance with any contracts made by the United States with the owners of said 15 16 the lands, and in compliance further, with the contract 17 between the districts and the United States, and provided ferther, that where Whenever the works necessary for the 18 19 completed project shall-be are constructed progressively, 20 over a period of years, and that where wherever a portion of 21 the lands within the district are or can be irrigated one 1 year or more before the completion of the entire project, 22 then and in that ease, such those lands, so irrigated or 23 24 that can be so irrigated through the built portion of the project, shall pay for the cost of operating that portion of 25

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1 the project serving them with irrigation water, and also 2 shall pay such portion of the interest charges as its 3 irrigable area bears to the irrigable area of the entire 4 project, and is one of the project, and is having have 5 appurtement thereto a partial water right or partial rights 6 in a system of irrigation other than that of the districts, 7 the amounts payable shall be equitably apportioned."

8 Section 32. Section 89-1805, R.C.H. 1947, is amended
9 to read as follows:

10 #89-1805. Dotorsintion Procedere for the determination of irrigable area. (1) For the purpose of 11 determining the number of acres of irrigable lands in each 12 ferty-acre 40-acre tract or fractional lot as designated by 13 the United States public survey, or platted lot, if land is 14 15 subdivided in lots and blocks (or where whenever land shall be is owned in less than forty-acre 40-acre tracts or in 16 17 less than the platted lot, then against in each such tract) 18 of land in the district, the board of commissioners of any 19 irrigation district organized horevador established under the provisions of chapter 12 of Title 89, whenever decard 20 21 considered advisable and at any time except as otherwise 22 provided, may cause a careful topographical survey and map of said the lands to be made, as well as a specific 23 examination of the character of the soil of each such tract. 24 25 Upon completion of such the survey and mapsy and

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2 of said the board, to be held at the office of the board on a day to be fixed in said the notice, said the board will 3 а determine the irrigable area of each such tract of land in 5 the district and that it will hear and consider any objection on the part of any landowner in the district to 7 such the determination and to adjustment of the irrigable area of said the district or of any lands within any tract я 9 or subdivision thereof. It shall not be is not necessary to 10 describe said the tracts in said the notice. Such The 11 notice shall be given by publication, once a week for eve 2 12 successive calendar weeks, in a newspaper of general 13 circulation in the county where the office of the board is 14 located, and where wherever lands of any irrigation district 15 lie in more than one county, such the notice shall also be 16 published in a newspaper or newspapers of general 17 circulation in each such county. The last publication of said the notice shall be at least five 5 days prior to the 18 date fixed for said the meeting. 19

eramination, the board shall give notice that at a meeting

20 (2) At such the meeting, the board shall proceed to
21 determine and fix the number of acres in each tract or
22 subdivision irrigable from the works or proposed works of
23 the districty and shall bear all persons interested who may
24 appeary and shall continue in session from day to day
25 (exclusive of Sundays and legal holidays) as long as may be

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1 necessary and until said the determination of irrigable area shall-have-been is completed. The board shall hear and 2 3 receive all evidence offered, including maps and surveys 4 caused to be prepared by it as well as maps and surveys 5 prepared by any owner of lands. Upon such determination, 6 the irrigable area so fired shall becomey and thereafter bey 7 the acreage upon which any special tax or assessment shall be levied, and each irrigable acre shall pay at the same 8 9 rate as every other acre of irrigable land in said the district, shall page and except as otherwise provided by 10 11 law, any Any special tax or assessment lewied for any 12 purpose shall-be is a lien upon the entire fertr-ages 13 40-acre tract or fractional lot as designated by the United 14 States public survey, or platted lot, if land is subdivided 15 in lots and blocks (or where whenever land shall be is owned 16 in less than forty are 40-acre tracts or in less than the 17 platted lot, then against each such tract) of land in the 18 district of which said the irrigable area forms a part, and 19 said the lien shall attach to said the entire tract as of 20 the first day of January 1 in the year in which said the 21 special tax or assessment is levied.

(3) Upon completing such the determination, the board
shall fix, by appropriate resolution or order, the total
acreage and the irrigable acreage of each such tract or
subdivision, and shall cause to be prepared a list of all

lands in said the district, which list shall contain an 1 accurate description of each such forty-acre 40-acre tract 2 or fractional lot as designated by the United States public 3 survey, or platted lot, if land is subdivided in lots and 4 blocks (or where whenever land shall be is owned in less 5 6 than forty-acre 40-acre tracts or in less than the platted 7 lot, then against of each such tract) of land in said the district, the total acreage and the number of irrigable 9 acres therein as so fixed and determined, and the name of 10 the owner, or holder of title or evidence of title thereof, 11 ascertained as provided in section 89-1201. Such This list, 12 when completed and adopted, shall be filed in the office of 13 the board of commissioners and shall remain there for public 14 inspection. I certified copy of such the resolution and 15 list shall be filed with the county clerk and recorder of 16 each county in which any portion of the lands in said the 17 district are situated; provided, hevever, there shall be 18 onitted from such sopy The lands not situated in the county in which such copy is filed shall be omitted from the copy. 19 20 (4) No special tax or assessment shall may be levied 21 against any forty acre 40-acre tract, or fractional lot as 22 designated by the United States public survey- or platted 23 lot, if land is subdivided in lots and blocks (or where 24 whenever lands chall be are owned in less than forty acre 25 40-acre tracts or in less than the platted lot, then against

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each such tract) found by said the board to contain no 1 irrigable land; nor shall may any lien created after the 2 order of determination herein -- provided for attach to any 3 4 such tract, nor shall may the ownery or ownersy of any tract or tracts have any vote or votes in any proceeding or 5 election under the provisions of Chapter 146 of the Laws of 6 1909, or any amendment thereof, or act supplementary 7 thereto, after the making of such order, unless his said 8 their land, or a portion thereof, be is found by said the 9 10 board to contain an area irrigable from the worksy or 11 proposed works, of said the district.

12 (5) Upon the determination provided for in this 13 section, the board of commissioners shall have the power to 14 <u>may</u> refund any taxes paidy or cancel any unpaid taxes or 15 assessmentsy levied upon an acreage in excess of that so 16 fixed by said the order of determinationy and where whenever 17 necessary, may issue varrants therefor.

(6) Within sisty 60 days after such the resolution 18 adopting said the list, the board of commissioners may 19 petition the district court for confirmation of their acts 20 in determining the irrigable area, as aforesaid, and in 21 refunding or canceling any taxes or assessments. The 22 majority in number and acreage of the holders of title or 23 evidence of title to lands in said the district, ascertained 24 as provided in this act provided, say, likewise, within such 25

sixty day 60-day periody petition the district court for 1 2 review of the actions of the board of commissioners. But 3 Hoveyer, one of such these proceedings, if prosecuted to 4 determination, shall be is exclusive of the other. Opon 5 such proceeding, the court may order any assessment of taxes 6 upon any land or lands to be reduced or raised according to 7 the irrigable area as found by the courty or taxes я previously levied upon any area shown to be excessive- to be 9 refunded or canceled.

10 (7) The provisions of **eestion** 89-1402, regarding the 11 procedure as well as the right and time to appeal-shall 12 apply to any proceeding instituted in -- purguance---ef---the 13 previsions of pursuant to this section; provided, hewever, 14 that nothing in this section shall be deened or construed to 15 affect or impair affects or impairs the lien of any bonds 16 issued by the district, and provided, further, that if 17 confirmation proceedings are held and a certified copy of 18 the order of confirmation be is filed with the county clerk 19 and recorder of the county in which any portion of said the 20 lands is situated, it chall not be is not necessary to file in seid the office the certified copy of the resolution and 21 order of the board, or of the list, -horoinabove provided for 22 23 in this section.

24 (8) Provided, - however, -that-where Whenever districts
 25 have been established in order to cooperate cooperate with

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1 Onited States under the federal reclamation laws the 2 heretofore---or---heretter---enacted- or under any act of 3 Congress which shall permit permits the performance by the United States of work in this state. for 5 the purposes of construction of irrigation works, including 6 drainage works, or for purchase, extension, operation, or 7 maintenance of construction works τ or for the assumption as я principal or guarantor, of indebtedness to the United States 9 on account of district laws lands, the determination of the 10 irrigable area of the lands in **said** the district may be made 11 by the seid board of commissioners in the manner provided in 12 this section provided or by the United States at the option 13 of the latter, and, if the United States determines the 14 irrigable area, the proceeding for the apportionment and 15 distribution of the costs of the proposed works or 16 improvements -- hereinefter provided for in section 89-1806 17 shall may not be had."

18 Section 33. Section 89-1806, R.C.H. 1947, is amended
19 to read as follows:

 20
 #89-1806. Determination of irrigable area

 21
 apportionment and distribution of costs of proposed works or

 22
 improvements Apportionment of costs when bonds issued. (1)

 23
 Whenever a petition for the issuance of bonds of any

 24
 irrigation district organised berownder shall bave

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 established under the provisions of chapter 12 of Title 89

has been filed, as bereinbefore provided in costion 89-1703 provided, the board of commissioners of such the district shall examine, or cause to be examined, each forty-acre 40-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where whenever land shall be is owned in less than forty-acre 40-acre tracts or in less than the platted lot, then against each such tract) of land in said the district, and cause a careful topographical survey and map to be made, in the manner provided for in section 89-1805. Upon such examination, the board shall determine

the number of irrigable acres in each such tract; and shall 12 apportion and distribute the cost of the works or 13 inprovements for which said the bonds are to be issued, over 14 the tracts within said the district according to the 15 irrigable area in each of said the tracts or subdivisions, 16 so that each such irrigable acre shall-be is required to 17 bear the same burden of such costs as each other irrigable 18 acre in said the district, and the except as otherwise 19 provided by law. The special tax or assessment levied to 20 meet the principal of and interest on said the bonds so 21 authorized, -- shall become is a lien upon the entire tract of 22 which such irrigable area forms a part or portion as of the 23

24 first-day-of January 1 of the year in which such the special

25 tax or assessment is levied, and the number of irrigable

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acres in each such tract as so determined shall may not be
 diminished but may be increased during the term for which
 any such bonds may be are issued or until the bonds shall be
 are liquidated in full.

5 (2) Provided, however, that if Whenever a proceeding 6 for the determination, in whole or in part, of the irrigable 7 area of the lands in said the district has already been had, 8 or a topographical survey or maps thereof prepared, or a 9 court confirmation of said prior proceedings had, in part or 10 in full, the said board may, in its discretion, adopt all or 11 such portions of said the prior proceedings; and in-such---an 12 erest,it ... chall be ... be ... be cause an 13 additional survey, or maps, or examination, of any of such tracts to be again made, or to redetermine the irrigable 14 area of any such tract. 15

(3) The board shall make such determination after the 16 hearing had and shall fix the total acreage and the 17 irrigable acreager and shall cause a list of such irrigable 18 area to be made and filed, and the proceedings of the board 19 in connection with such determination, including said the 20 hearing and notice of said the hearing, and order or 21 resolution fixing the irrigable area and the preparation and 22 filing of said the list, shall conform to the requirements 23 24 set forth in section 89-1805. It such the hearing, the said board shall also determine the amount and rate per acre 25

1 necessary to be levied against each irrigable acre in the 2 district to meet the interest on and principal of said the authorized bond issue, and any tax levied for such purposes 3 shall be is a lies upon the entire tract of which said the 5 irrigable area forms a part. If any landowner in the 6 district shall-appears before the board at said that 7 time and pay pays in cash the amount fixed against his said land as its proportion of the amount found necessary for the purposes for which said the bonds were authorized and are to 9 10 be issued, his land shall be excluded from the lien of the 11 bond issue and the amount of bonds intended to be issued shall be reduced by the amount of such payment. Any person 12 13 interested who shall-fail fails to appear before the board 14 at said the secting shall gay not thereafter be permitted to 15 contest the proceedings of said the boardy or any part 16 thereof, except upon special application to the court in the 17 proceedings for the confirmation of said the bonds and a 18 showing of reasonable excuse for failure to appear before 19 said the board of commissioners.

20 (4) In case any such landowner makes objection to the 21 proceedings of said the board in determining the irrigable 22 area in his own or any other tract of landy or the amount or 23 rate per acre of the special tax and assessment to be levied 24 against each irrigable acre in the district for the purposes 25 of the proposed bond issue, and said the objection is

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1 overruled by the board, such the objection without further 2 proceedings shall be regarded as appealed to the district 3 courty and shall, with the other proceedings of said the 4 board at said the meeting, be heard at the proceedings to 5 confirm said the bonds, as provided in section 89-1704, and 6 when so confirmed, said the order overruling such objection 7 and confirming the order of the board determining the 8 irrigable area of each tract of land and apportioning the 9 cost of the improvement thereto, shall become final, 10 binding, and conclusive upon said the landowner and upon the district, unless appealed from as provided in seid section 11 12 89-1704 previded.

13 (5) Provided however, that ... wherever Whenever the 14 irrigable area of the lands in any irrigation district shall 15 have has been determined and confirmed, no owner or holder of title or evidence of title to lands in said the district, 16 17 during the period of when any bonds thereafter authorized 18 shall be are issued and outstanding, shall gay have the 19 taxable acreage of his said lands fixed or adjudicated in 20 the manner provided by sections 89-1404 to through 89-1408, 21 in such manner or to such extent as to reduce the acreage 22 subject to the payment of such the bonds or interest 23 thereony or in such manner as to affect the security of 24 such the bonds or interest thereon."

25 Section 34. Section 89-1811, R.C.M. 1947, is amended

to read as follows:

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2 #89-1811. County treasurer as custodian of district З funds. The county treasurer of the county where the a office of an irrigation district is located shall be is the custodian of all funds belonging to the district, and he 5 shall pay out such funds upon the order of the board of 6 7 commissioners, except **48-40** payments on bonds and interest, for which no order shall be is necessary. Where If any 8 9 portion of the funds belonging to a district have has been 10 collected for the purpose of establishing a reserve fund. 11 the county treasurer shall pay such portion to the district 12 on order of the district's board of commissioners, who shall 13 have-setherity-to may invest the same in state or federal 14 bonds or in savings certificates of institutions insured by 15 the federal deposit insurance corporation. Where moneys of 16 a district in the United States contract fund established 17 pursuant to section--- 89-1809 89-1801(3) are in excess of 18 those needed to pay a district's next succeeding annual 19 contract obligation or obligations to the United States, 20 such excess r or any part thereof r may, upon order of the 21 district's board of commissionersy and with the consent of 22 the United States officer administering the contract for 23 which the contract fund has been established, be paid to the 24 district for use in meeting other obligations of the district. Such orders of the board of commissioners shall be 25

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signed by the president and secretary of the boardy and
 shall bear the official seal of the district.*

3 Section 35. Section 89-1816, R.C.M. 1947, is amended
4 to read as follows:

5 #89-1816. Proceeds of sale. Whenever-pursuant-to-the 6 provisions of the proceeding section, any lot, tract, piece, 7 or parcel of land included within and forming a part of any 8 irrigation district created under the provisions of this 9 chapter, or included within any extension of such district, shall be is sold by the treasurer of the county sherein 10 where such land is situated, in the manner provided by law 11 for the sale of lands for delinquent taxes for state and 12 county purposes, and takes or assessments of such the 13 irrigation district form all or a part of the taxes for 14 which such lands are sold, it shall be the duty of the 15 16 county treasurer making such sale or sales to shall place to 17 the credit of the proper funds of such irrigation district, 18 out of the proceeds of each the sale or sales, the total tax or assessment of such the irrigation district, inclusive of 19 the interest and penalty thereon as provided for by the 20 21 general laws relating to delinguent taxes for state and 22 county purposes, and whenever any such lands are struck off at such sale to the county wherein where the same they are 23 24 situate, situated pursuant to the provisions of soction 84-4124, the county treasurer of such the county must, upon 25

1 the issuance of the certificate of tax sale to said the 2 county, issue to said the irrigation district, and in its 3 corporate name, a debenture certificate for the amount of ш taxes and assessments due to said the irrigation district 5 from said the lands and premises so sold, inclusive of the 6 interest and penalty thereon, which certificate shall be is evidence of and conclusive of the interest and claim of said 7 8 the irrigation district in, to, against, and upon the lands 9 and premises so struck off to said the county at such the 10 tax sale, and free-and after the issuance of said the 11 certificate, the sum named therein and the taxes and 12 assessments of anid the district evidenced thereby shall 13 bear interest at the rate of one-per-center per 1% a month 14 from the date of said the certificate until redeemed in the 15 manner provided for by law for the redemption of the lands 16 sold for delinquent state and county taxes, or until paid 17 from the proceeds of the sale of the lands and premises 18 described thereiny in the sanner provided for by section 19 2235 of these codes law, and duplicates of such certificates 20 so issued to said the irrigation district shall be filed in 21 the office of the county clerk and county treasurer of said 22 the county with the certificate of tax sale of said the lands and premises." 23

24 Section 36. Section 89-1819, R.C.M. 1947, is amended 25 to read as follows:

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1 #89-1819. Sale by county commissioners when land not 2 redeemed. When the lands and premises so sold for taxes, and 3 upon and against which the certificates berein provided for have been issued for the taxes and assessments of such the ĺ. 5 irrigation districty are not redeemed within the time 6 provided for by section 84-4132, it-shall-be-the duty-of the 7 board of county commissioners of said the county, within 8 three 3 months thereafter, to shall cause said these lands 9 and premises to be sold as provided for by section -2235 of 10 these sedes lay, and out of the proceeds of the sale, thereof the county treasurer of mid the county shall pay to 11 12 the holder or holders of such the certificates the sum or 13 seas for which the same were issued, with interest as 14 therein provided for to the date of said the sale of said 15 the lands by the board of county commissioners, and no lands 16 and premises so held by any county, and against which the 17 certificates provided for by this chapter have been issued-18 shall may, upon such sale, be struck off or sold for a less 19 sum than the amount of taxes and assessments of said the 20 irrigation district represented by said the certificate, 21 inclusive of the interest thereon, in addition to the state 22 and county taxes, if any, against the same."

23 Section 37. Section 89-2003, R.C.M. 1947, is amended
24 to read as follows:

25 #89-2003. Contents of petition. Said The petition of

1 89-2002 shall set forth the amount of the outstanding bonds. 2 coupons, and other indebtedness, if such-there be any, 3 together with the general description of the same them, showing the amount of each description of described 5 indebtedness and the ownership, so far as known, of the same 6 indebtedness. Said The petition shall also state the assets 7 of said the district, including any irrigation system, if R any systems, dams, reservoirs, canals, franchises, water 9 rights, and other property; and in case any proposition has 10 been made by the holders of said the indebtedness to settle 11 the same indeptedness, said this proposition, together with 12 any plan proposed to carry the same proposition into 13 execution, shall be included in said the petition." 14 Section 38. Section 89-2109, R.C.M. 1947, is amended 15 to read as follows: 16 #89-2109. Interpretation of act title. The object of 17 this act-being-to-sectro-tho-irrigation-of-lands-of-tho state, and thereby title is to promote the prosperity and 18 19 welfare of the people, -its previsions shall be liberally 20 construed-so-as-to-offect-the-objects---and---purposes---horois 21 set forth of fontana through the sound management of the 22 state's water resources, and its provisions are to be given 23 a liberal interpretation.* 24 Section 39. Section 89-2126, R.C.H. 1947, is amended 25 to read as follows:

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1 #89-2126. Gover to -- approve -- generates United States contracts - court approval required. The board of 2 commissioners of any irrigation district, before the making 3 of any contract with the United States hereunder, shall Ц commence a special proceeding in the district court of the 5 state, in--and by which the proceedings of the board and of 6 said the district leading up to the making of any such 7 contract and the validity of the terms thereof shall be 8 judicially examined, and approved and affirmed, or 9 disapproved or and disaffirmed.* 10

Section 40. Section 89-2203, B.C.H. 1947, is amended
to read as follows:

of 13 #89-2203. Amendment and circulation 14 15 petition having as many signers as are required by this section 89-2201 shall may be declared void, but the court 16 may at any time permit the petition to be amended in form 17 18 and substance to conform to the facts, if the facts justify 19 the organization of a drainage district. Several similar petitions for the organization of the same district may be 20 circulated, and, when filed, together shall together be 21 22 regarded as one petition having as many signers as there are 23 separate adult signers on the several filed petitions filed, 24 who own lands within gaid the proposed drainage district. 25 All petitions for the organization of said the district 1 filed prior to the hearing on said the petition shall be 2 considered by the courty the same as if filed with the first 3 petitions placed on file, and the signatures thereon 4 contained shall be counted in determining whether sufficient 5 landowners have signed coid the petition."

6 Section 41. Section 89-2302, R.C.H. 1947, is amended
7 to read as follows:

8 #89-2302. Election of commissioners --- terms regular 9 term of office. (1) The regular election of commissioners 10 shall be held annually on the first Tuesday in April of each 11 year: the term of office of commissioners shall commence on 12 the first Tuesday in Hay following their election. At the 13 first regular election following the organization of a 14 district, and in districts beretefore organized and in 15 existence on the-date-when-this-ast-takes-effect March 1. 16 1921, and which, on petition, has have been divided into 17 divisions, as hereisbefore provided, at the first regular election following the date of the order making such 18 division, there shall be elected three commissioners, one 19 commissioner being elected from each division of which he 20 21 aust be an actual landowner and resident of ... the ... county ... or 22 counties; one of such the counissioners, to be determined by 23 lot, shall hold office until the first Tuesday in Hay in the 24 year following his election, another of such the commissioners, to be determined by lot, shall hold office 25

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1 until the first Tuesday in May in the second year following 2 his election, and the third of such the commissioners shall 3 hold office until the first Tuesday in Hay in the third year а following his election; thereafter one commissioner shall be 5 elected each year, who shall hold office for a term of three 6 3 years and until his successor is elected and qualified; 7 provided, that the person elected as a commissioner in each 8 year to succeed the commissioner whose term is then expiring 9 must be elected as a commissioner from the same division as 10 the commissioner whom he is to succeed.

11 (2) Each commissioner must be a resident of a county
 12 where a portion of the district lands are situated."

Section 42. Section 89-2348, R.C.M. 1947, is amended
to read as follows:

15 "89-2348. Assossents -- for -- construction Construction 16 assessments --- annual installment. At the time of the 17 confirmation of such the assessments as provided in 89-2342, 18 it-shall-be-- compotent -- for the court to may order the assessment for construction of new worky to be paid in not 19 20 more than fifteen (15) annual installments, of such amounts 21 and at such times as will be convenient for the 22 accomplishment of the proposed work, or for the payment of 23 the principal and interest of such notes or bonds of said 24 the district, as the court shall grant grants authority to 25 issuer for the construction of new work. The court shall

also- by such order- fix a date on which the first 1 2 installment of the assessments for construction shall become due, not more than five---{5} years after the date of the 3 order, and each of said the installments shall draw interest 4 5 at the rate fixed by the court in accordance with law from 6 the date of said the order." Section 43. Section 89-2411, R.C.M. 1947, is amended 7 8 to read as follows: #89-2411, Grissions--how--corrected Correction of 9 10 omissions. Omission to assess benefits, or to assess for 11 construction, or to make additional assessments, or to make 12 assessment for repairs, or to award damages to any one or 13 more tracts of land or easements in a drainage district, or 14 to assess benefits, or-to assess for construction, or to 15 assess for repairs, or to make additional assessments 16 against any corporation which should have been assessed, 17 shall-neither does not affect the jurisdiction of the court 18 to confirm the report nor to render the benefits 19 assessed, or the assessments for construction, or additional 20 assessments, or assessments for repairs against other lands, 21 or assessments against any corporation voidabler; but the 22 commissioners of said the drainage district shall 23 thereafter, as soon as they discover the omission, or as 24 soon as they have notice thereof, either agree with the 25 omitted parties upon the proper assessments and award the

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1 damages or assess such benefits, make such assessments for 2 construction, and make such additional assessments against 3 the omitted lands and corporations, and award such damages 4 as shall-be are just, and report the facts, together with 5 such assessments and awards, to the court."

Section 44. Section 89-2701, R.C.M. 1947, is amended
to read as follows:

#89-2701. Continuation of existing districts. All 8 9 drain districts of the state of Montana, organized prior to 10 the shadt cont of soctions 89-2201 to 89-2502 and social 89-2801-te-89-2820, inclusive March 1, 1921, and continued 11 12 in existence pursuant to section 89-2820 100, Chapter 129. 13 Laws 1921, shall continue their existence as drain districts 14 under and pursuant to all of the provisions of said sections 15 drainage district laws, and the commissioners of such drain 16 districts shall have all the power and authority conferred 17 by said-sections <u>the drainage district laws</u> upon the 18 sections." 19

20 Section 45. Section 89-2711, R.C.M. 1947, is amended 21 to read as follows:

*89-2711. Bules of practice applicable. The same rules
relative to the filing of domurrers, answers and replies
which now oxist relative to other causes of action affecting
the title to real property shall apply in actions to exclude

lands from a drainage district, and all issues arising may
 be tried by the court without a jury."

3 Section 46. Section 89-2810, R.C.E. 1947, is amended
4 to read as follows:

5 #89-2810. Assessments against annexed lands. Said The 6 commissioners shall, after the time for appeal is past, 7 assess against each parcel, tract, and easement of and-said 8 the annexed lands reasonable and just benefits, and shall 9 assess against said these lands for construction and repairs 10 such sums as shall be are just. If lands similarly situated 11 and benefited are found in said the district, the annexed 12 lands shall be assessed a like sum of benefits and damages as said the similar lands in the said district to which they 13 are sought to be annexedy and a sum for construction of said 14 15 the work, which shall be equal to all sums assessed, for the 16 complete construction of the drainage system in the district to which they are sought to be annexed against lands having 17 18 the same assessment of benefits in said the district." 19 Section 47. Section 89-2926, E.C.H. 1947, is amended

20 to read as follows:

*89-2926. Waste and contamination of ground-water
<u>groundwater</u> prohibited-ercoption-duties of departments. (1)
No ground-waters groundwater shall may be wasted without
beneficial was. The department shall require all wells
producing waters which contaminate other waters to be

1 plugged or capped. It shall also require all flowing wells 2 to be so capped or equipped with valves that the flow of 3 water can be stopped when the water is not being put to 4 beneficial use. Likewise, both flowing and nonflowing wells shall be so constructed and maintained as to prevent the 5 6 waste, contamination, or pollution of ground waters 7 ground water through leaky casings, pipes, fittings, valves, 8 or pumps either above or below the land surface, provided. 9 however, in the following cases the withdrawal or use of 10 ground water groundwater shall not be construed as waste 11 under this act:

(1) (a) the withdrawal of reasonable quantities of
 ground----water groundwater in connection with the
 construction, development, testing, or repair of a well or
 other means of withdrawal of ground waters groundwater;

16 (2)(b) the inadvertent loss of ground vator 17 groundwater owing to breakage of a pump, valve, pipe, or 18 fitting, if reasonable diligence is shown by the person in 19 effecting the necessary repair;

20 (3) (c) the disposal of ground—water groundwater 21 without further beneficial use that must be withdrawn for 22 the sole purpose of improving or preserving the utility of 23 land by draining the same, or that <u>must be</u> removed from a 24 mine to permit mining operations or to preserve the mine in 25 good condition; (4)(d) the disposal of ground-water groundwater used
 in connection with production, for reduction producing,
 reducing, smelting, and milling metallic ores and industrial
 minerals, or that displaced from an aguifer by the storage
 of other mineral resources.

6 (2) The department at any time may hold a hearing on 7 its own motion, or upon petition signed by a representative 8 body of users of ground water groundwater in any area or 9 subarea, to determine whether the water supply within such 10 area or subarea is used in compliance with this act."

Section 48. Section 89-2929, R.C.M. 1947, is amended
to read as follows:

13 "89-2929. Reports to be in addition to other reports 14 required by water well drillers. The forms, reports, and 15 information required to be filled [filed] by this act shall 16 be are in addition to all other reports and information 17 which the drillers of water wells in the state of Hontana 18 are required by law to file with agencies of the state of 19 Hontana."

20 Section 49. Section 89-3425, B.C.M. 1947, is amended
21 to read as follows:

*89-3425. Challenging voters---oath--penalty for false
 subcorription. An elector may challenge any person who claims
 the right to vote. Before voting, any person challenged must
 take and sign the following cath or affirmation administered

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1 by an election judge:

2 "I(name) solemnly swear (or affirm) that I am an 3 elector of the district and have not woted today." Palse 4 subscription to the oath or affirmation is perjury and 5 pumishable as such is false swearing and is <u>pumishable</u> as 6 provided in 94-7-203."

7 Section 50. Section 89-3449, R.C.M. 1947, is amended
8 to read as follows:

9 #89-3449. Other agencies not affected. The provisions of this act shall not be construed to, do not in any manner, 10 abrogate or limit in any sanner the rights, powers, duties, 11 12 and functions of the department, conservation consistion, districts, 13 conservation department of health and environmental sciences, or the fish and game commission, but 14 shall-bo-held-to-bo are supplementary thereto and in aid 15 16 thereof."

17 Section 51. Severability. If a part of this act is 18 invalid, all valid parts that are severable from the invalid 19 part remain in effect. If a part of this act is invalid in 20 one or more of its applications, the part remains in effect 21 in all valid applications that are severable from the 22 invalid applications.

23 Section 52. Repealer. Sections 89-128, 89-1901, and
24 89-2818, R.C.M. 1947, are repealed.

-End-

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1977 Legislature Code Commissioner Bill - Summary

Senate Bill No. 26

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE AND REPEALING SECTIONS 89-128, 89-1901, AND 89-2818.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. <u>89-105</u>. In subsection (2) an incorrect reference to "this section" is deleted as erroneous and superfluous. The phrase "whenever an association is involved" is added to 89-105(2) to indicate that the section applies when a water user association is not involved (in which case securing approval of such an association would be impossible). In 89-105(3) the reference to investigation is deleted as it is covered by 89-132.1, which deals with the state water plan.

Sections 2 and 3. <u>89-115 and 89-401</u>. Section 89-115(5) provides that income from operation of a water project goes into the general fund (a 1973 amendment which replaced water fund by general fund). This conflicts with 89-401, which provides for income being placed in appropriate earmarked funds. Since the 1973 amendments to 89-115 are more recent they should prevail and with this in mind the reference to the general fund was deleted from 89-115 and 89-401 was re-written to accommodate the change.

Section 4. <u>89-125</u>. Subsection (7) is deleted. As enacted in 1933 it related to water laws at that time and with the new water permit system the subsection is obsolete.

Section 5. <u>89-319</u>. Subsection (1) of the amendment inserts a sentence which was erroneously dropped.

Section 6. <u>89-823</u>. The reference to "inch", with respect to measurement of water, is changed to "cubic foot of water per second" (c.f.s.) because of 89-817.

Sections 7 and 8. <u>89-867 and 89-2911</u>. The definitional sections are amended so that the surface and ground water codes can be brought together. The restrictions on use of water for transportation are added to 89-2911(d).

Sections 9 and 10. <u>89-899 and 89-2930</u>. A sentence permitting the Department of Natural Resources and Conservation (DNR) to employ legal counsel is added. The purpose is to permit the creation of one section under recodification so that the surface and ground water laws can be combined.

Section 11. <u>89-907</u>. The reference to 89-810 is deleted as this section was repealed in 1973. As the amended section reads, an applicant would list any notice of appropriation filed with the clerk and recorder.

Section 12. <u>89-911</u>. In the proviso, "shall" is changed to "does" to indicate that the exemption of the section is conditional and not that reservoirs must be less than 20 acre-feet.

Section 13. <u>89-1015</u>. The phrase "in the premises" is deleted. It is a relic of older legal jargon and is confusing in light of present day terminology.

Section 14. <u>89-1202</u>. The awkward phraseology in connection with determining the proper court for filing the petition is revised to be clearer.

Section 15. <u>89-1204</u>. The section is extensively rewritten for clarity.

Section 16. <u>89-1205</u>. The section is rewritten for clarity, and the bonding amount requirements are deleted, as they are superseded by 89-1208 according to an opinion of the Attorney General (Vol. 14, page 119).

Section 17. <u>89-1208</u>. The penalty provision is keyed to the official misconduct section of the criminal code. The penalty at present would stay the same but changes in the criminal code would be reflected in 89-1208.

Section 18. <u>89-1220</u>. The word "present" is deleted since its presence would necessitate a constant reference to statutes in existence at the date 89-1220 was enacted. The apparent intent was simply not to conflict with other irrigation district laws.

Section 19. <u>89-1311</u>. In (1)(c), reference to a duly "organized" agent of a corporation is changed to "authorized". The original act had "authorized", and apparently by error it was changed to "organized". Section 20. <u>89-1319</u>. As it stood, this one sentence section lacked a verb. It has been rewritten to remedy this situation.

Section 21. <u>89-1320</u>. Use of "inch" to measure water is changed to "c.f.s." to comply with 89-817.

Section 22. <u>89-1322</u>. "Inch" is changed to "c.f.s." and the word "proposed" (by law) is changed to "imposed" (by law), for clarity.

Section 23. <u>89-1411</u>. The references to "official" newspaper are changed to a paper of "general circulation". Declaring one newspaper as the official county newspaper may have consequences with respect to freedom of the press.

Section 24. <u>89-1616</u>. The section is rewritten to incorporate the language of the criminal code. Note that the penalty appears to be substantially increased. This is illusionary, however, since under the present 89-1616 one could still be prosecuted under Title 94 if the conduct violated the criminal code.

Sections 25 and 52. <u>89-1701 and 89-1901</u>. Section 89-1901 is repealed and 89-1701 is extensively rewritten to combine the provisions on limitations on indebtedness.

Section 26. <u>89-1703</u>. Subsection (1) is considerably rewritten for clarity.

Section 27. <u>89-1704</u>. The references to "demurrer" and "demur" are deleted as they are obsolete under the new Rules of Civil Procedure.

Section 28. <u>89-1705</u>. The provisions relating to the gold standard are deleted. They seem inappropriate at present with the United States off the gold standard.

Section 29. $\underline{89-1713}$. The last portion of the section is rewritten for clarity.

Section 30. <u>89-1801</u>. Subsection (3) is rewritten to provide a definition of the "United States contract fund", which is referred to elsewhere. The special fund referred to is enlarged to encompass amounts due in general and not just to the federal government.

Sections 31, 32, 33. <u>89-1803, 89-1805, 89-1806</u>. The phrase "except as otherwise provided by law" is added to make clearer the fact that different lands may bear different charges.

Section 34. <u>89-1811</u>. The section refers to a United States contract fund established pursuant to 89-1809. This is not the correct sectional reference; 89-1809 is replaced by 89-1801(3) where the fund referred to is defined. Sections 35 and 36. <u>89-1816 and 89-1819</u>. The references to section 89-2235 are replaced by "law". Section 89-2235 was repealed in 1941 and by using "law" the various modes of selling county tax lands are made available.

Section 37. <u>89-2003</u>. "Description of" is replaced by "Described" for clarity.

Sections 38 and 52. <u>89-128, 89-2109, 89-2818</u>. The object of this amendment is to create a general "liberal interpretation" section for the entire title rather than to have several such sections for various chapters (89-2109 is amended, the other sections repealed).

Section 39. <u>89-2126</u>. The "or" connecting disapproved and disaffirmed is changed to "and", in order to parallel the structure for approved and affirmed.

Section 40. 89-2203. The reference to "this section" is deleted, as 89-2201 is the section which imposes the requirements on the number of signers of the petition.

Section 41. <u>89-2302</u>. The requirement that a commissioner be a resident of county containing some portion of district lands is rewritten for clarity.

Section 42. <u>89-2348</u>. Since there are several types of assessments discussed, a reference to a specific section (89-2342) is added for clarity.

Section 43. <u>89-2411</u>. The words "they have" are added for grammar and clarity, with reference to notice by the commissioners.

Section 44. <u>89-2701</u>. The amendment will give the commissioners of older drainage districts the same powers as those of more recent districts.

Section 45. <u>89-2711</u>. The reference to "demurrers" is deleted because of the new Rules of Civil Procedure.

Section 46. <u>89-2810</u>. In the phrase "easement of and said", "and said" is deleted for clarity.

Section 47. <u>89-2926</u>. The phrase "without beneficial use" is deleted from the first sentence. As it read, there was a problem with both waste and beneficial use "coexisting".

Section 48. <u>89-2929</u>. "Filled" is changed to "filed" to correct an error.

Section 49. <u>89-3425</u>. The penalty provisions are amended to coincide with the criminal code.

Section 50. <u>89-3449</u>. The reference to "conservation commission" is deleted as this commission no longer exists and its work is carried out by the Department of Natural Resources and Conservation.

Section 51. Severability.

Section 52. Repealer. See the comments for sections 25 and 38.

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1	SENATE BILL NO. 26
2	INTRODUCED BY GRAHAM
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO WATER USE; BEPEALING SECTIONS
6	89-128, 89-1901, AND 89-2818, R.C.M. 1947."
7	
8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 89-105, R.C.M. 1947, is amended to
10	read as follows:
11	"89-105. Power of department to construct works and to
12	ast-beyond jurisdistics Construction of works by department.
13	(1) Subject to the approval of the board, the department
14	may construct works, the cost of the construction to be paid
15	wholly by means of or with the proceeds of revenue bonds
16	hereinafter authorized or of a grant to aid in financing the
17	construction from the United States or any instrumentality
18	or agency thereof and of other funds provided under the
19	authority of this act for the construction. Before
20	constructing a project, the department shall estimate the
21	cost of the project, the cost of maintaining, repairing, and
22	operating it, and the revenues to be derived therefrom, and
23	a project may not be constructed unless, according to the
24	estimates, the revenues to be derived will be sufficient to
25	pay the cost of maintaining, repairing, and operating it_{τ}
17	no changes in $\underline{SB26}$, & will not be re-run.

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and to pay the principal and interest of revenue bonds which may be issued for the cost of the project; however, in connection with the issuance of revenue bonds, the failure of the department to make the estimates required by this section or to make them in proper form does not affect the validity or enforceability of those bonds or of the trust indenture, resolution, or other security therefor.

8 (2) Howvery-should Should the bid of the lowest 9 responsible bidder on any capital improvement associated 10 with public works ac defined in this section exceed the 11 department estimates of the cost of the improvements by more 12 than five per cent (5%), the department shall obtain 13 approval from the water user association, whenever an 14 association is involved, before the bid is accepted: 15 however, capital improvements of an emergency nature 16 necessary to protect life or property or to supply immediate 17 needs for water do not require such approval.

18 (3) The A purpose of this act is to meet, so far as 19 possible, a state-wide <u>statewide</u> need for the conservation 20 and use of water, through the construction and operation of 21 projects designed for those purposes. The department say 22 make isvestigations as are necessary to plan and out at 23 OCEPTChebsive-State-vide-program-of-water-gendervation. The 24 projects to be finally constructed shall qualify as parts of 25 the state-wide statewide program and shall be approved by

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the board upon the showing of their prospective ability to 1 2 meet, through the sale of water or other services, the cost 3 of operation, maintenance, and repair and the amortization of the cost of the construction, hewever, the failure 4 5 of the board to determine the prospective ability of a 6 project does not affect the validity or enforceability of 7 the bonds or of the trust indenture, resolution, or other 8 security therefor.

9 (4) The department may exercise any of its powers:
10 (a) Image in an adjoining state, unless the exercise of
11 that power is not permitted under the laws of that state or
12 of the United States.

13 (b) In in a national forest or public domain of the 14 United States adjoining, or located in, the state of 15 Montana, unless the exercise of those powers is not 16 permitted under the laws of the United States, i

17 (C) In in an adjoining country, unless the erercise of
18 those powers is not permitted under the laws of that country
19 or of the United States or under the treaties between that
20 country and the United States."

21Section 2. Section 89-115, R.C.H. 1947, is amended to22read as follows:

23 **89-115. #ator-funds-rates-sale of water---appeals
 24 to--board-lease and cale. of water-rights-and-property
 25 <u>Hanagement of property --- water contracts</u>. (1) Subject to

this act and section 89-103.2, the department may fix and 1 establish the prices, rates, and charges at which the 2 resources and facilities made available under this act may 3 4 be sold and disposed of; enter into contracts and agreements, and do those things which in its judgment are 5 6 necessary, convenient, or expedient for the accomplishment 7 of the purposes and objects of this act, under such general 8 sequilations rules and upon such terms, limitations, and conditions as it prescribesta the The department shall enter 9 10 into the contracts and fix and establish the prices, rates, and charges so as to provide at all times funds which will 11 12 be sufficient to pay all costs of operation and maintenance 13 of the works authorized by this act, together with necessary repairs thereto, and which will provide at all times 14 15 sufficient funds to meet and pay the principal and interest 16 of all bonds or loans as they severally become due and 17 payablet, this This act does not authorize any change, 18 alteration, or revision of those rates, prices, or charges as established by any contract entered into under this act 19 except as provided by the contract. 20

21 (2) An incorporated water users association that is 22 sustaining and responsible for the operations of a works is 23 solely liable for any court action which may be brought 24 against it or the state of Hontana for any injury or damages 25 occurring on the works caused by a failure to maintain safe ٦

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Approved by Con	pmittee
on Agriculture	Livestock
& Irrigation	

1	SENATE BILL NO. 26
2	INTRODUCED BY GRAHAM
Э	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIPY THE LAWS BELATING TO WATER USE: REPEALING SECTIONS
6	89-128, 89-1901, NWD 89-2618, B.C.H. 1947."
7	
8	BE IT BWACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 89-105, R.C.M. 1947, is amended to
10	read as follows:
11	#89-105. Peror-of-department-te-genstrust-worke-and-te
12	act-beyond jericlication Construction of works by department.
13	(1) Subject to the approval of the board, the department
14	way construct works, the cost of the construction to be paid
15	wholly by means of or with the proceeds of revenue bonds
16	hereinafter authorized or of a grant to aid in financing the
17	construction from the United States or any instrumentality
18	or agency thereof and of other funds provided under the
19	authority of this act for the construction. Before
20	constructing a project, the department shall estimate the
21	cost of the project, the cost of maintaining, repairing, and
22	operating it, and the revenues to be derived therefrom, and
23	a project may not be constructed unless, according to the
24	estimates, the revenues to be derived will be sufficient to
25	pay the cost of maintaining, repairing, and operating it,
	e no changes in <u>91926</u> , & will not be re-run.
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and to pay the principal and interest of revenue bonds which may be issued for the cost of the project; however, in connection with the issuance of revenue bonds, the failure of the department to make the estimates required by this section or to make them in proper form does not affect the validity or enforceability of those bonds or of the trust indenture, resolution, or other security therefor.

8 (2) Howstory should should the bid of the lowest 9 responsible bidder on any capital improvement associated 10 with public works as defined in this section exceed the 11 department estimates of the cost of the improvements by more than five-per-sect (5%), the department shall obtain 12 13 approval from the water user association, whenever ap 14 association is involved, before the bid is accepted; however, capital improvements of an emergency mature 15 16 necessary to protect life or property or to supply immediate 17 needs for water do not require such approval.

(3) The A purpose of this act is to meet, so far as 18 19 possible, a state-vide statewide need for the conservation 20 and use of water, through the construction and operation of projects designed for those purposes. The department say 21 22 #ake-istoctiqations-ap-acoonsery-to-plas-apd-carpy-out-a comprehensive-state-vide-program-of-water-conservation, The 23 projects to be finally constructed shall qualify as parts of 24 the state-wide statewide program and shall be approved by 25

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the board upon the showing of their prospective ability to 1 2 seet, through the sale of water or other services, the cost 3 of operation, maintenance, and repair and the amortization ш of the cost of the construction+, heverer, the The failure 5 of the board to determine the prospective ability of a 6 project does not affect the validity or enforceability of 7 the boads or of the trust indenture, resolution, or other 8 security therefor.

9 (4) The department may exercise any of its powers:
10 (a) To in an adjoining state, unless the exercise of
11 that power is not permitted under the laws of that state or
12 of the United States-:

(b) In in a national forest or public domain of the
United States adjoining, or located in, the state of
Hontana, unless the exercise of those powers is not
permitted under the laws of the United States.

17 (C) In in an adjoining country, unless the exercise of
18 those powers is not permitted under the laws of that country
19 or of the United States or under the treaties between that
20 country and the United States."

21 Section 2. Section 89-115, E.C.E. 1947, is amended to 22 read as follows:

23 #89-115. Bater funds-rates-sale of veter appeals
 24 te-board-lease and sale of veter rights and property
 25 <u>Management of property water contracts</u>. (1) Subject to

1 this act and section 89-103.2, the department may fix and 2 establish the prices, rates, and charges at which the resources and facilities made available under this act may 3 4 be sold and disposed of: enter into contracts and 5 agreements, and do those things which in its judgment are 6 necessary, convenient, or expedient for the accomplishment 7 of the purposes and objects of this act, under such general 8 regulations rules and upon such terms, limitations, and 9 conditions as it prescribest, the The department shall enter 10 into the contracts and fix and establish the prices, rates, and charges so as to provide at all times funds which will 11 12 be sufficient to pay all costs of operation and maintenance 13 of the works authorized by this act, together with necessary 14 repairs thereto, and which will provide at all times 15 sufficient funds to meet and pay the principal and interest 16 of all bonds or loans as they severally become due and 17 payables, this act does not authorize any change, 18 alteration, or revision of those rates, prices, or charges 19 as established by any contract entered into under this act 20 except as provided by the contract.

21 (2) In incorporated water users' association that is 22 sustaining and responsible for the operations of a works is 23 solely liable for any court action which may be brought 24 against it or the state of Hontama for any injury or damages 25 occurring on the works caused by a failure to maintain safe

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COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill No. 26, Second reading, be amended as follows: 1. Amend page 12, Section 6, line 6. Following: "inch" Insert: "inch or" 2. Amend page 35, Section 21, line 13. Following: "51% of" Insert: "," 3. Amend page 35, Section 21, line 14. Following: "inches" Insert: "inches of water or" Following: "per second" Insert: "," 4. Amend page 35, Section 21, line 21. Following: "per second" Insert: "or inches of water" 5. Amend page 37, Section 23, line 9. Following: "inches" Insert: "inches or" 6. Amend page 37, Section 23, line 11. Following: "measurement," Insert: "one inch of water, statutory measurement, or"

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1	SFNATE BILL NO. 26	1	engage in using, selling, or disposing of the same, who has
2	INTRODUCED BI GRAHAM	2	a surplus of water not used or soldy or any person having a
3		3	surplus of water, and the right to sell and dispose of the
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY BEVISE AND	4	same, is required, upon the payment or tender to the person
5	CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS	5	entitled thereto of an amount equal to the usual and
6	89-128, 89-1901, AND 89-2818, R.C.M. 1947."	6	customary rates per inch INCH OB <u>cubic foot of water per</u>
7		7	second, to convey and deliver to the person such the surplus
8	BE IT EWACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	8	of unsold water, or so much thereof for which said the
9	Section 1. Section 89-105, R.C.M. 1947, is amended to	9	payment or tender shall have been <u>has been</u> made, and shall
10	read as follows:	10	continue so to convey and deliver the same weekly so long as
11	#89-105. Power-of-department to-construct-werks and to	11	said the surplus of unused or unsold water exists and said
12	ast beyond jurisdistion Construction of works by department.	12	the payment or tender be is made as aforesaid."
13	(1) Subject to the approval of the board, the department	13	Section 7. Section 89-867, R.C.H. 1947, is amended to
14	may construct works, the cost of the construction to be paid	14	read as follows:
15	wholly by means of or with the proceeds of revenue bonds	15	"89-867. Definitions. Unless the context requires
16	hereinafter authorized or of a grant to aid in financing the	16	otherwise, in this chapter <u>the following definitions apply</u> :
17	construction from the United States or any instrumentality	17	(1) "Water" means all water of the state, surface and
18	or agency thereof and of other funds provided under the	18	subsurface, regardless of its character or manner of
19	authority of this for the construction. Before	19	occurrence, including geothermal water.
20	constructing a project, the department shall estimate the	20	(2) "Beneficial use" means a use of water for the
21	cost of the project, the cost of maintaining, repairing, and	21	benefit of the appropriator, other persons, or the public,
22	operating it, and the revenues to be derived therefrom, and	22	including, but not limited to, agricultural (including stock
23	a project may not be constructed unless, according to the	23	water), domestic, fish and wildlife, industrial, irrigation,
24	estimates, the revenues to be derived will be sufficient to	24	mining, municipal power, and recreational uses;, provided,
25	pay the cost of maintaining, repairing, and operating it_{r}	25	however, that a lise of water for slurry to export coal
Co	mmittee of Whole Amendments, 2 pgs involved are printed blue - Refer to Previous run for complete text. I	₩ I_R	-12 5526 D'READING

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2 contiguous in location or of reasonably compact area, are 3 being served by the single stream or source." a. Section 21. Section 89-1320, R.C.H. 1947, is amended 5 to read as follows: 6 #89-1320. Petitics,-hearing, and metico-order of 7 gover- consistences. Whenever the owners of land and water 8 rights, as described in section 89-1319, desire to organize 9 for the purposes mentioned in this act. a petition to that 10 effect, signed by not less than sisty per cost 60% of the 11 individual landowners who shall represent not less than 12 fifty-one-per-sent 51% of the irrigable acres to be affected

of competent jurisdiction and at least 2,000 acres of land,

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13 by such the proposed district and fifty-one-per-sent 51% of, 14 the inches INCHES OF WATER OR cubic feet of water per 15 second, decreed or adjudicated in the stream in from which 16 such the irrigation district is to operate, shall be filed with the clerk of the district court of the county or 17 18 counties in which such the district is to be created. It-is 19 provided, -- however, -- that -- for the purposes purpose of determining whether the requirement requirements of acreage 20 21 and <u>cubic feet of</u> water inches per second OB INCHES OF WATER 22 has have been set by the petition, water diverted from the adjudicated stream and distributed under other irrigation 23 24 districts other than the one to be created under this acty shall may not be considered; however, such water and acreage 25

distribution of the waters of such the decreed water right 1 stream, but in no case shall may the board, to cover the 2 expenses of such work, levy to exceed twenty-five 25 cents 3 per acre in any one year. It is further-provided, that when a. Whenever waters of the stream under the irrigation districty 5 6 created by this act, are commingled with other waters or it is difficult to determine just how many acres are irrigable 7 by the water rights held in such the stream, the acre basis 8 of levy shall be determined by the number of inghos INCHES 9 OR cubic feet of water per second owned by such party or 10 parties at the rate of one-inch-of-water,-statutory 11 12 BOASSFORCET, ONE_INCH_OF WATER, STAIDTORY_MEASUREMENT, OR .025 cubic feet of water per second to the acre. It- is 13 14 further-provided, that the The board shall have activity 15 te may not issue bonds or te incur any indebtedness other than warrant indebtedness under the limitations proposed 16 17 imposed by law." Section 23. Section 89-1411, B.C.M. 1947, is amended 18 to read as follows: 19 #89-1411. Hearing-and-actice--publication Notice of 20 hearing. On such petition being filed, the district court or 21 judge thereof shall make an order fixing the time and place 22 of for a hearing same and directing that notice thereof be 23 given. Thereupon the clerk of said the court shall cause to 24 be published at least cace a week for two 2 successive 25

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HOUSE OF REPRESENTATIVES

March 8, 1977

Committee of the Whole amendments to SENATE BILL NO. 26, third reading copy, as follows:

1. Amend page 12, section 6, line 6, Following: "inch" Strike: "INCH OR"

2. Amend page 35, section 21, line 13.
Following: "51% of"
Strike: ","

3. Amend page 35, section 21, lines 14 and 15. Following: "inches" Strike: "INCHES OF WATER OR" Following: "per second" Strike: ","

4. Amend page 35, section 21, line 21. Following: "per second" Strike: "OR INCHES OF WATER"

5. Amend page 37, section 23, lines 9 and 10. Following: "inches" Strike: "INCHES OR"

6. Amend page 37, section 23, line 12. Following: "measurement," trike: "ONE INCH OF WATER, STATUTORY MEASUREMENT, OR"

AND AS AMENDED BE CONCURRED IN

1 SENATE BILL NO. 26 2 INTRODUCED BY GRAHAM 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 4 CLARIFY THE LAWS RELATING TO WATER USE: REPEALING SECTIONS 5 89-128, 89-1901, AND 89-2818, R.C.H. 1947." 6 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 8 Section 1. Section 89-105, R.C.N. 1947, is amended to 9 read as follows: 10 11 #89-105. Power-of-department-to-construct-works-and-to act-beyond-jurisdiction Construction of works by department. 12 (1) Subject to the approval of the board, the department 13 may construct works, the cost of the construction to be paid 14 wholly by means of or with the proceeds of revenue bonds 15 hereinafter authorized or of a grant to aid in financing the 16 construction from the United States or any instrumentality 17 or agency thereof and of other funds provided under-the 18 authority--of--this--act for the construction. Before 19 constructing a project, the department shall estimate the 20 cost of the project, the cost of maintaining, repairing, and 21 operating it, and the revenues to be derived therefrom, and 22 a project may not be constructed unless, according to the 23 estimates, the revenues to be derived will be sufficient to 24 pay the cost of maintaining, repairing, and operating ity 25

1 and to pay the principal and interest of revenue bonds which 2 may be issued for the cost of the project; however, in 3 connection with the issuance of revenue bonds, the failure 4 of the department to make the estimates required by this 5 section or to make them in proper form does not affect the 6 validity or enforceability of those bonds or of the trust 7 indenture, resolutions or other security therefor.

8 (2) Howevery-should should the bid of the lowest 9 responsible bidder on any capital improvement associated 10 with public works as--defined--in-this-section exceed the 11 department estimates of the cost of the improvements by more 12 than five--per--cent--{5%}, the department shall obtain 13 approval from the water user association, whenever an 14 association_is_involved, before the bid is accepted; 15 however, capital improvements of an emergency nature 16 necessary to protect life or property or to supply immediate 17 needs for water do not require such approval.

18 (3) The A purpose of this act is to meet, so far as 19 possible, a state-wide statewide need for the conservation 20 and use of watery through the construction and operation of 21 projects designed for those purposes. The department may 22 make-investigations-as-are-necessary-to-plan-and-carry-out-a 23 comprehensive-state-wide-program-of-water-conservation. The 24 projects to be finally constructed shall qualify as parts of 25 the state-wide statewide program and shall be approved by

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REFERENCE BILL

1 the board upon the showing of their prospective ability to 2 meet, through the sale of water or other services, the cost 3 of operation, maintenance, and repair and the amortization 4 of the cost of the constructiont, howevery-the like failure 5 of the board to determine the prospective ability of a 6 project does not affect the validity or enforceability of the bonds or of the trust indenture, resolution, or other 7 8 security therefor.

9 (4) The department may exercise any of its powers:
10 (a) In in an adjoining state, unless the exercise of
11 that power is not permitted under the laws of that state or
12 of the United States*:

13 (b) In in a national forest or public domain of the
14 United States adjoining, or located in, the state of
15 Montana, unless the exercise of those powers is not
16 permitted under the laws of the United States.

17 (c) In in an adjoining country, unless the exercise of 18 those powers is not permitted under the laws of that country 19 or of the United States or under the treaties between that 20 country and the United States."

21 Section 2. Section 89-115, R.C.M. 1947, is amended to 22 read as follows:

23 #89-115. Weter-funds-rates-sale of -water---appeals
 24 to--board--lease--and--sale-of--water--rights--and-property
 25 <u>Management_of property --- water contracts</u>. (1) Subject to

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1 this act and section 89-103.2, the department may fix and establish the prices, rates, and charges at which the 2 R resources and facilities made available under this act may be sold and disposed of; enter into contracts and 4 agreements, and do those things which in its judgment are 5 6 necessary, convenient, or expedient for the accomplishment 7 of the purposes and objects of this act, under such general 8 regulations rules and upon such terms, limitations, and 9 conditions as it prescribest. the The department shall enter 10 into the contracts and fix and establish the prices, rates, 11 and charges so as to provide at all times funds which will 12 be sufficient to pay all costs of operation and maintenance 13 of the works authorized by this act, together with necessary repairs thereto, and which will provide at all times 14 sufficient funds to meet and pay the principal and interest 15 of all bonds or loans as they severally become due and 16 17 payablet, this lhis act does not authorize any change, alterations or revision of those rates, prices, or charges 18 19 as established by any contract entered into under this act 20 except as provided by the contract.

21 (2) An incorporated water users* association that is 22 sustaining and responsible for the operations of a works is 23 solely liable for any court action which may be brought 24 against it or the state of Montana for any injury or damages 25 occurring on the works caused by a failure to maintain safe

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1 working and operating conditions.

2 (3) A contract made by the department for the sale of water, use of water, water storages or other service, or for 3 4 the sale of any property or facilities, shall provide that. 5 in the event of a failure or default in the payment of moneys specified in the contract to be paid to the 6 department, the department may, upon notice as is prescribed 7 in the contract, terminate the contract and all obligations 8 thereunder. The act of the department in ceasing on default 9 to furnish or deliver water, use of water, water storages or 10 other service under the contract does not deprive the 11 department of or limit any remedy provided by the contract 12 or by law for the recovery of moneys due or which may become 13 14 due under the contract.

15 (4) (a) A person aggrieved by a decision of the 16 department to terminate any contract under subsection (3) 17 may appeal to the board and be heard thereon by filing 18 written notice of the appeal with the department within ten 19 (10) days after receiving notice of termination of the 20 contract from the department. The termination of the 21 contract shall be stayed if an appeal is taken.

(b) If a dispute arises between the department and
another party regarding amounts owing or the terms and
conditions under a water marketing or water purchase
contracty or under a contract for the construction or repair

of works, that party may appeal to the board for a hearing
 thereon and a resolution of the dispute by filing written
 notice of the appeal with the department within thirty-(30)
 days after the final decision of the department regarding
 the dispute.

6 (5) Subject to the approval of the board under section 1 89-103.2, the department may sell, transfer to water user 8 associations, abandon, or otherwise dispose of any rights of 9 way rights-of-way, easements, or property when it determines 10 that they are no longer needed for the purposes of this acty 11 or lease or rent the same or otherwise take and receive the 12 income or profit and revenue therefrom. A determination 13 shall be made by the department as to the market value of rights--of--way rights-of-way, easements, or property to be 14 15 sold, transferred, abandoned, or otherwise disposed of. All 16 income-or-profit-and-revenue-of-the--works--and--ail--moneys 17 received--from--the-sale-or-disposal-of-watery-use-of-watery 18 water-storage,-pr-other-service,---and--from--the--operation, 19 +easey--sale-or-other-disposition-of-the-worksy-property-and facilities-acquired-under-this-acty-shall--be--deposited--to 20 21 the-state-general-funds" Section 3. Section 89-401, R.C.M. 1947, is amended to 22 read as follows: 23 *89-401. Disposition of moneys collected. [1] For the 24

purpose of carrying out the provisions of the--water

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Ł Conservation-Acty-acts-amendatory-thereto-and--supplementary 2 thereofy chapter 1 of Title 89 and such other water resource 3 authority, powers, and duties as are conferred upon the 4 department of natural resources and conservation by law, the 5 following moneys shall be deposited in the earmarked revenue 6 fund for the use of the department:

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(a) all sums of money donated or contributed by the 8 federal government or any department or agencies thereof; 9 (b) all gifts, donations, bequests, and devises made 10 to the state therefor; and proceeds of the sale thereof; and 11 the proceeds of the sale or redemption of and the interest 12 earned by the securities purchased or acquired by-the-moneys 13 thereof with money received under this subsection;

14 (c) all reimbursements for money advanced for the 15 payment of the assessments upon state, school-~sconted 16 school-granted. and other public lands for the improvement 17 thereof as provided by law;

18 (d) all reimbursements for money advanced for the 19 investigation and survey of reclamation, electrifications 20 and rehabilitation systems or projects proposed to be 21 financed in whole or in part by the reclamation of lands and 22 dyking, drainage, and dyking and drainage dams for 23 conservation of water to be used in reclamation of land or 24 stock reservoirs or for the construction, maintenance, and 25 operation of plants or projects for the manufacture or

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1	distribution of electric current; revenuesarising-from
2	projects-constructed-or-owned-by-the-department-in-excoss-of
3	costsofoperationandmaintenanceyandrepaymentof
4	principalandinterestofanymoneysborrowedfor-the
5	construction-of-the-projects;-all-sumspayableasrentals
5	due-for-water-usey-waintenance-or-operation-upon-any-project
7	ownedbythestateor -fo r-which-such-rentals-are-due-an d
8	peyable-under-any-contract-or-agreement-mada-by-anypersony
9	associationor-corporation-with-the-department;-all-sums-of
10	money-raceived-by-the-department-fortheuseof-~electric
11	currenty-in-excess-of-the-maintenance-and-operation-upon-any
12	electrification-system-or-project;
13	<u>(e)</u> all reimbursements for costs of surveys and
14	investigations for moneys advanced to counties, cities or
15	towns or their proportion of the cost thereofy or from any
16	other sources.
17	(2) The following shall be deposited in the state
18	general_fund:
19	(a) all income or profit and revenue of the works and
20	all money received from the sale or disposal of waters use
21	of_water, water_storage, or_other_service and from the
22	operation.lease.sale.or_other_disposition_of_the_works.
23	property, and facilities acquired under chapter 1 of litle
24	<u>891_and</u>
25	(b) all sums received by the department for the use of

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electricity in excess of the maintenance and operation of 1 2 the electrification system or project." 4 Section 4. Section 89-125, R.C.N. 1947, is amended to read as follows: 4 *89-125. Powers-of-department--concerning--waters--and sppropriations--thereof Department powers over state waters. b 7 (1) The authority of the department conferred by this act chapter extends and applies to rights to the natural flow of я the waters of this state which it may acquire, with the 9 approval of the board, by condemnation, purchase, exchange, 10

11 appropriations or agreement.

12 (2) For the purpose of regulating the diversion of 13 those waters, the department may enter upon the means and 14 place of use of all appropriators for making surveys of 15 respective rights and seasonal needs.

16 (3) The department may take into consideration the 17 decrees of the courts of this state having jurisdiction. which surport to adjudicate the waters of a stream or its 16 19 tributaries, and a fair, reasonable, and equitable 20 reconciliation shall be made between the claimants asserting 21 rights under different decrees and between decreed rights 22 and asserted rights of appropriation not adjudicated by any court. 23

24 (4) The department, at its discretion, may hold25 hearings relating to the rights of respective claimants

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after first giving such notice as it deems considers 1 appropriate, and make findings of the date and quantity of 2 appropriation and use of all claimants which the department 3 4 will recognize and observe in diverting the waters which it owns. The department may police and distribute to the owner 5 of the recognized appropriation the waters due him upon 6 1 request and under terms agreed upon. 8 (5) The department, when engaged in controlling and

9 dividing the natural flow of a stream under the authority 10 granted by this act chapter, is exercising a police power of 11 the state, and water commissioners appointed by any court 12 may not deprive the department of any of the waters owned or administered under agreement with respective owners, but the 13 14 owner of a prior right contending that the department is not 15 recognizing and respecting the appropriation may resort to a court for the purpose of determining whether or not the 16 17 rights of the claimant have been invaded, and the department shall observe the terms of the final decree. 18

19 (6) When the department impounds or acquires the right 20 of appropriation of the waters of a streamy it may divert or 21 authorize the diversion at any point on the streamy or any 22 portion thereofy when it is done without injury to a prior 23 appropriator.

 24
 {f}--This-act-does-not--repeal--or--amend--an--existing

 25
 statute--pertaining--to--the--appropriation--or-use-of-water

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i	except-as-expressly-provided-in-this-acty-and-this-actdoes
2	not-interfere-with-vested-rights-to-the-use-of-water-
3	t8;Inadditiontothepowersconferredonthe
4	deportment-elsewhere-in-this-chaptery
5	<u>[7] the The</u> department may acquire water by purchase
6	option or agreement with the federal government from the
7	Fort Peck Reservoir for the purpose of sale, rent, or

8 distribution for industrial use. In such cases, the 9 department is not required to construct any diversion or 10 appropriation facilities or works, and it may sell, rent, or 11 distribute such water at such rates and under such terms and 12 conditions as it considers appropriate."

13 Section 5. Section 89-319, R.C.M. 1947, is amended to 14 read as follows:

15 #89-319. Separate permit for each operation. (1)
 16 Separate permits shall be issued for each operation.

17 <u>121</u> "Operation" means the performance of weather 18 modification and control activities entered into for the 19 purpose of producing or attempting to produce a certain 20 modifying effect within one (1) geographical area over one 21 continuing time interval not exceeding one-flt year."

22 Section 6. Section 89-823, R.C.M. 1947, is amended to 23 read as follows:

24 #89-823. Owners of water to sell surplus. Any person 25 having the right to use, sell, or dispose of water, and

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engage in using, selling, or disposing of the same, who has 1 a surplus of water not used or soldy or any person having a 2 surplus of water \mathbf{v} and the right to sell and dispose of the 3 samey is required, upon the payment or tender to the person 4 entitled thereto of an amount equal to the usual and 5 customary rates per inch INCH OR cubic foot of water per 6 7 second, to convey and deliver to the person such the surplus R of unsold water or so much thereof for which said the payment or tender shall-have-been has been madey and shall 9 10 continue to convey and deliver the same weekly so long as 11 said the surplus of unused or unsold water exists and said 12 the payment or tender be is made as aforesaid." Section 7. Section 89-867, R.C.M. 1947, is amended to 13 read as follows: 14 #89-867. Definitions. Unless the context requires 15 16 otherwise; in this chapter the following definitions apply: 17 (1) "Water" means all water of the state, surface and

18 subsurface, regardless of its character or manner of 19 occurrence, including geothermal water.

(2) "Beneficial use" means a use of water for the
benefit of the appropriator, other persons, or the public,
includingy but not limited toy agricultural (including stock
water), domestic, fish and wildlife, industrial, irrigation,
mining, municipal power, and recreational usesta providedy
howevery--that--a A use of water for slurry to export coal

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from Montana is not a beneficial use. Slurry is a mixture
 of water and insoluble matter.

3 (3) "Appropriate" means to divert, impound, or
4 withdraw (including by stock for stock water) a quantity of
5 water, or, in the case of a public agency, to reserve water
6 in accordance with section 89-890.

7 (4) "Existing right" means a right to the use of water
8 which would be protected under the law as it existed prior
9 to July 1, 1973.

10 (5) "Groundwater" means any water beneath the land 11 surface or beneath the bed of a stream, lake, reservoir, or 12 other body of surface water, and which is not a part of that 13 surface water.

(6) "Well" means any artificial opening or excavation
in the ground, however made, by which groundwater is sought
or can be obtained or through which it flows under natural
pressures or is artificially withdrawn.

18 (7) "Permit" means the permit to appropriate issued by
 19 the department under sections 89-880 through 89-887.

(3) "Certificate" means the certificate of water right
issued by the department under sections 89-879, 89-880(5),
and 89-888.

(9) "Declaration" means the declaration of an existing
 right filed with the department under section 89-872.

25 (10) "Waste" means the unreasonable loss of water

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through the design or negligent operation of an
 appropriation or water distribution facility, or the
 application of water to anything but a beneficial use.

4 (11) "Political" subdivision" means any county,
5 incorporated city or town, public corporation, or district
6 created pursuant to state law, or other public body of the
7 state empowered to appropriate water, but not a private
8 corporation, association, or group.

9 (12) "Person" means an individual, association,
10 partnership, corporation, state agency, political
11 subdivision, and or the United States or any agency thereof.
12 (13) "Department" means the department of natural
13 resources and conservation provided for in Title 82A,
14 chapter 15.

(14) "Board" means the board of natural resources and
 conservation provided for in section 82A-1509.

 17
 (15)-#Act#--means--the--Montana--Water--Use-Act-and-any

 18
 subsequent-amendments-or-additions-theretos"

19 Section 8. Section 89-2911, R.C.M. 1947, is amended to 20 read as follows:

21 "89-2911. Definitions. Unless the context requires 22 otherwise, in this chapter the following definitions apply: 23 (a)(11) "Ground--water Groundwater" means any fresh 24 water beneath the land surface or beneath the bed of a 25 stream, lake, reservoir, or other body of surface water, and

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which is not a part of that surface water. Fresh water shall
 be deemed considered to be water fit for domestic,
 livestocks or agricultural use. The department, after
 notice and hearing, may fix definite standards for
 determining fresh water in any controlled ground-water
 groundwater area or subarea of the state.

7 (b)(2) "Aquifer" means any underground geological
8 structure or formation which is capable of yielding water or
9 is capable of recharge.

10 (c)(3) "Well" means any artificial opening or 11 excavation in the ground, however made, by which ground 12 water groundwater is sought or can be obtained or through 13 which it flows under natural pressures or is artificially 14 withdrawn.

(d)(4) "Beneficial use" means a use of water for the 15 16 benefit of the appropriator, other persons or the public, 17 includingy but not limited toy agricultural (including stock 18 water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses. A use of 19 20 water for slurry to export coal from Montana is not a 21 beneficial use. Slurry is a mixture of water and insoluble 22 matter.

tet(5) "Person" means an individual, association,
 partnership, corporation, state agency, political
 subdivision, and or the United States or any agency thereof.

(f)(6) "Department" means the department of natural
 resources and conservation provided for in Title 82A;
 chapter 15.

tot(7) "Ground-water Groundwater area" means an area 4 5 which, as nearly as known facts permit, may be designated so as to inclose enclose a single and distinct body of ground 6 7 water groundwater, which shall be described horizontally by 8 surface description in all cases and which may be limited vertically by describing known geological formations should 9 10 conditions dictate this to be desirable. For purposes of 11 administration, large ground water groundwater areas may be 12 divided into convenient administrative units "known as 13 "subareas=".

14 (h)(8) "Board" means the board of natural resources
 15 and conservation provided for in section 82A-1509.

16 (9) "Political subdivision" means any county: 17 incorporated city or town, public corporation, or district 18 created pursuant to state law or other public body of the 19 state empowered to appropriate water, but not a private 20 corporation. association. or group." 21 Section 9. Section 89-899, R.C.M. 1947, is amended to 22 read as follows: #89-899. Legal assistance. [1] When requested by the 23

24 department, the attorney general and the county attorneys
25 within their respective counties shall perform legal

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services and conduct legal proceedings necessary to carry
 out the purposes of this act <u>chapter</u>. The department may
 also employ legal counsel to enforce this act <u>chapter</u> and to
 conduct proceedings under it.

5 (2) If an appropriator who is a citizen of Montana 6 becomes involved in a controversy to which any agency of the 7 federal government or another state is a party, the 8 department may in its discretion intervene as a party or 9 provide necessary legal assistance to the citizen of 10 Montana."

Section 10. Section 89-2930, R.C.M. 1947, is amended to read as follows:

#89-2930. Duty of county attorneys and attorney 13 general. The county attorneys and the attorney general of 14 the state shall perform such legal services and bring such 15 legal proceedings in carrying out the purpose of this act 16 17 chapter within their respective counties as the department shall may request. The department may also employ legal 18 counsel to enforce this chapter and to conduct proceedings 19 under_it." 20

21 Section 11. Section 89-907, R.C.M. 1947, is amended to 22 read as follows:

23 "89-907. Filing written statement with department.
24 (1) Any person claiming an appropriative right to the use
25 of any water of any interstate tributary which right was

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acquired after January 1, 1950, shall, within sixty 60 days
 after the-approval-of-this-act February 25, 1953, or before
 he diverts any water, file with the department at its office
 in Helena, Montana, a written statement containing the
 following information:
 (a) The the name of the claimant and his address;

7 (b) Bate <u>date</u> of appropriation or the date when the
8 water was first applied to a beneficial user:

(c) The <u>the</u> quantity of water claimedw<u>:</u>

(d) The the name of the stream, river or other source
of water from which the diversion is made, if it has a name,
and if it does not, such a description as-will-identify
identifying the same.
(e) The the purpose for which the water is claimed and

14 (e) the purpose for which the water is claimed and 15 the place of intended user:

16 (f) The the means of diversional

9

17 (g) Whether whether or not a weir or other device for
18 measuring the water intended to be diverted has been
19 installed in his ditch or other means of diversion*:

20 (h) if if a notice of appropriation was filed with the
21 county clerk and recorder, as-provided-by-section-09-810y
22 the name of the county where it was filedwi

(i) Whether whether the appropriation was made from an
 adjudicated or nonadjudicated stream, river, or other source
 of water.

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1 (2) The written statement shall be verified by the 2 affidavit of the claimant or someone in his benalf, which 3 affidavit must state that the matters and facts contained in 4 the written statement are true."

Section 12. Section 89-911, R.C.M. 1947, is amended to
read as follows:

7 "89-911. Domestic and stock uses not--within-the-act 8 exempted. Any appropriation of water from any interstate 9 tributary of the Yellowstone River made for domestic or 10 stock water uses shall will not come within the provisions 11 of this acty-providedy-that chapter whenever the capacity of 12 any a reservoir for stock water shall does not exceed twenty 13 20 acre-feet."

14 Section 13. Section 89-1015, R.C.M. 1947, is amended 15 to read as follows:

#89-1015. Complaint by dissatisfied user---procedure 16 on. Any A person owning or using any of the waters of such 17 18 the stream or ditch or extension of the ditchy who is 19 dissatisfied with the method of distribution of the waters 20 of such the stream or ditch by such the water commissioner or water commissioners, and who claims to be entitled to 21 more water than he is receiving, or is-entitled to a right 22 23 prior to that allowed him by such the water commissioner or 24 water commissionersy may file his written complaint, duly verified, setting forth the facts of such the claim. 25

Thereupon the judge shall fix a time for the hearing of such 1 petitiony and shall direct that such notice be given to the 2 parties interested in such the hearing as the judge may-deem 3 4 considers necessary. At the time fixed for such the 5 hearing, the judge must hear and examine the complainant and 6 such other parties as may appear to support or resist such 7 claimy and also examine such the water commissioner or water 8 commissioners and witnesses as to the charges contained in 9 said the complaint. Upon the determination of the hearing, 10 the judge shall make such findings and order as he may--deem considers {ust and proper in--the--premises. If it shall 11 12 appear appears to the judge that the water commissioner or 13 water commissioners have not properly distributed the water according to the provisions of the decree, then the judge 14 15 shall give the proper instructions for such distribution. The judge may remove such any water commissioner or--water 16 17 commissioners and appoint some other person or-persons in his or-their steady if he deems considers that the interests 18 19 of the parties in the waters mentioned in such the decree will be best subserved thereby, and if it shall-appear 20 21 appears to the judge that the said water commissioner or 22 water--commissioners--have has willfully failed to perform their his duties, they he may be proceeded against for 23 24 contempt of court, as provided in contempt cases. The judge 25 shall make such order as to the payment of costs of such the

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hearing as may-appear appears to him to be just and proper."
 Section 14. Section 89-1202, R.C.M. 1947, is amended
 to read as follows:

#89-1202. Petition for organization. (1) For the 4 purpose of establishing and organizing an irrigation 5 district hereunder, a petition signed by the required number 5 7 of holders of title or evidence of title to lands within such the proposed district mentioned in the preceding 8 section shall be filed with the clerk of the district court 9 10 of the county in which the-lands-of-the--proposed--districty 11 or--the--greater-portion-thereofy-are-situated;-providedy-if 12 there-are-three-or-more-counties-embraced--in--the--proposed 13 districty-and-no-one-county-embraces-the-greater-portion-of said-landsy-then-and-in-that-event-said--petition--shall-be 14 15 filed-in-the-county-which-embraces-a-greater-portion-of-said lands--than--any--one-of-the-other-counties-embraced-in-said 16 proposed district the greatest portion of the lands of the 17 proposed district are located. Such The petition shall set 18 forth: 19

20 <u>letal</u> The the name suggested for the proposed
21 district;

22 $2*(b) \neq a$ general description of the lands to be 23 included in the proposed district;

24 $\exists \star \underline{lc}$ The <u>the</u> names of the holders of title or 25 evidence of title to the lands in the proposed district,

1 ascertained in the manner mentioned in the preceding section+1 and if env-such a holder is a nonresident of the 2 3 county or counties in which the proposed district lies, the 4 post-office address of such the nonresident owner, if known; 5 4#(d) Generally generally, the source from which the lands in the proposed district are to be irrigatedy and the 6 7 character of the works, water rights, canals, and other property proposed to be acquired or constructed for я irrigation purposes in the proposed district; 9 10 5v(e) A g prayer that the lands embraced within the 11 proposed district be organized as an irrigation district 12 according to the applicable provisions of this act chapters 13 12 through 21 of Title 89. 14 [2] The petition shall be accompanied by: 15 fly(a) a map or plat of the proposed districty: and 16 (2)(b) a good and sufficient bond or undertaking, to 17 be approved by the district court or judge thereof of the 18 county in which the petition is required to be filed under the provisions of this-act subsection (1), to pay all costs 19 in and about the proceedings preliminary to the organization 20 21 of the district in the event that said the organization shall is not be effected. 22

23 (3) Mere error or omission in the description of any 24 lands or in the names of any of the holders of title or 25 evidence of title to lands shall-not-operate-to does not

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render invalid any proceedings hereundery or to deprive the
 district court of jurisdiction of the subject matters.
 providedy-such Such misdescribed lands or misnamed persons
 shall may not be included in said the district."

5 Section 15. Section 89-1204, R.C.M. 1947, is amended
6 to read as follows:

7 #89-1204. Hearing on petition and appointment of commissioners. (1) At the time specified in the notice 8 9 mentioned in the preceding section, the district court in 10 which the petition aforesaid is filed shall hear the 11 petitiony but may adjourn such hearing from time to time, 12 not exceeding three 3 weeks in all, and may continue the 13 hearing for want of sufficient notice or other good cause. 14 The court, upon application of the petitioners or any 15 interested person or persons interested, shall permit the 16 petition to be amended, and may order further or additional 17 notice to be given. Upon such hearing all interested persons interested, whose lands or rights may be damaged or 18 benefited by the organization of the district or by the 19 20 irrigation works or improvements therein or to be acquired or constructed as--hereinafter--set--forthy may appear and 21 22 contest the necessity or utility of the proposed districty 23 or any part thereof, and the contestants and petitioners may 24 offer any competent evidence in regard thereto.

25 (2) It--shall-be--the--duty-of-the The court to shall

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hear and determine whether the requirements of sections
 89-1201, 89-1202, and 89-1203 have been complied withy and
 for that purpose shall hear all competent and relevant
 testimony that may be offered.

(3) (a) The court may make such changes in the 5 proposed district as may be deemed considered advisabley or 6 as fact, right, and justice may require to but shall not 7 exclude-from-such-proposed-district-any-land Land which is А 9 susceptible of irrigation from the same general sourcey and 10 by the same general system of works applicable to the other 11 lands of such the proposed districty may not be excluded 12 from the proposed district if the owner or owners of such the lands shall file in such the district court a written 13 request that such the lands be included, in--such--district; 14 15 nor--shail--any-lands-which-will-noty-in-the-iudament-of-the 16 courty-be-benefited-by-irrigation-by-means-of-said-system-of worksy-nor-shell-lands-already-under-irrigationy--nor--lands 17 18 having--water-rights-appurtenant-theretoy-nor-lands-that-con 19 be-irrigated-from-sources-more-feasible--than--the--district systemy--be--included--within-such-proposed-districty-unless 20 21 the-owner-of-such-lands-shall--consent--in--writing--to--the 22 inclusion-of--such--lands--in--the--proposed--districty--as 23 hereinefter--providedy--and--to--this--end--the--court---may 24 subdivide--lands-included-within-the-petition-or-proposed-at the--hearing--to--be--included--within--such--district--into 25

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1	forty-acre-tracts-or-smaller-subdivisions-thereof;-providedv
2	howeverythat-where-a-district-is-formed-to-co-operate-with
3	the-United-Statesy-lands-previouslyirrigatedandhaving
4	waterrights-appurtenant-therato-may-be-included-within-the
5	district-boundariesy-if-it-shall-appear-tothecourtthat
6	thesamewillbenefited-thereby;-and-provided-furthery
7	that-sil-landshavingwaterrightsappurtenanttheretoy
8	whichareserved-by-a-system-of-irrigation-works-supplying
9	morethantenthousandacresoflandsymayyinthe
10	discretionofthecourtybeincludedintheproposed
11	district-on-petition-of-at-least-a-majority-bothinnumber
12	andacreage-of-the-holders-of-title-or-evidenca-of-title-to
13	the-fand-having-water-rights-appurtement-theretoy-and-served
14	by-thesamesystemofirrigationworksLandsofthe
15	district-need-not-be-contiguousy-and-any-particular-tract-or
16	tractsyirfespective-of-their-location-in-the-districty-may
17	be-excluded.
18	(b) Lands which will not, in the judgment of the
19	court, be benefited by irrigation from the works of the
20	proposed district: which are already under irrigation: which
21	<u>have appurtenant water rights: or which can be irrigated</u>
22	from sources more feasible than the proposed district may
23	not be included in the district unless the owner of such
24	lands consents in writing to the inclusion.
25	(c) Notwithstanding the provisions of subsection

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1	(3)(b). whenever a district is formed to cooperate with the
2	United States, lands previously irrigated and having
3	appurtenant_water_rights_may_be_included_within_the_district
4	boundaries if it appears to the court that the lands will be
5	benefited by inclusion.
6	(d) All lands having appurtement water rights, served
1	by an irrigation works system supplying more than 10+000
8	acres. may. in the discretion of the court. be included in
9	the proposed district upon petition by at least a majority.
10	both in number and acreages of the holders of title or
11	evidence of title to the lands served by the irrigation
12	system and having appurtenant water rights.
13	(e) Lands of the district need not be contiguous. The
14	location of a particular tract in the proposed district is
15	not a bar to exclusion.
16	(4) For purposes of including or excluding land from a
17	proposed district, the court may subdivide any tract into
18	40-acre or smaller parcels.
19	(4)[5] If, on final hearing, it is found by the court
20	tnat the petition does not substantially comply with the
21	aforesaid requirements of this acty or that the facts
22	therein stated are not sustained by the evidence, then the
23	court shall dismiss the petition at the cost of the
24	petitioners, and shall make and enter an order to that
25	effect s butif If it is found that soid the petition

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substantially complies with soid the requirements, and that
 the facts therein stated are sustained by the evidence, then
 the court shall make and enter an order:

4 tv(a) Setting setting forth soid findings and allowing
5 soid the petition;

2*(b) Establishing establishing the proposed district;
 3*(c) Giving giving accurate descriptions of the lands
 included within the proposed district;

9 4*(d) Dividing dividing the proposed district into
 10 three, five, or seven divisions, as may be advisable in view
 11 of the size of the district;

12 5*(e) Appointing appointing as commissioner one
 13 competent person for each division of the district, having
 14 the qualifications as provided by section 89-1205.

15 (5)(6) Such The finding and order shall-be are 16 conclusive upon all the owners of lands within the district 17 that they have assented to and accepted the applicable 18 provisions of this oct chapters 12 through 21 of Title 89 19 and shall-be are final unless appealed from to the supreme 20 court within sixty 60 days from the day of entry of such the 21 order. A copy of such the order, duly certified to by the 22 clerk of said the district court, shall be filed for record 23 within thirty 30 days after such the order is made and 24 entered with the county clerk and recorder of the county 25 wherein where the lands included within such the district

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are situated ta providedy-howevery--there--shall--be--omitted 1 from--such--copy--lands Lands not situated in the county in 2 3 which such the copy is filed shall be omitted from the copy-4 (6)(7) Every irrigation district so established 5 hereunder is hereby-declared to-be a public corporation for 6 the promotion of the public welfare, and the lands included 7 therein shall constitute all the taxable and assessable 8 property of such district for the purposes of this--act 9 chapters 12 through 21 of Title 89."

10 Section 16. Section 89-1205, R.C.M. 1947, is amended 11 to read as follows:

12 #89-1205. Qualifications of commissioners and term of 13 office--official--bond. (1) No person shall-be-qualified-to 14 hold-the-position-of may be a commissioner unless he be is 15 an owner of land within the district and shall be is a resident of the county in which the division of the 16 17 districty or some portion thereofy for which such commissioners-so the commissioner is elected, is situated. 18 19 [2] The commissioners appointed es--eforeseid shall

hold their respective offices until the second Saturday in April following their appointmenty and until their respective successors are elected and qualified as-and-in the-manner--hereinafter--provided. Each of such the commissioners shall qualify in the same manner as justices of the peaceys and-shall-give-s--bond--in-the--sum-of--two

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1 thousend--dollarsy-conditioned-upon-the-faithful-performance of-his-dutics--to-be-made--payable--to--the--state--for--the 2 benefit--of--the-districtf-which The bond for a commissioner 3 shall be approved by the district court or judge thereof and 4 5 filed in the office of the clerk of soid the courts. providedy-that-in In case any district organized established 6 under this title chapter is appointed fiscal agent of the 7 United States, or is authorized by the United States is 8 9 sutherized to make collections of moneys for and on behalf of the United States in connection with any federal 10 11 reclamation project, each such commissioner shall execute a 12 further and additional official bond in such sum as the secretary of the interior may require, conditioned for the 13 faithful discharge of the duties of his officer and the 14 faithful discharge by the district of its duties as fiscal 15 16 or other agent of the United States under any such appointment or authorization, and any such bond may be sued 17 18 upon by the United States, or by any person injured by the failure of such the commissioner or the district to fully. 19 20 promptly, and completely perform their respective duties." Section 17. Section 89-1208, R.C.M. 1947, is amended 21 22 to read as follows:

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23 #89-1208. Compensation <u>and expenses</u> of commissioners- 24 penalty-for--interest--in-contract--bonds-of-commissioners.
 25 (1) The commissioners, when sitting as a board or when

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engaged in the business of the district, shall each receive 1 2 an amount not to exceed twenty-dollars-f\$20ty-per a day for 3 services, and, in addition thereto, their necessary expenses in attending meetings, or when otherwise engaged on district 4 business, including premiums on gualifying bonds and any 5 6 other bonds required of them in connection with their 7 office, provided such expenses and per diem be are approved 8 by a unanimous vote of said the boards and a mileage 9 allowance of twelve 12 cents the letter a mile in attending 10 board meetings or when engaged in the business of the 11 irrigation district.

12 [2] No commissioner or any other officer named in this 13 act shall may in any manner be interested, directly or 14 indirectly, in any contract awarded or to be awarded by the 15 boardy or in the profits derived therefromts and for Eor any 16 violation of this provision, such officer shall-be-deemed is 17 quilty of a misdemeanor and his conviction thereof shall 18 work forfeiture of his office and he shall be punished by--a fine--not--exceeding--five--hundred-dollars-(4500+00)y-or-by 19 20 imprisonment-in-the-county-jail-not-exceeding-six-(6)-months 21 or-by--both--such--fine--and--imprisonment as provided in 22 94-7-401.

23 (3) The commissioners of sortd an irrigation district
 24 shall each furnish a bond in the penal sum of twenty-five
 25 hundred---dollars---(\$2,500+00), with corporate surety

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1 conditioned for the faithful performance of their duties 2 under this actys and the lbe secretary shall furnish bondy 3 with corporate surety, in the sum of one--thousand--dollars 4 +\$1.000-00+ conditioned for the faithful performance of his duties pursuant to this acty and for the proper and 5 6 safekeeping of the records and documents of said the 7 district, in all cases where the obligations of said the 8 district, either existing or proposed, total two-hundred-and 9 fifty~thousand-dollars-f\$250,000+00} or over. In all other 10 cases the bond for said the commissioners shall be in the 11 sum of ane-thousand-dollars-(\$1_000+00)."

12 Section 18. Section 89-1220, R.C.M. 1947, is amended 13 to read as follows:

14 "89-1220. Purpose. This act is not intended to 15 conflict in any way with present statutes governing 16 irrigation districts, but is for the sole purpose of making 17 it possible for one or more irrigation districts to function 18 jointly through a central control agency for the purpose of 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended 21 to read as follows:

22 **89-1311. Qualification of electors -- and <u>inature_of</u> 23 voting rights, how determined. (1) At all elections held 24 under the provisions of this act, except as herein otherwise 25 expressly provided, the following holders of titley or

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evidence of titlev to lands within the district, herein
 designated electors, shall-be are entitled to vote:

3 tw(a) ATT all persons having the qualifications of
 4 electors under the constitution and general and school laws
 5 of the state:

6 2*(b) Guardians guardians, executors, administrators,
7 and trustees residing in the state;

8 3*(c) Domestic domestic corporations, by their duly
 9 organized authorized agents.

10 (2) In all elections held under this act, each elector 11 shall-be is permitted to cast one vote for each forty 40 12 acres of irrigable landy or major fraction thereofy owned by 13 such the elector within the district, irrespective of the location of such the irrigable lands within the tracts 14 15 designated by the commissioners for assessment and taxation purposesy or within congressional subdivisions, platted lots 16 or blocksy [except as hereinafter provided for], election 17 precincts, or district divisions, but any elector owning any 18 less than forty 40 acres of irrigable land shall-be is 19 entitled to one vote. Until actual--determination--of the 20 21 irrigable area under the <u>proposed</u> plan of reclamation 22 proposed is had determined, all land included within the 23 boundaries of the district shall be deemed-to-be considered 24 irrigable land for election purposes.

25 (3) Where Whenever land is owned by co-owners, said

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the owners may designate one of their numbery or an agenty 1 to cast the vote for said the owners, and one vote only for 2 each forty 40 acres of irrigable landy or major fraction з. thereofy-shall may be cast by said the voting co-owner or 4 agent. Where Whenever land is under contract of sale to a 5 purchaser residing within the state, such the purchaser may 6 vote on behalf of the owner of said the land. When voting, 7 the agent of a corporation, or of co-owners, or the co-owner я designated for purpose of voting, or the purchaser of land 9 under contract of sale, as the case may be, shall file with 10 the secretary of the districty or with the election 11 officialsy a written instrument of his authority, executed 12 and acknowledged by the proper officers of soid the 13 corporation, or by said the co-owners, or by the owner of 14 such land under contract of sale, as the case may be, and 15 thereupon such the agent or co-ownery or purchaser, as the 16 case may be, shall--be--deemed is an elector within the 17 meaning of this act. Where Whenever the total irrigable 18 acreage within any one district has been platted or 19 subdivided into lots or blocks to the extent of five-per 20 cent-(5%) or more of the total acreage of the district, each 21 elector shall-be is permitted to cast one vote for each one 22 acre of irrigable land or major fraction thereof owned by 23 such the elector within the district, irrespective of the 24 location of such irrigable lands within the tracts 25

designated by the commissioners for the assessment and 1 2 taxation purposes or within the congressional subdivisions, 3 but any elector owning any less than one 1 acre of irrigable land within said the district shall-be is entitled to one 4 5 vote. The balloting shall take place in the following 6 manner: Fen-fl0; votes or less, separate ballots will be used; more than ten-{10} votes, the elector shall vote in T 8 blocks of ten 10 using one ballot for each ten 10 votes and 9 separate ballots for odd votes over multiples of ten 10. The 10 election shall otherwise conform with the provisions set-out 11 in--section of 89-1308 of-this-chapter. It-shall-be-the-duty 12 of--the The chairman of the commissionersy or such commissioner as he may delegatey-to shall determine before 13 14 each election whether the provisions of this paragraph subsection are in force or whether the provisions heretofore 15 set out shall apply." 16

17 Section 20. Section 89-1319, R.C.M. 1947, is amended 18 to read as follows:

19 *89-1319. Application of act. This act shall apply 20 only when twenty 20 or more owners of land with water rights 21 appurtenant theretox-serving-at-least-two-thousand-acres-of 22 land-contiguous-in-location-or-of-reasonably-compact-areav 23 all arg being served by one stream and its branches or from 24 one source of water supply, and in which the rights to the 25 use of water shall have been determined by decree of a court

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of competent jurisdiction and at least 2x000 acres of lands
 contiguous in location or of reasonably compact areas are
 being served by the single stream or source."

Section 21. Section 89-1320, R.C.M. 1947, is amended
to read as follows:

#89-1320. Petition.--hearing, and notice--order of 6 court--commissioners. Whenever the owners of land and water 7 8 rights, as described in section 89-1319, desire to organize for the purposes mentioned in this act, a petition to that 9 effect, signed by not less than sixty-per-cent 60% of the 10 individual landowners who shall represent not less than 11 fifty-one-per-cent 51% of the irrigable acres to be affected 12 13 by such the proposed district and fifty-one-per-cent 51% ofg 14 the inches INCHES-BE--WATER--OR cubic feet of water per 15 secondy decreed or adjudicated in the stream in from which such the irrigation district is to operate, shall be filed 16 17 with the clerk of the district court of the county or 18 counties in which such the district is to be created. It--is providedy--howevery--that--for For the purposes purpose of 19 20 determining whether the requirement requirements of acreage 21 and cubic feet of water inches per second BR-INCHES-BF-WATER 22 has have been met by the petition, water diverted from the 23 adjudicated stream and distributed under other irrigation districts other than the one to be created under this acty 24 25 shall may not be considered; however, such water and acreage

1 shall be required to pay env-end all assessments the same as 2 other water and acreage affected by irrigation districts 3 created under this act. Upon filing of said the petition, 4 the court shall set a date for a hearing on the petitiony 5 and a written notice not less than five 5 days prior to such 6 the hearing shall be mailed to each landowner or water right 7 owner affected by the proposed district. If the court findsy 8 from such hearingy that an irrigation district, as prayed 9 for in the petition, is feasible and practical, the court 10 shall issue an order creating such the irrigation district, 11 which shall constitute the authority for the district to 12 function for the purposes and intent as outlined in this 13 act. The court shall appoint five commissioners, who shall 14 be are landowners or water right owners, affected by such 15 district, to act until the first annual meeting, -as-provided 16 hereafter."

17 Section 22. Section 89~1322, R.C.M. 1947, is amended 18 to read as follows:

19 #89-1322. Duty of trustees--imit-ong levys to-cover 20 expense--determination-of-levy-- and indebtedness other-than 21 warrant--indebtedness--not--to--be--created. The board of 22 trustees shall--be--authorized-to may develop the source of 23 supplyr: to clean, improves and develop the channel of the 24 streamy: and to do and perform other work on the main 25 distributing system as will be beneficial to the better

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distribution of the waters of such the decreed water right 1 stream, but in no case shall may the board, to cover the 2 expenses of such work, levy to exceed twenty-five 25 cents 3 per acre in any one year. it-is-further-providedy-that--when 4 Whenever waters of the stream under the irrigation districty -ñ created by this acty are commingled with other waters or it 6 is difficult to determine just how many acres are irrigable 7 by the water rights held in such the stream, the acre basis 8 of levy shall be determined by the number of inches INCHES 9 10 BR cubic feet of water per second owned by such party or parties at the rate of one--inch--of--watery--statutory 11 measurementy BNE--INCH--BE-HATERy-STATUTORY-MEASUREMENTy-BR 12 13 .025 cubic feet of water per_second to the acre. It--is further-providedy-that-the lhe board shall-have-no-authority 14 to <u>may not</u> issue bonds or to incur any indebtedness other 15 16 than warrant indebtedness under the limitations proposed 17 imposed by law-*

18 Section 23. Section 89-1411, R.C.M. 1947, is amended 19 to read as follows:

20 ****89-1411**. Hearing-and--notice--publication Notice of 21 hearing. On such petition being filed, the district court or 22 judge thereof shall make an order fixing the time and place 23 of for a hearing some and directing that notice thereof be 24 given. Thereupon the clerk of soid the court shall cause to 25 be published at least once a week for two 2 successive

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calendar weeks, in the--official a newspaper of general 1 2 circulation in the county where said the petition is filedy. 3 HITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE 4 COUNTY, a notice stating the time and place fixed by the district court fixed when and where the hearing on said the 5 petition will be had and containing a brief statement of the 6 1 matters set forth in said the petition and the object 8 thereoft. if If any portion of the lands sought to be 9 excluded from the district lies within any other county or counties, then-said the notice shall also be published as 10 11 provided above provided in the official a newspaper of such 12 general_circulation in the other county or counties, WITH 13 PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE OTHER 14 COUNTY OR COUNTIES. The first publication of said the notice 15 shall--be may not be less than thirty 30 days prior to the 16 time mentioned in said the notice for said the hearing." 17 Section 24. Section 89-1616, R.C.M. 1947, is amended 18 to read as follows: 19 #89-1616. Penalty--for--interfering Interference with 20 commissioners or with distribution system _____nenalty. Any person who shall in any manner interfere interferes with the 21 22 commissioners of an irrigation districty or their lawful 23 agent or employee in the carrying out of the powers conferred by this acty or who shall-change changes or temper 24

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tampers with any lock box, head gate, or other device for

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the apportionment or distribution of watery installed by or 1 under the authority of such the commissionersy or who shall 2 in any manner obstruct obstructs or change changes the flow 3 of water in the distribution system of any irrigation 4 5 district without authority of the commissioners of the districty shalls in the discretion of the commissioners, be 6 7 subject to a forfeiture of his right to the delivery of water through the distribution system of the districty so 8 9 long as such acts shall continue, and shall-likewise--be is 10 quilty of a--misdemeanor--andy--on--convictiony--shall--be 11 punishable-by-a-fine-of-not-less-than-ten--dollars--filewool 12 nor---more---than--one--hundred--dollars--til00+001y--or--by imprisonment-in-the-county-jeil-for-not-less--than--one--(1) 13 14 day--nor-more-than-thirty-{30}-days-or-by-both-such-fine-and 15 imprisonment obstructing a public officer or criminal 16 mischief. as appropriate. and is punishable as provided by 17 94-7-302 or 94-6-102, as applicable."

18 Section 25. Section 89-1701, R.C.H. 1947, is amended 19 to read as follows:

20 #89-1701. Limitations on debt-incurring power. (1) The 21 board of commissioners or other officers of the district 22 shall-heve-no-power-to may not incur any debt or liability 23 whatever, either by issuing bonds or otherwise, except as 24 provided in this acts-ond-any-debt-or-liability-incurred-in 25 excess-of-such-express-provisions-shall-be-and-remain

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1	absolutely-voidy-except-that-for-the-purpose-of-organization
2	or-for-any-of-the-immediate-purposes-of-this-acty-or-to-make
3	or-purchasesurveysyplansyandspecificationsyor-for
4	st reamgaugingandgathering-datay-or-to-make-any-repairs
5	occasioned-by-any-calamity-or-other-unforescencontingency,
6	theboardof-commissioners-mayy-in-any-one-yeary-incur-the
7	indebtedness-of-os-mony-dollars-as-there-areocresinthe
8	districtyandmaycouse-warrants-of-the-district-to-issue
9	therefor. No irrigation district may become indebted. in any
10	manner or for any purpose in any one year, in an amount
11	exceeding 15% of the assessed valuation of the district.
12	except as provided in subsection (2).
13	(2) (a) For the purpose of organization: for any of
14	the immediate purposes of this chapter; to make or purchase
15 -	surveys, plans, and specifications; for stream gauging and
15	gathering_data: or to make any repairs occasioned by any
17	calamity or other unforeseen contingency, the board of
18	commissioners mays in any one years incur the indebtedness
19	of as many dollars as there are acres in the district and
20	may cause warrants of the district to issue therefor.
21	(b) For the purpose of organization, for any of the
22	immediate purposes of this chapters or to meet the expenses
23	occasioned by any calamity or other unforeseen contingency.
24	the board of commissioners may, in any one year, incur (in

25 addition to the 15% limitation of subsection (1) an

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1	additional indebtedness not exceeding 10% of the assessed
2	valuation of the district and may cause warrants of the
3	district to issue therefor.
4	(c) The limitation of subsection (1) does not apply to
5	warrants issued for unpaid interest on the valid bonds of
6	any irrigation district.
7	(d) The limitation of subsection (1) does not apply to
8	any bonds issued under this chapter pursuant to a provision
9	which expressly supersedes the limitation.
10	(3) Any debt or liability incurred in excess of the
11	<u>Limitations provided by the irrigation district laws is</u>
12	<u>xaide</u> "
13	Section 26+ Section 89-1703; R+C+N+ 1947; is amended
14	to read as follows:
15	#89-1703. Petition for bonds and action-thereon
16	<u>issuance of bonds</u> . (1) forthepurposeofprovidingthe
17	necessaryfundaforconstructing-the-necessary-irrigation
18	canals-and-worksy-including-drainage-worksyandworksfor
19	thegeneration-and-distribution-of-electrical-energy-within
20	said-districty-andecquiringthenecessorypropertyend
21	rightsthereforvandforthepurposeofacquiringby
22	purchaseyorotherwiseywatersywater-rightsycanalsy
23	reservoirsyreservoir-sitesy-ond-irrigation-worksy-drainage
24	worksy-and-works-forthegenerationanddistributionof
25	electrical-energy-constructedy-or-partially-constructedy-and

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or-to-be-thereofter-incurred-incident-to--such--construction 2 or---acautsition--of--such--works--and--property--including 3 odainistrativey-engineering-and-legal-expensesy-and-for--the 4 assumptiony--as--principal--or-ouerantery-of-indebtedness-to 5 the-United-States-on-account-of-district-landsy-and-for--the 6 1 purpose--of--otherwise--carrying--out-the-provisions-of-this 8 acty-and-of-providing-a-sum-sufficient-to-pay--the--interest on-att-of-such-bonds-for-five-(5)-yearsy-or-tessy-the-board 9 10 of-commissioners-of-any-districty-heretofore--or--hereafter 11 organized--under--the--provisions-of-this-acty-may-outhorize 12 and-issue-the-negotiable-coupon-bonds-of--the--districty--as 13 and---in-the-manner-hareinafter-providedy-A-sum-sufficient-to 14 redeen-or--pay--olly--or--any--portiony--of--the---existing 15 indebtedness-of--such--districty--evidenced--by-outstanding 16 bondsy-delinguent-interest-coupons-and-accrued-interesty--or 17 warrantsy-together-with-all-delinguent-and-accrued-interesty 18 whether-such-indebtedness-be-due-or-not-duey-or-which-hos-or 19 may--hereafter-become-payable-st-the-option-of-the-districty 20 or-by-consent-of-the-bondholdersy-of-by--any--lawful--meansy 21 may--be--included--as--a--portion-of-the-necessary-funds-for 22 which-soid-bonds-are-authorized-and--issuedy The board of 23 commissioners of a district established under the provisions 24 of chapter 12 of Title 69 may authorize and issue negotiable 25 coupon bonds for the district for the purpose of providing

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for--the-purpose-of-meeting-the-expense-theretofore-incurred

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1	the necessary funds:
2	(a) for constructing the necessary irrigation canals
3	andworks.including_drainage_works.and_constructing_works
4	for the generation and distribution of electricity within
5	the district and for acquiring the property and rights
6	necessary therefor:
7	<u>{b} for acquiring, by purchase or otherwise, waters,</u>
8	water rights, canals, reservoirs, reservoir Sites,
9	irrigation works, drainage works, and works for the
10	generation and distribution of electricity. whether such
11	works are constructed or partially constructed:
12	(c) for meeting the expense incurred incident to the
13	construction or acquisition of such works and property.
14	including administrative, engineering, and legal expenses:
15	(d) for assuming, as principal or guarantor,
16	indeptedness to the United States on account of district
17	lands:
18	(e) for providing a sufficient amount of money to pay
19	the interest on all negotiable coupon bonds of the district
20	for a period not exceeding 5 years:
21	(f) for redeeming or paying all or any portion of the
22	existing indebtedness of the district, evidenced by
23	outstanding bonds; delinquent interest coupons and accrued
24	interest; or warrants, together with all delinquent and
25	accrued interest, whether such indebtedness has or may
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1 hereafter become payable at the option of the district. by

2 consent of the bondholders or by any layful means: or

3 (g) for otherwise carrying out the provisions of the

4 irrigation district laws.

(2) No bonds provided for in this section shall may be 5 authorized or issued by or on behalf of any irrigation 6 7 district organized hereundery and no contract shall may be made with the United States as provided in section 89-1301, 8 providedy except upon a petition signed by at least sixty 9 per--centum--f6021, in number and acreage, of the holders of 10 11 title or evidence of title to lands included within said the 12 districty or by seventy-five-per-centum at least (75%) in 13 number and acreages of the holders of title or evidence of title to such lands who are residents of the county or 14 15 counties in which lands of the district are situated. Such 16 The petition shall be addressed to the board of 17 commissionersta shall set forth the aggregate amount of 18 bonds to be issuedy and the purpose or purposes thereoft 19 small have attached thereto an affidavit verifying the 20 signatures to said the petitions, and shall be filed with the secretary of the board of commissioners. When bondsy 21 22 howevery are issued for the sole purpose of redeeming or 23 paying the existing and outstanding bonds or warrants, or 24 both, including delinguent and accrued interest, of such 25 district, such bonds may be authorized and issued in the

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manner provided for by sections 89-1712 and 89-1713. 1 (3) Upon the filing of such the petition, the board of 2 commissioners shall, by appropriate order or resolution, 3 authorize and direct the issuance of the bonds of the 4 district to the amount and for the purpose or purposes 5 specified in the petition τ : fix the numbers, denominations, 6 7 and maturity or maturities of soid the bonds; specify the rate of interest thereont and whether payable annually or 8 9 semiannually; designate the place of payment of said the bonds and the interest coupons, within or without the state 10 of Montana: prescribe the form of said the bonds and 11 interest coupons to be attached thereto; and provide for the 12 levy of a special taxy or assessment as provided in this act 13 14 provided on all the lands in the district for the irrigation 15 and benefit of which said the district was organized and said the bonds are issued, or said the contract is to be 16 17 made, sufficient in amount to pay the interest on and principal of said the bonds when due and all amounts to be 18 paid to the United States under any contract between the 19 district and the United States, acompanying which bonds of 20 21 the district have not been deposited with the United States as provided in section 89-1301 provided. 22

23 (4) If contract is to be made with the United States
24 as <u>provided</u> in section 89-1301 providedy and bonds are not
25 to be deposited with the United States in connection with

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such the contract, the board of commissioners need not 1 2 authorize the issuance of bonds, or if bonds are required in 3 addition to such the contract, <u>the commissioners</u> may authorize bonds only for the amount needed in addition to 4 such the contract. Such order or resolution shall also 5 6 provide for the confirmation proceedings in the district 1 court hereinofter-mentioned as provided in 89-1704." 6 Section 27. Section 89-1704, R.C.M. 1947, is amended 9 to read as follows: *89-1704. Confirmation by district court. {1} Within 10

11 ten-flot days after the adoption of the order or resolution 12 mentioned in the preceding section, the board of 13 commissioners shall file a petition in the district court of 14 the judicial district wherein where is-located the office of 15 said the boardy is located to determine the validity of the 16 proceedings hed relative to the issuance of said the bonds 17 and to the levy of said the special tax or assessment. 18 121 Such action shall be in the nature of a proceeding

19 in rem, and jurisdiction of all parties interested shall be 20 had by <u>giving</u> notice given-es-hereinafter-provided. Such The 21 petition shall set forth: 22 <u>flt(a)</u> generally, the establishment and organization

23 of the district;

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24 <u>t27(b)</u> a certified copy of the petition mentioned in 25 the preceding section;

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(3)(C) a certified copy of the order or resolution
mentioned in the preceding section;

1

2

3 <u>(+)(d)</u> a prayer for the confirmation of the 4 proceedings of the board stated in the petition, and for the 5 confirmation of the bond issue and the special tax or 6 assessment levied to pay the bonds and interest thereon.

7 (2)(3) Upon the filing of soid this petition in the 8 district court, the court or-indge-thereof shall fix the 9 time for the hearing of said the petition, which shell may not be less than fifteen (15) days from the date of filing 10 11 the petition in said the court, and shall order the clerk of 12 the court to give notice of the filing of said the petition 13 and the date of the hearing thereony by publication at least once a week for two 2 calendar weeks in a newspaper 14 15 published or of general circulation in the county where the 16 office of the board of commissioners of the district is 17 situatedy and also by posting a written or printed copy 'of 18 such notice in at least three public places in each division of the district, the first of such publications and such 19 20 posting to be not less than fifteen-f15; days prior to the 21 date fixed for said the hearing.

22 (3)(4) Solid The notice shall state the substance of 23 the petition and the time and place fixed for the hearing 24 thereony and that any person interested in or whose rights 25 may be affected by the issuance or sale of solid the bonds;

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1 or the levy of said the special tax or assessment, or the proceedings had or to be had by the said board of 2 commissioners with respect to said such matters, may, on or 3 before the day fixed for the hearing of said the petition, 4 desur-to-or answer soid the petitiony and may appear at said 5 the hearing and contest the granting of the prayer of said 6 the petitiony and the entry of any order of confirmation 7 8 pursuant-thereto.

[5] Any person interested in or whose rights may be 9 affected by the issuance or sale of said the bonds, or the 10 levy of said the special tax or assessment, or the 11 proceedings had or to be had by the board of commissioners 12 of the district in connection with soid such mattersy and 13 the entry of any order of confirmation pursuant-theretoy may 14 enter his appearance in such proceedings and demur-to-or 15 answer said the petition and contest the granting of the 16 prayer of soid the petition. 17

(4)(6) The provisions of Title 93 respecting the 18 19 demurrer-or answer to a verified complaint shall-be are 20 applicable to a-demurrer-or an answer to soid the petition. The persons so demurring-to-or answering said the petition 21 22 shall-be are the defendants in the proceeding, and the board 23 of commissioners shall-be is the plaintiff. Every material 24 statement of the petitiony not specifically controverted by the answery shall be taken as true, and every holder of 25

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title or evidence of title to lands included in the district
 failing to answer or-demur-to the petition shall be deemed
 <u>considered</u> to admit as true all the material statements
 <u>hereof thereof</u>. The procedure in such action shall be
 determined by Title 93.

(5)(1) Upon the hearing, the district court shall find 6 and determine whether the provisions and requirements of the 7 preceding section have been complied withy and whether 8 notice of the filing of the petition in the district court 9 and of the time and place of the hearing thereon has been 10 duly given for the time and in the manner herein prescribedy 11 and shall--have--power--and-jurisdiction-to may examine and 12 determine the regularity, legality, and validity of the 13 proceedings had preliminary and relative to the issuance of 14 the bondsy and the levy of the special tax or assessment in 15 the petition mentioned, and the legality and validity of 16 said the bonds and special tax or assessmenty and any--and 17 all actions taken by the board of commissioners in 18 connection with said such mattersy and shall hear all 19 objections filed to said the proceedings, or any part 20 thereofy or to the issuance of sold the bondsy or the levy 21 of the said special tax or assessment or any portion 22 thereof. The court, in inquiring into the regularity, 23 legality, and validity of seid the proceedings, shall 24 disregard any error, omission, or other irregularity which 25

does not affect the substantial rights of the parties to 1 said the proceedings. The court may ratify, approve, and 2 confirm said the proceedings in whole or in party and may વ 4 ratify, approve, and confirm said the bonds and special tax or assessmenty and enter its judgment or-decree accordingly. 5 6 (6)(8) From any such judgment or-decree an appeal may 1 be taken to the supreme court at any time within ten--++10+ я days from the entry of such the judgment or-decree. Such The appeal shall be taken, perfected, and heard in the manner 9 prescribed by Title 93 covering appeals from district courts 10 11 to the supreme court. If no such appeal be is taken within 12 the in time aforesaidy or if taken and the judgment or 13 decree of the district court be is affirmed by the supreme 14 court, such the judgment or--decree--shall--be--forever 15 conclusive-upon-all-the-world-as-to--the--validity--of--such 16 bonds-and-said-special-tax-or-assessmenty-and-the-same-shall 17 never--be--called-into-question-in-anv-court-in-the-state is 18 final. The costs of said the proceedings shall be allowed or 19 apportioned between the parties in the discretion of the 20 court." 21 Section 28+ Section 89-1705+ R+C+M+ 1947+ is amended 22 to read as follows: 23 "89-1705. Details relating to bonds. (1) All bonds 24 issued under the provisions of this act shall-be-payable-in

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gold-coin-of-the-United-Statesy-of-the-standard--weight--and

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1

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1 finances--ffineness]--existing-at-the-time-of-the-issuet-and shall run for a period not longer than forty-(40) years from 2 their datey but may contain a clause providing for their з prior redemption and payment, at the option of the board of 4 5 commissioners of the district, on any interest payment date 5 after five--+5} years from their date. Instead of straight 7 maturity bonds, bonds may be issued to mature serially at 8 such times and in such amounts as the board of commissioners 9 shall determine, but no bonds so issued shall may run for a longer period than forty-(40) years from the date of issue. 10 11 Said The bonds shall bear interest from their date until 12 paid, payable annually or semiannually, with the 13 installments of interest to date of maturity of principal to 14 be evidenced by appropriate coupons attached to each bond. 15 Said The bonds and interest coupons shall be payable at such 16 place or placesy within or without the state of Montanay as . 17 the board of commissioners shall prescribe.

18 (2) Such The bonds shall be of such denomination or 19 denominationsy and in such formy as the board of 20 commissioners shall prescribe. An issue of bonds is hereby 21 defined to be all the bonds issued in accordance with a 22 resolution or order of the board of commissioners. Each 23 issue of the bonds of a district shall be numbered 24 consecutively as authorized, and the bonds of each issue 25 shall be numbered consecutively. The board of commissioners

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snall fix the date of said <u>the</u> bonds, or <u>they</u> may divide any issue into two (2) or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the order or resolution

5 authorizing it and prior to its delivery to a purchaser from 6 the district.

7 (3) All bonds issued hereunder shall be signed by the 8 president and attested by the secretary of the board under 9 the corporate seal of the district, and each of the interest 10 coupons to be attached to said the bonds shall be executed 11 by the signatures of said the president and secretary. Each 12 bond shall be signedy and each interest coupon shall be 13 executedy by the president and secretary of the board of commissioners who may be in office at the date of said the 14 bond and couponsy or at any time thereafter prior to the 15 delivery of said the bond to the purchaser thereof from the 16 17 district.

18 (4) The board of commissioners may provide for the 19 registration of bonds in their discretion. The secretary of 20 the board of commissioners and county treasurery-eech shall 21 <u>each</u> keep a record of the bonds soldy or otherwise disposed 22 ofy; their date, number, amount, maturity, or maturitiesy; 23 to whom soldy; rate of interesty; and the place or places of 24 payment thereof."

25 Section 29. Section 89-1713; R.C.M. 1947; is amended

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1 to read as follows:

V.

2 #89-1713. Purpose of bonds -- petition, requirements, 3 and contents of. (1) Any An irrigation district may issue 4 such refunding bonds for the purpose of redeeming or paying the indebtednessy or any portion thereofy of the district, 5 6 whether represented by existing and outstanding bonds. 7 interest coupons thereof, or warrants, or-both, including 8 accrued and unpaid interest on said the bonds, coupons, and warrants, and whether such indebtedness be is due or not 9 dues or which has or may hereofter become payable at the 10 option of the district, or by consent fof] the bondholders 11 12 or warrant holders, or-bothy or by any legal meansy and 13 whether such indebtedness be is now existing or may hereafter be created, and there-shall-not-be funds in the 14 15 treasury of such the district are not available for the 16 payment of the same. Such The refunding bonds may be issued 17 in one or more series. The petition for such the refunding bonds_ signedy as required by lawy by at least sixty-per 18 19 centum-(60%) in number and acreage of the holders of title or evidence of title to the lands included within said the 20 districty and addressed to the board of directors or 21 22 commissioners of the district, may contain the following 23 specifications, in addition to the matters now required by lawy-view: 24

25 (a) How how many series of bonds shall be issued; and

1	(b) The <u>the</u> terms, conditions, and liens of the said
2	bondsy and the terms and conditions upon which each of said
3	the series of bonds shall be exchanged for outstanding bonds
4	of said the district y if the same are to be exchanged and
5	not sold y_ and-any-such-specifications-when-set-forth-in-the
6	saidpetitionshallbe-controlling-upon-the-said-board-of
i	directors-or-commissionersu-The-petitioners-shall-set-forth
8	withparticularityinsuch-specifications-the-contract-of
9	exchange-to-be-sade-and-they-shallhave-powertoinclude
10	thereinanytermy-requirementy-granty-transfer-of-property
11	or-rightsy-covenant-and-condition-whotsoever-thatshall-be
12	deemedby-the-said-petitioners-to-be-for-the-best-interests
13	of-the-said-district;-and-that-theboardofdirector;or
14	commissionersofthedistrictshallhavethepower-to
15	outhorizaanddirecttheissuanceofthesaidbonds
16	ac cordi ng lyvand-to-make-any-such-contracty-and-to-bind-the
17	irrigstion-district-therebyw
18	(2) The specifications provided for in subsection (1):
19	when set forth in the petition, are controlling upon the
20	board of directors or commissioners. The petitioners shall
21	in the specifications set forth the contract of exchange to
22	be made, with particularity. The contract may include any
23	<u>term, requirement, grant, transfer of property or rights.</u>
24	coupont or condition considered by the actitioners to be

24 <u>covenants or condition considered by the petitioners to be</u>

25 in the best interest of the district. The petition shall

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1 state_that_the_board_of_directors_or_commissioners_of_the 2 district_may_authorize_and_direct_the_issuance_of_bonds 3 according_to_the_specifications_of_the_petition:_make_any 4 such contract.and_bind_the_irrigation_district_under_the 5 contract.m

6 Section 30. Section 89-1801, R.C.M. 1947, is amended 7 to read as follows:

8 #89-1801. Tax or assessment to pay bonds and interest. 9 (1) All bonds and the interest thereon issued hereunder-10 and all payments due or to become due to the United States 11 under any contract between the district and the United States, accompanying which bonds of the district have not 12 13 been deposited with the United States as provided in section 89-1301 provided, shall be paid by revenue derived from a 14 15 special tax or assessment levied as-hereinafter-provided upon all the lands included in the district, except upon 16 17 such those lands as that have been included in such the district on account of the exchange or substitution of water 18 19 under the provisions of section 89-1611, if any there be; 20 are __any. ond-all-the All lands in the district at the time 21 said the bonds are issuedy and all lands subsequently 22 included which are so chargeable under the provisions of 23 this acty shall be and remain liable to be taxed and assessed for the payment of soid the bonds and interesty and 24 25 all payments due or to become due to the United States under

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any contract between the district and the United States,
 accompanying which bonds of the district have not been
 deposited with the United States as provided in section
 89-1301 provided.

(2) It--shall--be--the--duty--of--the line board of 5 6 commissioners of the district, in the order or resolution authorizing and directing the issuance of bonds of the 7 district+ mentioned in section 89-1703, to shall provide for 8 9 the annual levy and collection of a special tax or assessment upon all the lands included in the district and 10 subject to taxation and assessment as-aforesaid, sufficient 11 12 in amount to meet the interest on said the bonds promptly when and as the same accruesy and to discharge the principal 13 thereof at their maturity, or respective maturities, and to 14 15 meet all payments due or to become due to the United States 16 under any contract between the district and the United 17 States, accompanying which bonds of the district have not 18 been deposited with the United States as provided in section 19 89-1301 provided, at the times such payments by such 20 contract become due and payable. Where When straight 21 maturity bonds are issued, it-shail-be-the-duty-of the board of commissioners of the district to shall create and 22 23 maintain a sinking fund sufficient to pay and discharge said 24 the bonds at maturity. If said the bonds shall be are issued for twenty-(20) years or less, there shall be annually 25

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levied for such the sinking fund a special tax or 1 assessmenty-as-aforesaidy sufficient to produce a net amount 2 represented by the quotient found by dividing the aggregate 4 4 amount of the principal of the bonds by the number of years the bonds have to run; but if said the bonds are issued for 5 more than twenty--f20; years, then it shall is not be б 7 necessary to levy a special tax or assessment for sinking fund until the twentieth 20th year prior to the maturity of в the bonds, at which time and each year thereafter there 9 10 shall be levied and collected a special tax or assessment 11 sufficient to produce a net sum equal to one-twentieth (1/20) part of the aggregate amount of the principal of the 12 13 bonds.

14 (3) A certified copy of such resolution shall be filed with the clerk of the board of county commissioners of each 15 16 county in which the lands of the irrigation district lie, 17 and the special tax or assessment therein provided for shall 18 be levied and collected as hereinafter prescribedy and when 19 so collected shall, by the county treasurer having custody 20 of the funds of the district, be placed in a special fund and used solely for the payment of all amounts due-or-to 21 22 become-due-to-the-United-States-under-any--contract--between 23 the-district-and-the-United-Statesy-accompanying-which-bonds 24 of--the--district--have--not--been-deposited-with-the-United 25 States-as-in-section-89-1381-providedy-and-for--the--payment

2 tong-as-any-of-said-bonds-or-the--interest--coupons--thereto 3 appertaining--remain--outstanding--and--unpaid bonds issued 4 under the provisions of this chapter and interest thereon. 5 so long as any of the bonds or interest coupons remain 6 outstanding and unpaid. Whenever the payments are made for i amounts due or to become due to the United States, under a 8 contract between the district and the United States. 9 accompanying which bonds of the district have not been 10 deposited with the United States as provided in 89-1301, the 11 special fund shall be known as the United States contract 12 fund. 13 (4) In the event that for any reason any a special tax or assessment hereinabove provided for cannot or shall may 14 not be levied and collected in time to meet any interest 15 16 falling due on any bonds issued hereunder, then the board of 17 commissioners shall have-the-power-and-authority-and-it 18 snoll-be-their-dutyy-to provide for and pay such interest 19 when due, either out of any of the funds in hand in the 20 treasury of the district not otherwise appropriated \bullet or by

of--the-interest-on-and-principal-of-said-bonds-when-ducy-so

21 warrants drawn against the next district tax or assessment
22 levied or to be levied. Said <u>These</u> warrants shall be in
23 addition to those mentioned in section 89-1701.

(5) The board of commissioners shall have-power-and
 authority-to direct the investment of the funds in any bond

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1 sinking fund aforesaidy in interest-bearing securitiesy 2 whenever in their judgment the same investment may be to the 3 best interest of the district. But-all All such securities 4 shall be converted into cash in time to meet the principal 5 on the bondsy payable from such sinking fund promptly at 6 their maturity."

7 Section 31. Section 89-1803, R.C.N. 1947, is amended 8 to read as follows:

9 #89-1803. All irrigable lands chargeable alike. (1) 10 All irrigable lands in each irrigation district, except such 11 lands as--have-been that are included within such the district on-account because of the exchange or substitution 12 13 of watery under the provisions of section 89-1611, shall pay at the same rate for all purposes for which said the lands 14 are charged; providing-howevery except as otherwise 15 16 provided by law. that there There may be a minimum charge of 17 five--dollars-(\$5,00) against each separately owned tract of 18 land regardless of its size, as hereinafter provided in 19 section 89-1804t. and -- except-that-whenever Whenever water 20 used for the irrigation of any lands within an irrigation 21 district shall-be is obtained by pumping to different 22 elevations, the cost of maintenance, operation, and pumping 23 to each separate elevation shall be apportioned and levied 24 upon the lands lying under the ditch or ditches running from 25 that particular elevation, in such manner as may be

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determined fair and equitable by the board of commissioners
 after considering the facts in each case. Such Ihis
 apportionment shall be made by the board of commissioners
 and included each year in the assessment provided for by
 section 89-1804.

(2) The amount of such the assessment for maintenance, 6 operation, and pumping of water to each separate elevation. 7 8 whenever there are different elevations, shall be determined 9 by the board of commissioners in such mannery and upon such 10 notice to the persons interested in said the districty as 11 said the board in its rules and--requisitions may providet. 12 and--provided--furthery-that-where <u>Whenever_a</u> contract shall 13 have has been made with the United States, the lands within 14 the district, whether originally included or later annexed 15 to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and 16 17 regulations issued thereunder, and in compliance with any contracts made by the United States with the owners of said 18 19 the landst and in compliance furthery with the contract 20 between the districts and the United Statesta and-provided 21 furthery-that-where Whenever the works necessary for the 22 completed project shall--be are constructed progressively, 23 over a period of years, and that-where whenever a portion of 24 the lands within the district are or can be irrigated one 1 25 year or more before the completion of the entire project,

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then-and-in-that-case,-such those lands, so irrigated or 1 that can be so irrigated through the built portion of the 2 3 project, shall pay for the cost of operating that portion of the project serving them with irrigation watery and also 4 shall pay such portion of the interest charges as its ż ъ irrigable area bears to the irrigable area of the entire projectta and-in-case-of Whenever lands having have 7 5 appurtemant thereto a partial water right or partial rights in a system of irrigation other than that of the districts, 9 the amounts payable shall be equitably apportioned.* 10

Section 32. Section 89-1805, R.C.M. 1947, is amended
 to read as follows:

#89-1805. Determination 13 Procedure for the determination of irrigable area. (1) For the purpose of 14 determining the number of acres of irrigable lands in each 15 16 forty-scre 40-acre tract or fractional lot as designated by the United States public survey, or platted lot, if land is 17 18 subdivided in lots and blocks (or where whenever land shall 19 be is owned in less than forty-acre 40-acre tracts or in less than the platted lot, then equinate in each such tract) 20 of land in the district, the board of commissioners of any 21 irrigation district organized--hereunder <u>established_under</u> 2 Z 23 the provisions of chapter 12 of Title 39, whenever deemed considered advisable and at any time except as otherwise 24 provided, may cause a careful topographical survey and map 25

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1 of soid the lands to be made, as well as a specific examination of the character of the soil of each such tract. 2 3 Upon completion of such the survey and mapsy and 4 examination, the board shall give notice that at a meeting 5 of swid the board, to be held at the office of the board on 6 a day to be fixed in said the notice, said the board will determine the irrigable area of each such tract of land in 7 8 the district and that it will hear and consider any 9 objection on the part of any landowner in the district to 10 such the determination and to adjustment of the irrigable 11 area of said the district or of any lands within any tract 12 or subdivision thereof. It shall-not-be is not necessary to 13 describe said the tracts in said the notice. Such The 14 notice shall be given by publicationy once a week for two 2 15 successive calendar weeksy in a newspaper of general 16 circulation in the county where the office of the board is 17 located, and where whenever lands of any irrigation district 18 lie in more than one county, such the notice shall also be 19 published in a newspaper or newspapers of general 20 circulation in each such county. The last publication of 21 said the notice shall be at least five 5 days prior to the 22 date fixed for said the meeting.

23 (2) At such the meeting, the board shall proceed to
24 determine and fix the number of acres in each tract or
25 subdivision irrigable from the works or proposed works of

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1 the districty and shall hear all persons interested who may appeary and shall continue in session from day to day 2 (exclusive of Sundays and legal holidays) as long as may be ذ necessary and until said the determination of irrigable area 4 shall-have-been is completed. The board shall hear and 5 receive all evidence offered, including maps and surveys 6 caused to be prepared by it as well as maps and surveys 7 prepared by any owner of lands. Upon such determination, 8 the irrigable area so fixed shall becomey and thereafter bey 9 10 the acreage upon which any special tax or assessment shall be levied, and each irrigable acre shall pay at the same 11 rate as every other acre of irrigable land in said the 12 district, shall--payt--and except as otherwise provided by 13 laws ony Any special tax or assessment levied for any 14 15 purpose shall-be is a lien upon the entire forty-acre 40-acre tract or fractional lot as designated by the United 16 17 States public surveyy or platted lot, if land is subdivided in lots and blocks (or where whenever land shall-be is owned 18 19 in less than forty-acre <u>40-acre</u> tracts or in less than the 20 platted lot, then against each such tract) of land in the 21 district of which said the irrigable area forms a part, and 22 said the lien shall attach to said the entire tract as of the-first-day-of January 1 in the year in which said the 23 special tax or assessment is levied. 24

25 (3) Upon completing such the determination, the board

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shall fix, by appropriate resolution or order, the total 1 acreage and the irrigable acreage of each such tract or 2 subdivision, and shall cause to be prepared a list of all 3 lands in said the district, which list shall contain an 4 accurate description of each such-forty-scre 40-acce tract 5 or fractional lot as designated by the United States public 6 survey or platted lot, if land is subdivided in lots and 7 blocks (or where whenever land shall-be is owned in less ô. 9 than forty-ocre 40-acre tracts or in less than the platted lot, then against of each such tract) of land in said the 10 district, the total acreage and the number of irrigable 11 12 acres therein as so fixed and determined, and the name of the ownery or holder of title or evidence of title thereof, 13 ascertained as provided in section 89-1201. Such This list, 14 15 when completed and adopted, shall be filed in the office of 16 the board of commissioners and shall remain there for public inspection. A certified copy of such the resolution and 17 18 list shall be filed with the county clerk and recorder of each county in which any portion of the lands in said the 19 20 district are situated the provided - howevery-there-shall-be 21 omitted-from-such-copy The lands not situated in the county 22 in which such copy is filed shall be omitted from the copy. (4) No special tax or assessment sholl may be levied 23 against any forty-acre 40-acre tracty or fractional lot as 24 designated by the United States public surveys or platted 25

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1 lot, if land is subdivided in lots and blocks (or where 2 whenever lands shall-be are owned in less than forty-acre 40-acre tracts or in less than the platted lot, then against 3 each such tract) found by said the board to contain no 4 5 irrigable land; nor shall may any lien created after the order of determination herein-provided-for attach to any 6 such tract, nor shall may the ownery or ownersy of any tract 7 or tracts have any vote or votes in any proceeding or 8 election under the provisions of Chapter 146 of the Laws of 9 1909 or any amendment thereofy or act supplementary 10 thereto, after the making of such order, unless his-soid 11 their landy or a portion thereofy-be is found by soid the 12 board to contain an area irrigable from the worksy or 13 14 proposed worksy of said the district.

15 (5) Upon the determination provided for in this 16 section, the board of commissioners shall-have-the-power-to 17 may refund any taxes paidy or cancel any unpaid taxes or 18 assessmentsy levied upon an acreage in excess of that so 19 fixed by said the order of determinationy and where whenever 20 necessary, may issue warrants therefor.

(6) Within sixty 60 days after such the resolution
adopting soid the list, the board of commissioners may
petition the district court for confirmation of their acts
in determining the irrigable areay-as-aforesaidy and in
refunding or canceling any taxes or assessments. The

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1 majority in number and acrease of the holders of title or 2 evidence of title to lands in said the district, ascertained as provided in this act provided, mayy likewisey within such 3 4 sixty-day 60-day periody petition the district court for review of the actions of the board of commissioners. But 5 6 However, one of such these proceedings, if prosecuted to 7 determination, shall--be is exclusive of the other. Upon я such proceeding, the court may order any assessment of taxes upon any land or lands to be reduced or raised according to 9 the irrigable area as found by the courty or taxes 10 11 previously levied upon any area shown to be excessivey to be 12 refunded or canceled.

13 (7) The provisions of section 89-1402y regarding the 14 procedure as well as the right and time to appealy-shall 15 apply to any proceeding instituted in-pursuance-of--the 16 provisions--of pursuant to this section; providedy-howevery 17 that nothing in this section shall-be-deemed-or-construed-to 18 affect-or-impair affects or impairs the lien of any bonds 19 issued by the district; and-providedy-furthery-that-if If 20 confirmation proceedings are held and a certified copy of 21 the order of confirmation be is filed with the county clerk 22 and recorder of the county in which any portion of said the 23 lands is situated, it shall-not-be is not necessary to file 24 in soid the office the certified copy of the resolution and 25 order of the boardy or of the listy-hereinabove provided for

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(8) Providedy--howevery--that-where Whenever districts 2 have been established in order to co-operate cooperate with 3 United States under the federal reclamation laws 4 the heretofore--or--hereafter--enactedy or under any act of 5 congressy congress which shall-permit-of permits the 6 performance by the United States of work in this state, for 7 8 the purposes of construction of irrigation works, including 9 drainage works, or for purchase, extension, operation, or 10 maintenance of construction worksy or for the assumption as principal or quarantory of indebtedness to the United States 11 12 on account of district laws lands, the determination of the irrigable area of the lands in said the district may be made 13 14 by the said board of commissioners in the manner provided in 15 this section provided or by the United States at the option of the latter, and, if the United States determines the 16 17 irrigable area, the proceeding for the apportionment and distribution of the costs of the proposed works or 18 19 improvementsy--hereinafter provided for in section 89-1806 20 shall may not be had."

 21
 Section 33. Section 89-1806, R.C.M. 1947, is amended

 22
 to read as follows:

23 #89-1806. Determination---of---irrigable--srea--- 24 apportionment-and-distribution-of-costs-of-proposed-works-or
 25 improvements <u>Apportionment_of_costs_when_bonds_issued</u>. (1)

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Whenever a petition for the issuance of bonds of any 1 2 irrigation district organized--hereunder--shall---have established under the provisions of chapter 12 of Title 89 3 has been filed, as hereinbefore provided in section 89-1703 4 provided, the board of commissioners of such the district 5 shall examiner or cause to be examined, each forty-acre 6 40-acre tract or fractional lot as designated by the United 7 States public surveyy or platted lot, if land is subdivided 8 9 in lots and blocks (or where whenever land shall-be is owned in less than forty-acre 40-acre tracts or in less than the 10 platted lot, then agoinst each such tract) of land in said 11 the districty and cause a careful topographical survey and 12 map to be madey in the manner provided for in section 13 14 89-1805. Upon such examination, the board shall determine the number of irrigable acres in each such tract; and shall 15 16 apportion and distribute the cost of the works or improvements for which said the bonds are to be issued, over 17 the tracts within said the district according to the 18 19 irrigable area in each of said the tracts or subdivisions, so that each such irrigable acre shall--be is required to 20 21 bear the same burden of such costs as each other irrigable 22 acre in soid the district, and the except as otherwise 23 provided by law. The special tax or assessment levied to meet the principal of and interest on said the bonds so 24 25 authorizedy--shall-become is a lien upon the entire tract of

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which such irrigable area forms a part or portion as of the first-day-of January 1 of the year in which such the special tax or assessment is levied, and the number of irrigable acres in each such tract as so determined shall may not be diminished but may be increased during the term for which any such bonds may-be are issued or until the bonds shall be are liquidated in full.

(2) Providedy-howevery-that-if Whenever a proceeding 8 for the determination, in whole or in part, of the irrigable 9 area of the lands in said the district has already been hady 10 or a topographical survey or maps thereof preparedy or a 11 court confirmation of said prior proceedings had, in part or 12 in full, the said board may, in its discretion, adopt all or 13 such portions of seld the prior proceedings; and in-such-an 14 15 eventy--it--shall--not--be--necessary--to need not cause an additional surveys or mapsy or examinations of any of such 16 tracts to be again madey or to redetermine the irrigable 17 18 area of any such tract.

19 (3) The board shall make such determination after <u>the</u> 20 hearing had and shall fix the total acreage and the 21 irrigable acreager and shall cause a list of such irrigable 22 area to be made and filed, and the proceedings of the board 23 in connection with such determination, including soid <u>the</u> 24 hearing and notice of soid <u>the</u> hearing, and order or 25 resolution fixing the irrigable area and the preparation and

filing of said the list, shall conform to the requirements 1 set forth in section 89-1805. At such the hearing, the said Z board shall also determine the amount and rate per acre - 74 necessary to be levied against each irrigable acre in the district to meet the interest on and principal of seid the 5 authorized bond issue, and any tax levied for such purposes 6 i shall--be is a lien upon the entire tract of which said the irrigable area forms a part. If any landowner in the 8 district shall-appear appears before the board at said that 9 10 time and pay pays in cash the amount fixed against his said 11 land as its proportion of the amount found necessary for the 12 purposes for which said the bonds were authorized and are to 13 be issued, his land shall be excluded from the lien of the 14 bond issue and the amount of bonds intended to be issued shall be reduced by the amount of such payment. Any person 15 16 interested who shall-fails to appear before the board 17 at said the meeting shall may not thereafter be permitted to 18 contest the proceedings of said the boardy or any part 19 thereof, except upon special application to the court in the 20 proceedings for the confirmation of said the bonds and a 21 showing of reasonable excuse for failure to appear before 22 said the board of commissioners.

(4) In case any such landowner makes objection to the proceedings of seid the board in determining the irrigable area in his own or any other tract of landy or the amount or

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1 rate per acre of the special tax and assessment to be levied against each irrigable acre in the district for the purposes 2 3 of the proposed bond issuer and said the objection is 4 overruled by the board, such the objection without further 5 proceedings shall be regarded as appealed to the district courty and shall, with the other proceedings of said the 6 7 board at soid the meeting, be heard at the proceedings to confirm said the bonds, as provided in section 89-1704, and 8 when so confirmed, said the order overruling such objection 9 10 and confirming the order of the board determining the 11 irrigable area of each tract of land and apportioning the 12 cost of the improvement thereto, shall become final. 13 binding, and conclusive upon said the landowner and upon the 14 district, unless appealed from as provided in said--section 15 89-1704 provided.

(5) Providedy--howevery--that--whenever Whenever the 16 17 irrigable area of the lands in any irrigation district shaft 18 have has been determined and confirmed, no owner or holder 19 of title or evidence of title to lands in said the district, 20 during the period of when any bonds thereafter authorized 21 shall-be are issued and outstanding, shall may have the taxable acreage of his said lands fixed or adjudicated in 22 23 the manner provided by sections 89-1404 to through 89-1408, 24 in such manner or to such extent as to reduce the acreage 25 subject to the payment of such the bonds or interest

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1 thereony or in such manner as to affect the security of 3 such the bonds or interest thereon."

3 Section 34. Section 89-1811, R.C.M. 1947, is amended
4 to read as follows:

#89-1811. County treasurer as custodian of district 5 funds. The county treasurer of the county wherein where the 6 office of an irrigation district is located shall be is the 7 custodian of all funds belonging to the district, and he Ĥ 9 shall pay out such funds upon the order of the board of commissioners, except as-to payments on bonds and interest, 10 11 for which no order shall--be is necessary. Where If any 12 portion of the funds belonging to a district have has been collected for the purpose of establishing a reserve fund, 13 the county treasurer shall pay such portion to the district 14 15 on order of the district's board of commissionersy who shall 16 have--suthority--to may invest the same in state or federal 17 bonds or in savings certificates of institutions insured by 18 the federal deposit insurance corporation. Where moneys of 19 a district in the United States contract fund established 20 pursuant to section--89-1809 89-1801(3) are in excess of 21 those needed to pay a district's next succeeding annual 22 contract obligation or obligations to the United States, 23 such excessy or any part thereofy may, upon order of the 24 district's board of commissionersy and with the consent of 25 the United States officer administering the contract for

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which the contract fund has been established, be paid to the
 district for use in meeting other obligations of the
 district. Such orders of the board of commissioners shall be
 signed by the president and secretary of the board, and
 shall bear the official seal of the district."

Section 35. Section 89-1816, K.C.M. 1947, is amended
to read as follows:

#89-1816. Proceeds of sale. Whenevery-pursuant-to--the 8 9 provisions--of-the-preceding-sectiony any lot, tract, piece, 10 or parcel of land included within and forming a part of any irrigation district created under the provisions of this 11 12 chaptery or included within any extension of such districty 13 shall--be is sold by the treasurer of the county wherein where such land is situatedy in the manner provided by law 14 15 for the sale of lands for delinguent taxes for state and 16 county purposes, and taxes or assessments of such the 17 irrigation district form all or a part of the taxes for which such lands are sold, it--shall--be--the--duty--of the 14 19 county treasurer making such sale or sales to shall place to 20 the credit of the proper funds of such irrigation district, out of the proceeds of such the sale or sales, the total tax 21 or assessment of such the irrigation district, inclusive of 22 the interest and penalty thereon as provided for by the 23 general laws relating to delinquent taxes for state and 24 county purposes, and whenever any such lands are struck off 25

1 at such sale to the county wherein where the-same they are Z situates situated pursuant to the provisions of section 84-4124, the county treasurer of such the county must, upon 3 the issuance of the certificate of tax sale to said the 4 county, issue to said the irrigation district, and in its 5 corporate name, a debenture certificate for the amount of 6 1 taxes and assessments due to said the irrigation district from said the lands and premises so sold, inclusive of the 8 9 interest and penalty thereon, which certificate shall-be is 10 evidence of and conclusive of the interest and claim of said 11 the irrigation district in, to, against, and upon the lands 12 and premises so struck off to said the county at such the 13 tax sale, and from--and after the issuance of said the 14 certificate, the sum named therein and the taxes and 15 assessments of said the district evidenced thereby shall bear interest at the rate of one-per-centum-per 13 a month 16 17 from the date of said the certificate until redeemed in the manner provided for by law for the redemption of the lands 18 sold for delinguent state and county taxes, or until paid 19 20 from the proceeds of the sale of the lands and premises 21 described thereiny in the manner provided for by section 22 2235-of-these-codes law, and duplicates of such certificates 23 so issued to said the irrigation district shall be filed in the office of the county clerk and county treasurer of said 24 the county with the certificate of tax sale of said the 25

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1 lands and premises."

Section 36. Section 89-1819, R.C.N. 1947, is amended 2 3 to read as follows:

4 "89-1819. Sale by county commissioners when land not 5 redeemed. When the lands and premises so sold for taxes, and 6 upon and against which the certificates herein-provided-for 7 have been issued for the taxes and assessments of such the 8 irrigation districty are not redeemed within the time 9 provided for by section 84-4132. it-shall-be-the-duty-of the 10 board of county commissioners of soid, the county, within 11 three 3 months thereafter, to shall cause soid these lands 12 and premises to be sold as provided for by section-2235--of 13 these--codes law, and out of the proceeds of the sale. 14 thereof the county treasurer of said the county shall pay to 15 the holder or holders of such the certificates the sum or 16 sums for which the same were issued, with interest as 17 therein provided for to the date of said the sale of said 18 the lands by the board of county commissioners, and no lands 19 and premises so held by any countyy and against which the 20 certificates provided for by this chapter have been issuedy 21 shall may, upon such sale, be struck off or sold for a less 22 sum than the amount of taxes and assessments of said the 23 irrigation district represented by said the certificate, inclusive of the interest thereon, in addition to the state 24 25 and county taxes, if any, against the same."

Section 37. Section 89-2003, R.C.M. 1947, is amended 1 to read as follows:

*69-2003. Contents of petition. Soid The petition of 3 89-2002 shall set forth the amount of the outstanding bonds, 4 coupons, and other indebtedness, if such--there-be any, 5 together with the general description of the--same them, б showing the amount of each description--of described 7 indebtedness and the ownership, so far as known, of the same 8 indebtedness. Said The petition shall also state the assets 9 of said the district, including any irrigation system, if 10 any systems, dams, reservoirs, canals, franchises, water 11 rights, and other property; and in case any proposition has 12 13 been made by the holders of said the indebtedness to settle 14 the some indebtedness, soid this proposition, together with 15 any plan proposed to carry the same proposition into 16 execution, shall be included in said the petition."

17 Section 38. Section 89-2109, R.C.N. 1947, is amended to read as follows: 16

19 #89-2109. Interpretation of act title. The object of this act--being--to--secure--the-irrigation-of-lands-of-the 20 21 statey-and-thereby title is to promote the prosperity and 22 welfare of the peopley--its-provisions-shall-be-liberally 23 construed-so-as-to-effect-the-objects--and--purposes--herein 24 set--forth of Montana through the sound management of the 25 state's water resources, and its provisions are to be given

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1 <u>a liberal interpretation."</u>

Section 39. Section 89-2126. R.C.M. 1947. is amended
 to read as follows:

#89-2126. Court-to--approve--contracts United States 4 contracts ____ court _approval _required. The board of ÷ commissioners of any irrigation district, before the making 6 of any contract with the United States hereunder, shall 7 commence a special proceeding in the district court of the Э. state, in--and by which the proceedings of the board and of Q. said the district leading up to the making of any such 10 contract and the validity of the terms thereof shall be 11 judicially examinedy and approved and affirmedy or 12 13 disapproved or and disaffirmed."

14 Section 40. Section 89-2203. R.C.M. 1947. is amended 15 to read as follows:

#89-2203. Amendment and circulation of 16 petition--circulation -- court consideration by-court. No 17 18 petition having as many signers as are required by this section 89-2201 shall may be declared void, but the court 19 may at any time permit the petition to be amended in form 20 21 and substance to conform to the facts, if the facts justify 22 the organization of a drainage district. Several similar petitions for the organization of the same district may be 23 24 circulated, and, when filed, together shall together be 25 regarded as one petition having as many signers as there are

separate adult signers on the several filed petitions filedy 1 who own lands within said the proposed drainage district. 2 3 All petitions for the organization of said the district filed prior to the hearing on said the petition shall be 4 considered by the courty the same as if filed with the first Ξİ. petitions placed on file, and the signatures thereon 6 1 contained shall be counted in determining whether sufficient я landowners have signed said the petition."

9 Section 41. Section 89-2302, R.C.M. 1947, is amended
10 to read as follows:

11 #89-2302. Election of commissioners -- terms regular 12 term of office. (1) The regular election of commissioners 13 shall be held annually on the first Tuesday in April of each 14 year; the term of office of commissioners shall commence on 15 the first Tuesday in May following their election. At the 16 first regular election following the organization of a 17 districty and in districts heretofore organized and in 18 existence on the date-when-this-act-takes--effect March 1: 19 1921, and which, on petition, has have been divided into 20 divisions, as-hereinbefore-provided, at the first regular 21 election following the date of the order making such division, there shall be elected three commissioners, one 22 commissioner being elected from each division of which he 23 24 must be an actual landowner and resident-of--the--county-or 25 countres; one of such the commissioners, to be determined by

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lot, shall hold office until the first Tuesday in May in the 1 year following his election, another of such the 2 commissioners, to be determined by lot, shall hold office 3 until the first Tuesday in May in the second year following 4 his election, and the third of such the commissioners shall 5 hold office until the first Tuesday in May in the third year 6 following his election: thereafter one commissioner shall be 7 elected each years who shall hold office for a term of three 8 3 years and until his successor is elected and qualified; 9 10 provided, that the person elected as a commissioner in each 11 year to succeed the commissioner whose term is then expiring 12 must be elected as a commissioner from the same division as 13 the commissioner whom he is to succeed.

14 (2) Each commissioner must be a resident of a county
 15 where a portion of the district lands are situated."

16 Section 42. Section 89-2348, R.C.H. 1947, is amended 17 to read as follows:

"89-2348. Assessments--for--construction Construction 18 19 assessments -- annual installment. At the time of the 20 confirmation of such the assessments as provided in 89-2342, it-shall-be--competent--for the court to may order the 21 22 assessment for construction of new worky to be paid in not 23 more than fifteen-(15) annual installments, of such amounts 24 and at such times as will be convenient for the 25 accomplishment of the proposed worky or for the payment of

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the principal and interest of such notes or bonds of said Ł the district, as the court shall-grant grants authority to 2 issuer for the construction of new work. The court shall 3 alsow by such ordery fix a date on which the first 4 installment of the assessments for construction shall become 5 due, not more than five--- f5+ years after the date of the 6 order, and each of soid the installments shall draw interest 7 at the rate fixed by the court in accordance with law from the date of soid the order." 9

10 Section 43. Section 69-2411, R.C.M. 1947, is amended 11 to read as follows:

#89-2411. Omissions-how-corrected Correction of 12 13 omissions. Omission to assess benefits, or to assess for 14 construction, or to make additional assessments, or to make assessment for repairs, or to award damages to any one or 15 more tracts of land or easements in a drainage districty or 16 17 to assess benefits, or-to assess for construction, or-to 18 assess for repairs, or to make additional assessments against any corporation which should have been assessedy 19 20 shall-neither does not affect the jurisdiction of the court 21 to confirm the report nor to render the benefits assessed, or the assessments for construction, or additional 22 assessments, or assessments for repairs against other landsy 23 24 or assessments against any corporation voidabley; but the 25 commissioners of said the drainage district shall

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thereafter, as soon as they discover the omission, or as 1 soon as they have notice thereof, either agree with the 2 3 omitted parties upon the proper assessments and award the damages or assess such benefits, make such assessments for 4 constructions and make such additional assessments against 5 the pmitted lands and corporationsy and award such damages 6 as shall-be are justy and report the facts, together with 7 such assessments and awards, to the court." 8

9 Section 44. Section 89-2701, R.C.M. 1947, is amended
 10 to read as follows:

*89-2701. Continuation of existing districts. All 11 drain districts of the state of Montana, organized prior to 12 the-enactment-of-sections-89-2201-to--89-2502--and--sections 13 89-2881--to--89-2820-inclusive March 1: 1921, and continued 14 in existence pursuant to section 89-2820 100. Chapter 129. 15 Laws 1921, shall continue their existence as drain districts 16 under and pursuant to all of the provisions of said sections 17 drainage district laws, and the commissioners of such drain 18 districts shall have all the power and authority conferred 19 by said--sections the drainage district laws upon the 20 commissioners of drainage districts organized--under--such 21 22 sections."

23 Section 45. Section 89-2711, R.C.M. 1947, is amended 24 to read as follows:

25 #89-2711. Rules of practice applicable. The same rules

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relative to the filing of demurrersy answers and replies
 which-now-exist relative to other causes of action affecting
 the title to real property shall apply in actions to exclude
 lands from a drainage district, and all issues arising may
 be tried by the court without a jury.[#]
 Section 46. Section 89-2810, R.C.M. 1947, is amended

Section 46. Section B9~2810, R.C.M. 1947, is amended
 to read as follows:

8 #89-2810. Assessments against annexed lands. Said The Q. commissioners shall, after the time for appeal is past, 10 assess against each parcel, tract, and easement of and-said 11 the annexed lands reasonable and just benefits, and shall 12 assess against said these lands for construction and repairs 13 such sums as shall-be are just. If lands similarly situated and benefited are found in said the district, the annexed 14 lands shall be assessed a like sum of benefits and damages 15 as soid the similar lands in the said district to which they 16 17 are sought to be annexedy and a sum for construction of said 18 the work, which shall be equal to all sums assessed, for the 19 complete construction of the drainage system in the district 20 to which they are sought to be annexed against lands having 21 the same assessment of benefits in said the district." 22 Section 47. Section 89-2926, R.C.M. 1947, is amended 24 to read as follows:

24 *69-2926. Waste and contamination of ground--water
 25 groundwater prohibited--exception--duties-of-department. (1)

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L No ground -- waters groundwater shall may be wasted without beneficial-use. The department shall require all wells ۷ 3 producing waters which contaminate other waters to be plugged or capped. It shall also require all flowing wells 4 5 to be so capped or equipped with valves that the flow of water can be stopped when the water is not being put to 6 beneficial use. Likewise, both flowing and nonflowing wells 7 8 shall be so constructed and maintained as to prevent the 9 waste, contamination, or pollution of ground-waters 10 groundwater through leaky casings, pipes, fittings, valves, or pumps either above or below the land surface, provided, 11 12 however, in the following cases the withdrawal or use of 13 ground--water groundwater shall not be construed as waste under this act: 14

15 <u>(t)(a)</u> the withdrawal of reasonable quantities of 16 ground----water groundwater in connection with the 17 construction, development, testing, or repair of a well 'or 18 other means of withdrawal of ground-waters groundwater;

19 (2)(b) the inadvertent loss of ground---water
20 groundwater owing to breakage of a pump, valve, pipe, or
21 fitting, if reasonable diligence is shown by the person in
22 effecting the necessary repair;

23 (3)(c) the disposal of ground---water groundwater
24 without further beneficial use that must be withdrawn for
25 the sole purpose of improving or preserving the utility of

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land by draining the same or that must be removed from a
 mine to permit mining operations or to preserve the mine in
 good condition;

4 (4)(d) the disposal of ground-water groundwater used
5 in connection with productiony-for-reduction producing.
o reducing, smelting, and milling metallic ores and industrial
7 minerals, or that displaced from an aquifer by the storage
8 of other mineral resources.

9 <u>(2)</u> The department at any time may hold a hearing on 10 its own motiony or upon petition signed by a representative 11 body of users of ground-water groundwater in any area or 12 subareav to determine whether the water supply within such 13 area or subarea is used in compliance with this act."

14 Section 48. Section 89-2929, R.C.M. 1947, is amended 15 to read as follows:

16 "89-2929. Reports to--be-in-addition-to-other-reports 17 required by water well drillers. The forms, reports, and 18 information required to be filled-[filed] by this act shall 19 be are in addition to all other reports and information 20 which the drillers of water wells in the state of-Montana 21 are required by law to file with agencies of the state of 22 Hontana."

23 Section 49. Section 89-3425, R.C.M. 1947, is amended 24 to read as follows:

25 #89-3425. Challenging voters--oath--penalty-for--false

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subscription. An elector may challenge any person who claims
 the right to vote. Before voting, any person challenged must
 take and sign the following oath or affirmation administered
 by an election judge:

*1 **** (name) solemnly swear (or affirm) that I am an
elector of the district and have not voted today.** False
subscription to the oath or affirmation is perjury-and
punishable_as-such is false swearing and is punishable_as
provided_in_94=7=203.**

Section 50. Section 89-3449, R.C.N. 1947, is amended to read as follows:

12 *89-3449. Other agencies not affected. The provisions 13 of this act shall-not-be-construed-toy do not in-any-mannery 14 abrogate or limit in any manner the rights, powers, duties, and functions of the department, conservation--commission, 15 16 conservation districts, department of health and 17 environmental sciences, or the fish and game commission; but 18 shell-be-held-to-be are supplementary thereto and in aid 19 thereof."

20 Section 51. Severability. If a part of this act is 21 invalid, all valid parts that are severable from the invalid 22 part remain in effect. If a part of this act is invalid in 23 one or more of its applications, the part remains in effect 24 in all valid applications that are severable from the 25 invalid applications. 1 Section 52. Repeater. Sections 89-128, 89-1901, and

2 89-2818, R.C.M. 1947, are repeated.

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1	SENATE BILL NO. 26
2	INTRODUCED BY GRAHAM
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS
6	89-128, 89-1901, AND 89-2818, R.C.M. 1947."
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8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 89-105, R.C.M. 1947, is amended to
10	read as follows:
11	#89-105. Power-of-department-to-construct-works-and-to
12	act-beyond-jurisdiction <u>Construction of works by department</u> .
13	 Subject to the approval of the board, the department
14	may construct works, the cost of the construction to be paid
15	wholly by means of or with the proceeds of revenue bonds
16	hereinafter authorized or of a grant to aid in financing the
17	construction from the United States or any instrumentality
18	or agency thereof and of other funds provided under the
19	a uthorityofthisoct <u>for _theconstruction</u> . Before
20	constructing a project, the department shall estimate the
21	cost of the project, the cost of maintaining, repairing, and
22	operating it, and the revenues to be derived therefrom, and
23	a project may not be constructed unless, according to the
24	estimates, the revenues to be derived will be sufficient to
25	pay the cost of maintaining, repairing, and operating it,

1 and to pay the principal and interest of revenue bonds which 2 may be issued for the cost of the project; however, in 3 connection with the issuance of revenue bonds, the failure 4 of the department to make the estimates required by this 5 section or to make them in proper form does not affect the 6 validity or enforceability of those bonds or of the trust 7 indenture, resolutions or other security therefor. 8 (2) Howevery--should Should the bid of the lowest

9 responsible bidder on any capital improvement associated 10 with public works as--defined--in-this-section exceed the 11 department estimates of the cost of the improvements by more 12 than five--per--cent--{5%}, the department shall obtain 13 approval from the water user association, whenever an 14 association is involved. before the bid is accepted; 15 however, capital improvements of an emergency nature necessary to protect life or property or to supply immediate 16 17 needs for water do not require such approval.

18 (3) The A purpose of this act is to meet, so far as 19 possible, a state-wide statewide need for the conservation 20 and use of watery through the construction and operation of 21 projects designed for those purposes. The department may 22 make-investigations-as-are-necessary-to-plan-and-carry-out-a 23 comprehensive-state-wide-program-of-water-conservation* The 24 projects to be finally constructed shall qualify as parts of 25 the state-wide statewide program and shall be approved by

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REFERENCE BILL: Includes Free Joint Conference Committee Report Dated March 30, 79

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1 the board upon the showing of their prospective ability to 2 meet, through the sale of water or other services, the cost 3 of operation, maintenance, and repair and the amortization 4 of the cost of the constructiont, howevery the The failure 5 of the board to determine the prospective ability of a 6 project does not affect the validity or enforceability of 7 the bonds or of the trust indenture, resolution, or other 8 security therefor.

9 (4) The department may exercise any of its powers:
10 (a) In in an adjoining state, unless the exercise of
11 that power is not permitted under the laws of that state or
12 of the United Stateswing '

13 (b) In in a national forest or public domain of the 14 United States adjoining, or located in, the state of 15 Montana, unless the exercise of those powers is not 16 permitted under the laws of the United States.

17 (c) In in an adjoining country unless the exercise of
18 those powers is not permitted under the laws of that country
19 or of the United States or under the treaties between that
20 country and the United States."

21 Section 2. Section 89-115, R.C.M. 1947, is amended to 22 read as follows:

23 *89-115. Weter-funds--rotes--sale-of--water---eppends
 24 to--board--lease--and--sale--of--water--rights--and-property
 25 <u>Management of property -- water contracts</u>. (1) Subject to

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this act and section 89-103.2, the department may fix and establish the prices, rates, and charges at which the resources and facilities made available under this act may be sold and disposed of; enter into contracts and agreements, and do those things which in its judgment are necessary, convenient, or expedient for the accomplishment of the purposes and objects of this act, under such general

8 requisions rules and upon such terms, limitations, and conditions as it prescribest. the Ine department shall enter 9 into the contracts and fix and establish the prices, rates_ 10 11 and charges so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance 12 13 of the works authorized by this act, together with necessary 14 repairs thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest 15 16 of all bonds or loans as they severally become due and 17 payablet, this Inis act does not authorize any change, 18 alterations or revision of those rates, pricess or charges 1.9 as established by any contract entered into under this act 20 except as provided by the contract.

21 (2) An incorporated water users* association that is 22 sustaining and responsible for the operations of a works is 23 solely liable for any court action which may be brought 24 against it or the state of Montana for any injury or damages 25 occurring on the works caused by a failure to maintain safe

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1 working and operating conditions.

(3) A contract made by the department for the sale of 2 3 water, use of water, water storages or other servicey or for the sale of any property or facilities, shall provide that t 4 in the event of a failure or default in the payment of 5 moneys specified in the contract to be paid to the 6 7 department, the department may, upon notice as is prescribed 8 in the contract, terminate the contract and all obligations 9 thereunder. The act of the department in ceasing on default to furnish or deliver water, use of water, water storage, or 10 other service under the contract does not deprive the 11 department of \mathbf{v} or limit any remedy provided by the contract 12 or by law for the recovery of moneys due or which may become 13 14 due under the contract.

15 (4) (a) A person aggrieved by a decision of the 16 department to terminate any contract under subsection (3) 17 may appeal to the board and be heard thereon by filing 18 written notice of the appeal with the department within ten 19 (10) days after receiving notice of termination of the 20 contract from the department. The termination of the 21 contract shall be stayed if an appeal is taken.

(b) If a dispute arises between the department and
another party regarding amounts owing or the terms and
conditions under a water marketing or water purchase
contracty or under a contract for the construction or repair

of works, that party may appeal to the board for a hearing thereon and a resolution of the dispute by filing written notice of the appeal with the department within thirty-f30+

4 days after the final decision of the department regarding 5 the dispute.

6 (5) Subject to the approval of the board under section 7 89-103.2, the department may sell, transfer to water user я associations, abandon, or otherwise dispose of any: rights-of 9 way <u>rights-of-way</u>, easements, or property when it determines 10 that they are no longer needed for the purposes of this acty 11 or lease or rent the same or otherwise take and receive the 12 income or profit and revenue therefrom. A determination 13 shall be made by the department as to the market value of 14 rights--of--way rights-of-way, easements, or property to be 15 sold, transferred, abandoned, or otherwise disposed of. All 16 fncome-or-profit-and-revenue-of-the--works--and--all---monevs 17 received--from--the-sale-or-disposal-of-water--use-of-water-18 water-storagey-or-other-servicey-and-from-the--operations 19 leasey--sole-or-other-disposition-of-the-worksy-property-and facilities-acquired-under-this-acty-shall--ba--deposited--to 20 21 the-state-general-fund. Section 3. Section 89-401, R.C.M. 1947, is amended to 22 23 read as follows: #89-401. Disposition of moneys collected. (1) For the 24 25 purpose of carrying out the provisions of the---Water

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Conservation-Acty-acts-amendatory-thereto-andsupplementary	1	distribution of electric current; revenues-arising from
thereofy chapter 1 of Title 89 and such other water resource	z	projects-constructed-or-owned-by-the-department-in-excess-of
authority, powers, and duties as are conferred upon the	3	costsofoperationandmaintenanceyandrepaymentof
department of natural resources and conservation by law, the	4	principalandinterestofanymoneysborrowedfor-the
following moneys shall be deposited in the earmarked revenue	5	construction-of-the-projects;-all-sumspayableasrentals
fund for the use of the department:	6	due-for-water-usev-maintenance-or-operation-upon-any-project
(a) all sums of money donated or contributed by the	7	ownedbvthestateor-for-which-such-rentals-are-due-and

2 thereofy chapter 1 of Title 89 and such other water resource authority, powers, and duties as are conferred upon th а, 4 department of natural resources and conservation by law, th 5 following moneys shall be deposited in the earmarked revenu 6 fund for the use of the department:

7 (a) all sums of money donated or contributed by th 8 federal government or any department or agencies thereof; 9 (b) all gifts, donations, bequests, and devises made 10 to the state therefort and proceeds of the sale thereof: and 11 the proceeds of the sale or redemption of and the interest 12 earned by the securities purchased or acquired by the moneys 13 thereof with money received under this subsection;

14 (c) all reimbursements for money advanced for the payment of the assessments upon state, school--crented 15 16 school-granted, and other public lands for the improvement thereof as provided by law; 17

18 (d) all reimbursements for money advanced for the investigation and survey of reclamation, electrifications 19 and rehabilitation systems or projects proposed to be 20 21 financed in whole or in part by the reclamation of lands and 22 dyking, drainage, and dyking and drainage dams for 23 conservation of water to be used in reclamation of land or 24 stock reservoirs or for the construction, maintenance, and operation of plants or projects for the manufacture or 25

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terest--of--any--moneys--borrowed--for-the e-projects;-all-sums--payable--as--rentals -maintenance-or-operation-upon-any-project ate--or-for-which-such-rentals-are-due-and 8 payable-under-ony-contract-or-agreement-made-by-any--persony 9 association--or-corporation-with-the-departments-all-sums-of 10 money-received-by-the-department-for--the--use--of--electric 11 currenty-in-excess-of-the-maintenance-and-operation-upon-any 12 electrification-system-or-project; 13 (e) all reimbursements for costs of surveys and 14 investigations for moneys advanced to counties, cities or 15 towns or their proportion of the cost thereofy or from any 16 other sources.

17 (2) The following shall be deposited in the state 18 general fund:

19 (a) all income or profit and revenue of the works and 20 all money received from the sale or disposal of water, use 21 of water, water storage, or other service and from the 22 operation. lease. sale. or other disposition of the works. 23 property, and facilities acouired under chapter 1 of Title 24 89: and

25 (b) all sums received by the department for the use of

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(3) The department may take into consideration the 16 17 decrees of the courts of this state having jurisdiction. which purport to adjudicate the waters of a stream or its 18 19 tributaries, and a fair, reasonable, and equitable reconciliation shall be made between the claimants asserting 20 rights under different decrees and between decreed rights 21 and asserted rights of appropriation not adjudicated by any 22 23 court.

24 (4) The department, at its discretion, may hold
 25 hearings relating to the rights of respective claimants

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after first giving such notice as it deems considers appropriate, and make findings of the date and quantity of appropriation and use of all claimants which the department

4 will recognize and observe in diverting the waters which it 5 owns. The department may police and distribute to the owner 6 of the recognized appropriation the waters due him upon

7 request and under terms agreed upon.

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8 (5) The department, when engaged in controlling and 9 dividing the natural flow of a stream under the authority 10 granted by this act chapter, is exercising a police power of 11 the state, and water commissioners appointed by any court 12 may not deprive the department of any of the waters owned or administered under agreement with respective owners, but the 13 14 owner of a prior right contending that the department is not recognizing and respecting the appropriation may resort to a 15 court for the purpose of determining whether or not the 16 17 rights of the claimant have been invaded, and the department 18 shall observe the terms of the final decree.

19 (6) When the department impounds or acquires the right
20 of appropriation of the waters of a streamy it may divert or
21 authorize the diversion at any point on the streamy or any
22 portion thereofy when it is done without injury to a prior
23 appropriator.
24 (7)-This-act-does-not--repeal--or--amend--an--existing

25 *statute--pertaining-*to--the--appropriation--or-use-of-water

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1	except-as-expressly-provided-in-this-acty-and-this-actdoes
2	n ot-interfere-with-vested-rights-to-the-use-of-waterv
3	{8}Inadditiontothepowersconferredonthe
4	department-elsewhere-in-this-chaptery
5	(7) the Ing department may acquire water by purchase
6	option or agreement with the federal government from the
٦	Fort Peck Reservoir for the purpose of sale, rent, or
8	distribution for industrial use. In such cases, the
9	department is not required to construct any diversion or
10	appropriation facilities or works, and it may sell, rent, or
11	distribute such water at such rates and under such terms and
12	conditions as it considers appropriate."
13	Section 5. Section 89-319, R.C.M. 1947, is amended to
14	read as follows:
15	#89-319. Separate permit for each operation. <u>(1)</u>
16	Separate permits shall be issued for each operation.
17	(2) "Operation" means the performance of weather
18	modification and control activities entered into for the
19	purpose of producing or attempting to produce v a certain
20	modifying effect within one (1) geographical area over one
21	continuing time interval not exceeding one-(1) year."
22	Section 6. Section 89-823, R.C.M. 1947, is amended to
23	read as follows:
24	#89-823. Owners of water to sell surplus. Any person
25	having the right to use, sell, or dispose of water, and

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1 engage in using, selling, or disposing of the same, who has 2 a surplus of water not used or soldy or any person having a 3 surplus of watery and the right to sell and dispose of the 4 samey is required, upon the payment or tender to the person 5 entitled thereto of an amount equal to the usual and customary rates per the INCH OR Cubic foot of water 6 7 per second, to convey and deliver to the person such the 8 surplus of unsold watery or so much thereof for which said 9 the payment or tender shall-hove-been has been made, and shall continue so to convey and deliver the same weekly so 10 11 long as said the surplus of unused or unsold water exists 12 and said the payment or tender be is made as aforesaid." 13 Section 7. Section 89-867, R.C.M. 1947, is amended to 14 read as follows: #89-867. Definitions. Unless the context requires 15 otherwise, in this chapter the following definitions_apply: 16 17 (1) "Water" means all water of the state, surface and 18 subsurface, regardless of its character or manner of occurrence, including geothermal water. 19 (2) "Beneficial use" means a use of water for the 20 benefit of the appropriator, other persons, or the public, 21 22 includingy but not limited toy agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, 23 24 mining, municipal power, and recreational usest, provided,

howevery-that-a A use of water for slurry to export coal

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1 from Montana is not a beneficial use. Slurry is a mixture

2 of water and insoluble matter.

3 (3) "Appropriate" means to divert, impound, or 4 withdraw (including by stock for stock water) a quantity of 5 water, or, in the case of a public agency, to reserve water 6 in accordance with section 89-890.

7 (4) "Existing right" means a right to the use of water
8 which would be protected under the law as it existed prior
9 to July 1, 1973.

10 (5) "Groundwater" means any water beneath the land
11 surface or beneath the bed of a stream, lake, reservoir, or
12 other body of surface water, and which is not a part of that
13 surface water.

(6) "Well" means any artificial opening or excavation
in the ground, however made, by which groundwater is sought
or can be obtained or through which it flows under natural
pressures or is artificially withdrawn.

18 (7) "Permit" means the permit to appropriate issued by
19 the department under sections 89-880 through 89-887.

(8) "Certificate" means the certificate of water right
issued by the department under sections 89-879, 89-880(5),
and 89-888.

(9) "Declaration" means the declaration of an existing
right filed with the department under section 89-872.

25 (10) "Waste" means the unreasonable loss of water

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through the design or negligent operation of an
 appropriation or water distribution facility, or the
 application of water to anything but a beneficial use.

(11) "Political" subdivision means any county,
incorporated city or town, public corporations or district
created pursuant to state lawy or other public body of the
state empowered to appropriate water, but not a private
corporation, association, or group.

9 {12) "Person" means an individual. association. 10 partnership, corporation, state agency, political 11 subdivision, and or the United States or any agency thereof. 12 (13) "Department" means the department of natura) 13 resources and conservation provided for in Title 82A. 14 chapter 15.

(14) "Board" means the board of natural resources and
 conservation provided for in section 82A-1509.

17 {15}-"Act"-weans-the-Kontans--Water--Use--Act--and--any

18 subsequent-amendments-or-additions-theretow"

Section 8. Section 89-2911, R.C.N. 1947, is amended to
 read as follows:

21 "89-2911. Definitions. Unless the context requires
22 otherwise, in this chapter the following definitions_apply:

23 ta<u>j(1) "Ground-water Groundwater</u>" means any fresh
24 water beneath the land surface or beneath the bed of a

25 stream, lake, reservoirs or other body of surface watery and

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which is not a part of that surface water. Fresh water shall
 be deemed considered to be water fit for domestic.
 livestocks or agricultural use. The department, after
 notice and hearing, may fix definite standards for
 determining fresh water in any controlled ground-water
 groundwater area or subarea of the state.

7 (b)(2) "Aquifer" means any underground geological
8 structure or formation which is capable of yielding water or
9 is capable of recharge.

10 (c)(3) "Well" means any artificial opening or 11 excavation in the ground, however made, by which ground 12 water groundwater is sought or can be obtained or through 13 which it flows under natural pressures or is artificially 14 withdrawn.

15 fdf(4) "Beneficial use" means a use of water for the 16 benefit of the appropriator, other persons or the public, 17 includingy but not limited toy agricultural (including stock 18 water), domestic, fish and wildlife, industrial, irrigation, 19 mining, municipal, power, and recreational uses. A use of 20 water for slurry to export coal from Montana is not a 21 beneficial use. Slurry is a mixture of water and insoluble 22 matter.

tet(5) "Person" means an individual, association,
 partnership, corporation, state agency, political
 subdivision, and or the United States or any agency thereof.

(f)(6) "Department" means the department of natural
 resources and conservation provided for in Title 82A+
 chapter 15.

tat(7) "Ground--water Groundwater area" means an area 4 which, as nearly as known facts permit, may be designated so 5 as to inclose enclose a single and distinct body of ground 6 7 water <u>oroundwater</u>, which shall be described horizontally by surface description in all cases and which may be limited 8 9 vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of 10 11 administration, large ground-water groundwater areas may be 12 divided into convenient administrative units #known as 13 ≝subareas**_ th)(8) "Board" means the board of natural resources 14

(9) "Political subdivision" means any county+ 16 17 incorporated city or town, public corporation, or district 18 created pursuant to state law or other public body of the 19 state empowered to appropriate water, but not a private 20 corporation, association, or group, 21 Section 9. Section 89-899, R.C.M. 1947, is amended to 22 read as follows: #89-899. Legal assistance. (1) When requested by the 23 24 department, the attorney general and the county attorneys 25 within their respective counties shall perform legal

and conservation provided for in section 82A-1509.

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of water.

services and conduct legal proceedings necessary to carry 1 out the purposes of this act chapter. The department may 2 also employ legal counsel to enforce this set chapter and to 3 conduct proceedings under it. 4 [2] If an appropriator who is a citizen of Montana 5 becomes involved in a controversy to which any agency of the 6 7 federal government or another state is a party, the department may in its discretion intervene as a party or A. provide necessary legal assistance to the citizen of 9 10 Nontana.* Section 10. Section 89-2930, R.C.M. 1947, is amended 11 to read as follows: 12 #89-2930. Duty of county attorneys and attorney 13 14 general. The county attorneys and the attorney general of 15 the state shall perform such legal services and bring such 16 legal proceedings in carrying out the purpose of this act 17 chapter within their respective counties as the department 18 shall may request. The department may also employ legal 19 counsel to enforce this chapter and to conduct proceedings 20 under it." Section 11. Section 89-907. R.C.M. 1947, is amended to 21 read as follows: 22 #89-907. Filing written statement with department. 23 (1) Any person claiming an appropriative right to the use 24

2 after the approval of this act february 25, 1953, or before 3 he diverts any water, file with the department at its office in Helena, Montana, a written statement containing the 4 5 following information: (a) The the name of the claimant and his addressw: 6 7 (b) Bate date of appropriation or the date when the water was first applied to a beneficial usew: 8 9 (c) The the quantity of water claimedw; 10 (d) The the name of the stream, rivers or other source of water from which the diversion is made, if it has a name, 11 12 and if it does not. such a description as-will-identify 13 identifying the sames: 14 (e) The the purpose for which the water is claimed and 15 the place of intended user: 16 (f) The the means of diversions: 17 (a) Whether whether or not a weir or other device for 18 measuring the water intended to be diverted has been installed in his ditch or other means of diversion+1 19 (h) If if a notice of appropriation was filed with the 20 county clerk and recorder, as-provided--by--section--89-818+ 21 22 the name of the county where it was filedw; (i) Whether whether the appropriation was made from an 23 24 adjudicated or nonadjudicated stream, rivers or other source

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acquired after January 1, 1950, shalls within sixty 60 days

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of any water of any interstate tributary which right was

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1 (2) The written statement shall be verified by the 2 affidavit of the claimant or someone in his behalf, which 3 affidavit must state that the matters and facts contained in 4 the written statement are true."

5 Section 12. Section 89-911, R.C.M. 1947, is amended to
6 read as follows:

7 "89-911. Domestic and stock uses not-within-the-act 8 exempted. Any appropriation of water from any interstate 9 tributary of the Yellowstone River made for domestic or 10 stock water uses shall will not come within the provisions 11 of this acty-providedy-that chapter whenever the capacity of 12 any a reservoir for stock water shall does not exceed twenty 13 20 acre-feet."

14 Section 13. Section 89-1015, R.C.M. 1947, is amended 15 to read as follows:

16 #89-1015. Complaint by dissatisfied user---procedure 17 on. Any A person owning or using any of the waters of such 18 the stream or ditch or extension of the ditchy who is 19 dissatisfied with the method of distribution of the waters 20 of such the stream or ditch by such the water commissioner 21 or water commissionersy and who claims to be entitled to 22 more water than he is receiving or is-entitled to a right 23 prior to that allowed him by such the water commissioner or 24 water commissionersy may file his written complaint, duly 25 verified, setting forth the facts of such the claim.

1 Thereupon the judge shall fix a time for the hearing of such petitiony and shall direct that such notice be given to the 2 3 parties interested in such the hearing as the judge may-deem considers necessary. At the time fixed for such the 4 5 hearing, the judge must hear and examine the complainant and such other parties as may appear to support or resist such 6 7 claimy and also examine such the water commissioner or water 8 commissioners and witnesses as to the charges contained in 9 said the complaint. Upon the determination of the hearing, the judge shall make such findings and order as he may-deem 10 11 considers just and proper in-the-premises. If it shall 12 appear appears to the judge that the water commissioner or water commissioners have not properly distributed the water 13 according to the provisions of the decree, then the judge 14 15 shall give the proper instructions for such distribution. The judge may remove such any water commissioner or-water 16 17 commissioners and appoint some other person or-persons in his or-their steady if he deems considers that the interests 18 of the parties in the waters mentioned in such the decree 19 20 will be best subserved thereby, and if it shall--appear 21 appears to the judge that the said water commissioner or 22 water-commissioners-have has willfully failed to perform 23 their his duties, they he may be proceeded against for 24 contempt of court, as provided in contempt cases. The judge 25 shall make such order as to the payment of costs of such the

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1 hearing as may-appear appears to him to be just and proper." 2 Section 14. Section 89-1202, R.C.M. 1947, is amended ٦ to read as follows:

#89-1202. Petition for organization. [1] For the 4 5 purpose of establishing and organizing an irrigation 6 district hereunder, a petition signed by the required number of holders of title or evidence of title to lands within 7 8 such the proposed district mentioned in the preceding section shall be filed with the clerk of the district court 9 10 of the county in which the-lands-of-the-proposed-districty 11 or-the-areater-portion-thereofy-pre-situatedi--providedy---if 12 there--are--three--or-more-counties-embraced-in-the-proposed 13 districty-and-no-one-county-embraces-the-greater-portion--of 14 soid--landsy--then--and-in-that-event-said-petition-shall-be 15 filed-in-the-county-which-embraces-a-greater-portion-of-said lands-than-any-one-of-the-other-counties--embraced--in--said 16 17 proposed--district the greatest portion of the lands of the 18 proposed district are located. Such The petition shall set 19 forth: 20 lai The the name suggested for the proposed 21 district;

22 2=(b) # a general description of the lands to be 23 included in the proposed district;

24 $3 \times (c)$ The the names of the holders of title or evidence of title to the lands in the proposed district, 25

1 ascertained in the manner mentioned in the preceding 2 section+, and if any-such a holder is a nonresident of the county or counties in which the proposed district lies, the 3 post-office address of such the nonresident owner, if known; 4 5 4*(d) Generally generally, the source from which the ٨ lands in the proposed district are to be irrigated, and the character of the works, water rights, canals, and other 7 я property proposed to be acquired or constructed for 9 irrigation purposes in the proposed district; 10 5*(e) A a prayer that the lands embraced within the 11 proposed district be organized as an irrigation district 12 according to the applicable provisions of this-act chapters 13 12 through 21 of Title 89. (2) The petition shall be accompanied by: 14 (1)(a) a map or plat of the proposed district; and 15 16 (2)(b) a good and sufficient bond or undertaking, to 17 be approved by the district court or judge thereof of the 18 county in which the petition is required to be filed under the provisions of this-act subsection (1), to pay all costs

20 in and about the proceedings preliminary to the organization 21 of the district in the event that said the organization

22 shall is not be effected.

19

23 13) Mere error or omission in the description of any 24 lands or in the names of any of the holders of title or evidence of title to lands shall-not--operate--to does not 25

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render invalid any proceedings hereunder, or to deprive the

2 district court of jurisdiction of the subject matter;
3 provided, --such Such misdescribed lands or misnamed persons
4 shall may not be included in said the district."

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5 Section 15. Section 89-1204, R.C.M. 1947, is amended 6 to read as follows:

*89-1204. Hearing on petition and appointment of 7 8 commissioners. (1) At the time specified in the notice 9 mentioned in the preceding section, the district court in 10 which the petition aforesaid is filed shall hear the 11 petitiony but may adjourn such hearing from time to time. 12 not exceeding three 3 weeks in all, and may continue the 13 hearing for want of sufficient notice or other good cause. 14 The court, upon application of the petitioners or any 15 interested person or persons interested, shall permit the 16 petition to be amended, and may order further or additional 17 notice to be given. Upon such hearing all interested persons 18 interestedy whose lands or rights may be damaged or 19 benefited by the organization of the district or by the 20 irrigation works or improvements therein or to be acquired 21 or constructed as-hereinafter--set--forthy may appear and 22 contest the necessity or utility of the proposed districty 23 or any part thereof, and the contestants and petitioners may 24 offer any competent evidence in regard thereto.

25 (2) It-shall-be-the-duty-of-the Ine court to shall

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hear and determine whether the requirements of sections
 89-1201, 89-1202 and 89-1203 have been complied with and
 for that purpose shall hear all competent and relevant
 testimony that may be offered.

(3) (a) The court may make such changes in the 5 proposed district as may be deemed considered advisabley or 6 7 as fact, right, and justice may require; but-shall--not exclude--from--such-proposed-district-ony-land Land which is A 9 susceptible of irrigation from the same general sourcey and by the same general system of works applicable to the other 10 11 lands of such the proposed districty may not be excluded from the proposed district if the owner or owners of such 12 13 the lands shall file in such the district court a written request that such the lands be included. in-such-district; 14 15 nor-shall-env-lands-which-will-noty-in-the-judgment--of--the courty-be-benefited-by-irrigation-by-means-of-said-system-of 16 17 worksy--nor--shall-londs-already-under-irrigationy-nor-lands 18 having-water-rights-appurtenant-theretov-nor-lands-that--can 19 be--irrigated--from--sources-more-feasible-than-the-district systemy-be-included-within-such--proposed--districty--unless 20 21 the--owner--of--such--lands--shall-consent-in-writing-to-the inclusion--of--such--lands--in--the--proposed--districty--as 22 23 hereinafter---providedy--and--to--this--end--the--court--may 24 subdivide-lands-included-within-the-petition-or-proposed--at 25 the--hearing--to--be--included--within--such--district--into

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1	forty-acre-tracts-or-smaller-subdivisions-thereof;-providedv
2	howevery-that-where-a-district-is-formed-to-co-operatewith
3	theUnitedStatesylandspreviously-irrigated-and-having
4	water-rights-appurtenant-thereto-may-be-included-withinthe
5	districtboundariesyifit-sholl-appear-to-the-court-that
6	the-same-will-be-benefited-therebysandprovidedfurthery
7	thata lllandshavingwaterrights-appurtenant-theretov
8	which-are-served-by-a-system-of-irrigationworkssupplying
9	morethantenthousandacres-oftandsymayyinthe
10	discretionofthecourtybeincludedintheproposed
11	districtonpetition-of-at-least-a-majority-both-in-number
12	and-acreage-of-the-holders-of-title-or-evidence-of-titleto
13	the-tond-having-water-rights-appurtenant-theretov-and-served
14	bythesamesystemofirrigstionworkskandsof-the
15	district-need-not-be-contiguousy-and-any-particular-tract-or
18	tracts-irrespective-of-their-location-in-the-districtmay
17	be-excluded.
18	(b) Lands which will not in the judgment of the
19	courts be benefited by irrigation from the works of the
20	proposed district; which are already under irrigation; which
21	have appurtenant water rights; or which can be irrigated
22	from sources more feasible than the proposed district may
23	not be included in the district unless the owner of such
24	lands consents in writing to the inclusion.
25	(c) Notwithstanding the provisions of subsection

1	[3](b), whenever a district is formed to cooperate with the
2	United States, lands previously irrigated and having
3	appurtemant water rights may be included within the district
4	boundaries if it appears to the court that the lands will be
5	benefited by inclusion.
6	<u>[d]_All_lands_baving_appurtement_water_rights, served</u>
7	by an irrigation works system supplying more than 10,000
8	acres, may, in the discretion of the court, be included in
9	the proposed district upon petition by at least a majority.
10	both in number and acreage, of the holders of title or
11	evidence of title to the lands served by the irrigation
12	system and having appurtenant water rights.
13	(e) Lands of the district need not be contiguous. The
14	location of a particular tract in the proposed district is
15	not a bar to exclusion.
16	(4) For purposes of including or excluding land from a
17	proposed_district. the court may subdivide any tract into
18	<u>40-acre or smaller parcels.</u>
19	<pre>+++151 If, on final hearing, it is found by the court</pre>
20	that the petition does not substantially comply with the
21	aforesaid requirements of this act y or that the facts
22	therein stated are not sustained by the evidence, then the
23	court shall dismiss the petition at the cost of the
24	petitioners , and shall make and enter an order to that
25	effect s but if if it is found that said the petition

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substantially complies with said the requirements, and that
 the facts therein stated are sustained by the evidence, then
 the court shall make and enter an order:

4 ±v(a) Setting setting forth said findings and allowing
5 said the petition;

6 2*(b) Establishing establishing the proposed district;
 7 3*(c) Giving giving accurate descriptions of the lands
 8 included within the proposed district;

9 4*101 Dividing dividing the proposed district into
 10 three, five, or seven divisions, as may be advisable in view
 11 of the size of the district;

12 5*(e) Appointing appointing as commissioner one
13 competent person for each division of the district, having
14 the qualifications as provided by section 89-1205.

151161 Such The finding and order shall-be are 15 conclusive upon all the owners of lands within the district 16 17 that they have assented to and accepted the applicable 18 provisions of this-act; chapters 12 through 21 of Title 89 19 and shall--be are final unless appealed from to the supreme 20 court within sixty 60 days from the day of entry of such the 21 order. A copy of such the order, duly certified to by the 22 clerk of said the district court, shall be filed for record 2.3 within thirty 30 days after such the order is made and 24 entered with the county clerk and recorder of the county 25 wherein where the lands included within such the district

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are situatedts providedy--howevery--there-shall-be-omitted 1 from-such-copy-lands Lands not situated in the county in 2 which such the copy is filed shall be omitted from the copy-3 (6)(17) Every irrigation district so established 4 hereunder is hereby-declared-to-be a public corporation for 5 the promotion of the public welfare, and the lands included 6 7 therein shall constitute all the taxable and assessable property of such district for the purposes of this-oct 8 chapters 12_through 21_of_Title_89.* 9 Section 16. Section 89-1205; R.C.M. 1947; is amended 10 to read as follows: 11 12 #89-1205. Qualifications of commissioners and term of 13 office--official-bond. (1) No person shall-be--qualified--to hold-the-position-of may be a commissioner unless he be is 14 an owner of land within the district and shall-be is a 15 resident of the county in which the division of the 16 districty or some portion thereofy for which such 17 18 commissioners-so the commissioner is elected, is situated. 19 (2) The commissioners appointed as--aforesaid shall 20 hold their respective offices until the second Saturday in **Z**1 April following their appointmenty and until their 22 respective successors are elected and qualified as--and--in 23 the---manner---hereinafter---provided. Each of such the 24 commissioners shall qualify in the same manner as justices of the peacey, and--shall--qive--a-bond-in-the-sum-of-two 25

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thousand-dollarsy-conditioned-upon-the-faithful--performance 1 of--his--dutiesy--to--be--made--bayable-to-the-state-for-the 2 benefit-of-the-districti-which The bond for a commissioner 3 4 shall be approved by the district court or judge thereof and 5 filed in the office of the clerk of said the courts. providedy-that-in In case any district organized established 6 7 under this title chapter is appointed fiscal agent of the 8 United States, or is authorized by the United States is 9 suthorized to make collections of moneys for and on behalf of the United States in connection with any federal 10 reclamation project, each such commissioner shall execute a 11 12 further and additional official bond in such sum as the 13 secretary of the interior may require, conditioned for the faithful discharge of the duties of his officer and the 14 15 faithful discharge by the district of its duties as fiscal 16 or other agent of the United States under any such appointment or authorization, and any such bond may be sued 17 18 upon by the United States, or by any person injured by the 19 failure of such the commissioner or the district to fully, promotly, and completely perform their respective duties." 20 21 Section 17. Section 89-1208, R.C.M. 1947, is amended 22 to read as follows: 23 *89-1208. Compensation and expenses of commissioners-24 penalty-for-interest-in--contract--bonds--of--commissioners. 25 (1) The commissioners, when sitting as a board or when

1 engaged in the business of the district, shall each receive 2 an amount not to exceed twenty-dollars-(\$20)y-per a day for 3 servicesy and, in addition thereto, their necessary expenses 4 in attending meetingsy or when otherwise engaged on district 5 business, including premiums on gualifying bonds and any 6 other bonds required of them in connection with their 7 office, provided such expenses and per diem be are approved by a unanimous vote of said the board, and a mileage 8 9 allowance of twelve 12 cents (svi2)-per a mile in attending 10 board meetings or when engaged in the business of the 11 irrigation district.

12 12) No commissioner or any other officer named in this 13 act shall may in any manner be interested, directly or 14 indirectly, in any contract awarded or to be awarded by the boardy or in the profits derived therefromt, and for any 15 violation of this provision, such officer shall-be-deemed is 16 17 guilty of a misdemeanor and his conviction thereof shall 18 work forfeiture of his office and he shall be punished by-a 19 fine-not-exceeding-five-hundred--dollars--(\$500+00)y--or--by 20 imprisonment-in-the-county-jail-not-exceeding-six-(6)-months 21 or--by--both--such--fine--and--imprisonment as provided in 22 94-7-401-23 131 The commissioners of said an irrigation district 24 shall each furnish a bond in the penal sum of twenty-five hundred---dollars----(\$2,500+00), with corporate surety 25

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1 conditioned for the faithful performance of their duties z under this acty. and the Ine secretary shall furnish bond. з with corporate surety, in the sum of one-thousand-dollars +\$1.000+00+ conditioned for the faithful performance of his 4 5 duties pursuant to this act, and for the proper and 6 safekeeping of the records and documents of said the 7 district, in all cases where the obligations of said the 8 district, either existing or proposed, total two-hundred-and 9 fifty--thousand--dollars-(\$250,000+00) or over. In all other 10 cases the bond for soid the commissioners shall be in the 11 sum of one-thousand-dollars-(\$1,000+00)."

12 Section 18. Section 89-1220, R.C.M. 1947, is amended 13 to read as follows:

14 "89-1220. Purpose. This act is not intended to 15 conflict in any way with present statutes governing 16 irrigation districts, but is for the sole purpose of making 17 it possible for one or more irrigation districts to function 18 jointly through a central control agency for the purpose of 19 efficiency, simplicity, and economy."

20 Section 19. Section 89-1311, R.C.M. 1947, is amended 21 to read as follows:

22 **89-1311. Qualification of electors --- and nature of
23 voting rights, how determined. (1) At all elections held
24 under the provisions of this act, except as herein otherwise
25 expressly provided, the following holders of titley or

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evidence of titley to lands within the district, herein designated electors, shall-be are entitled to vote: tw(a) Att all persons having the qualifications of electors under the constitution and general and school laws of the state: 2*(b) Guordians guardians, executors, administrators, and trustees residing in the state; Buic) Bomestic domestic corporations, by their duly organized authorized agents. 121 In all elections held under this act, each elector sholl-be is permitted to cast one vote for each forty 40 acres of irrigable landy or major fraction thereofy owned by such the elector within the district, irrespective of the location of such the irrigable lands within the tracts designated by the commissioners for assessment and taxation purposesy or within compressional subdivisions, platted lots or blocksy fexcept as hereinafter provided forly election precincts_ or district divisions, but any elector owning any less than forty 40 acres of irrigable land shall--be is entitled to one vote. Until actual-determination-of the irrigable area under the proposed plan of reclamation proposed is had determined, all land included within the boundaries of the district shall be deemed-to-be considered irrigable land for election purposes.

25 (3) Where Whenever land is owned by co-owners, said

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the owners may designate one of their numbery or an agenty 1 to cast the vote for said the owners, and one vote only for 2 each forty 40 acres of irrigable landy or major fraction 3 thereofy--shall may be cast by said the voting co-owner or 4 5 agent. Where Whenever land is under contract of sale to a 6 purchaser residing within the state, such the purchaser may vote on behalf of the owner of said the land. When voting, 7 the agent of a corporation, or of co-owners, or the co-owner 8 designated for purpose of voting, or the purchaser of land 9 under contract of sale, as the case may be, shall file with 10 secretary of the districty or with the election 11 the 12 officialsy a written instrument of his authority, executed and acknowledged by the proper officers of said the 13 14 corporation. or by soid the co-owners, or by the owner of 15 such land under contract of sale, as the case may be, and thereupon such the agent or co-ownery or purchaser, as the 16 17 case may be, shall--be--deemed is an elector within the 18 meaning of this act. Where Whenever the total irrigable acreage within any one district has been platted or 19 subdivided into lots or blocks to the extent of five--per 20 21 cent-+5%+ or more of the total acreage of the district, each 22 elector shall-be is permitted to cast one vote for each one acre of irrigable land or major fraction thereof owned by 23 24 such the elector within the district, irrespective of the 25 location of such irrigable lands within the tracts

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designated by the commissioners for the assessment and 1 2 taxation purposes or within the congressional subdivisions. 3 but any elector owning any less than one 1 acre of irrigable 4 land within soid the district shall be is entitled to one 5 vote. The balloting shall take place in the following 6 manner: Ten---(10) votes or less, separate ballots will be 7 used; more than ten-(10) votes, the elector shall vote in 8 blocks of ten 10 using one ballot for each ten 10 votes and 9 separate ballots for odd votes over multiples of ten 10. The 10 election shall otherwise conform with the provisions set-out 11 in-section of 89-1308 of-this-chapter. It-shall-be-the--duty 12 of----the The chairman of the commissioners, or such commissioner as he may delegatey to shall determine before 13 14 each election whether the provisions of this paragraph 15 subsection are in force or whether the provisions heretofore 16 set out shall apply." 17 Section 20. Section 89-1319, R.C.M. 1947, is amended 18 to read as follows:

19 "89-1319. Application of act. This act shall apply 20 only when twenty 20 or more owners of land with water rights 21 appurtenant theretoy-serving-at-least-two-thousand-acres-of 22 land-contiguous-in-location-or-of-reasonably-compact-areay 23 all are being served by one stream and its branches or from 24 one source of water supply, and in which the rights to the 25 use of water shall have been determined by decree of a court

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of competent jurisdiction and at least 2:000 acres of land:
 contiguous in location or of reasonably compact area: are
 being served by the single stream or source."
 Section 21. Section 89-1320; R.C.M. 1947; is amended

5 to read as follows:

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6 #89-1320. Petition_-hearing_ and notice-order of 7 court-commissioners. Whenever the owners of land and water rights, as described in section 89-1319, desire to organize 8 9 for the purposes mentioned in this act, a petition to that effect, signed by not less than sixty-per-cent 603 of the 10 individual landowners who shall represent not less than 11 fifty-one-per-cent 51% of the irrigable acres to be affected 12 by such the proposed district and fifty-one-per-cent 51% of m 13 the inches <u>INCHES--OF--WATER--OR</u> <u>cubic feet</u> of water <u>per</u> 14 15 secondy decreed or adjudicated in the stream in from which 16 such the irrigation district is to operate, shall be filed with the clerk of the district court of the county or 17 counties in which such the district is to be created. It-is 18 19 providedy-howevery-that-for For the purposes purpose of 20 determining whether the requirement requirements of acreage 21 and <u>cubic feet of</u> water inches per second BR-INCHES-BF-NATER 22 has have been met by the petition, water diverted from the 23 adjudicated stream and distributed under other irrigation districts other than the one to be created under this acty 24 25 shall may not be considered; however, such water and acreage

ł shall be required to pay env-end all assessments the same as other water and acreage affected by irrigation districts 2 created under this act. Upon filing of said the petition. 3 4 the court shall set a date for a hearing on the petition. 5 and a written notice not less than five 5 days prior to such the hearing shall be mailed to each landowner or water right 6 7 owner affected by the proposed district. If the court findsy A from such hearingy that an irrigation district, as prayed 9 for in the petition, is feasible and practical, the court 10 shall issue an order creating such the irrigation district, 11 which shall constitute the authority for the district to 12 function for the purposes and intent as outlined in this 13 act. The court shall appoint five commissioners, who shall 14 be are landowners or water right owners, affected by such 15 districty to act until the first annual meetingy-as-provided 16 hereafter." Section 22. Section 89-1322. R.C.M. 1947. is amended 17

18 to read as follows:

19 ***89-1322.** Duty of trustees—limit-on_llevy_to--cover 20 expense--determination-of-levy-- and indebtedness other-than 21 warrant--indebtedness--not--to--be--created. The board of 22 trustees shall-be-outhorized-to may develop the source of 23 supplyvit to clean, improver and develop the channel of the 24 streamvi and to do and perform other work on the main 25 distributing system as will be beneficial to the better

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distribution of the waters of such the decreed water right 1 stream, but in no case shall may the board, to cover the 2 expenses of such work, levy to exceed twenty-five 25 cents 3 per acre in any one year. It-is-further-providedy-that-when 4 Whenever waters of the stream under the irrigation districty 5 created by this acty are commingled with other waters or it 6 7 is difficult to determine inst how many acres are irrigable 8 by the water rights held in such the stream, the acre basis 9 of levy shall be determined by the number of inches inches 10 OR INCHES-OR cubic feet of water per second owned by such 11 party or parties at the rate of one-inch-of-watery-statutory 12 measurementy ONE--INCH-OF-WATERy-STATUTORY-MEASUREMENTy-OR 13 BNE-INCH-OF-WATERs-STATUTORY-MEASUREMENTs-OR =025_cubic_feet 14 of water per second to the acre. it--is--further--providedy 15 that--the <u>The</u> board shall-have-no-authority-to <u>may not</u> issue 16 bonds or to incur any indebtedness other than warrant 17 indebtedness under the limitations proposed imposed by law." Section 23. Section 89-1411, R.C.M. 1947, is amended 18 to read as follows: 19

20 ****89-1411.** Hearing-and--notice--publication Notice_of 21 hearing. On such petition being filed, the district court or 22 judge thereof shall make an order fixing the time and place 23 of for a hearing some and directing that notice thereof be 24 given. Thereupon the clerk of said the court shall cause to 25 be published at least once a week for two 2 successive

1 calendar weeks, in the -- official a newspaper of general circulation in the county where said the petition is filedy. 2 WITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE 3 4 <u>COUNTY</u>, a notice stating the time and place <u>fixed</u> by the district court fixed when and where the hearing on said the 5 6 petition will be had and containing a brief statement of the 7 matters set forth in said the petition and the object 8 thereoft. if If any portion of the lands sought to be Q excluded from the district lies within any other county 10 or counties, then-said the notice shall also be published as 11 provided above provided in the official a newspaper of such 12 general circulation in the other county or counties. WITH 13 PREFERENCE GIVEN TO A NEWSPAPER __PUBLISHED__ IN__THE__ OTHER 14 COUNTY OR COUNTIES. The first publication of said the notice shall--be may not be less than thirty 30 days prior to the 15 time mentioned in said the notice for said the hearing." 16 17 Section 24. Section 89-1616, R.C.M. 1947, is amended to read as follows: 18 19 #89-1616. Penalty-for-interfering Interference with 20 commissioners or with distribution system -- penalty. Any 21 person who shall in any manner interfere interferes with the 22 commissioners of an irrigation districty or their lawful 23 agent or employee in the carrying out of the powers 24 conferred by this acty or who shall-change changes or tamper tampers with any lock box, head gate, or other device for 25

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1 the apportionment or distribution of watery installed by or 2 under the authority of such the commissionersy or who shall 3 in any manner obstruct obstructs or change changes the flow 4 of water in the distribution system of any irrigation 5 district without authority of the commissioners of the districty shalls in the discretion of the commissioners, be 6 7 subject to a forfeiture of his right to the delivery of 8 water through the distribution system of the districty so 9 long as such acts shall continue, and shall-likewise--be is 10 quilty of e--misdemeanor-andy--on-convictiony--shall-be 11 punishable-by-a-fine-of-not-less-thon-ten--dollars--(\$10+00) 12 nor---more---than--one--hundred--dollars--{\$100=00}y--or--by 13 imprisonment-in-the-county-jail-for-not-less--than--one--(1) 14 day--nor-more-than-thirty-{30}-days-or-by-both-such-fine-and imprisonment obstructing a public officer or criminal 15 16 mischief. as appropriate. and is punishable as provided by 17 94-7-302 or 94-6-102, as applicable.*

18 Section 25. Section 89-1701; R.C.M. 1947; is amended 19 to read as follows:

20 "89-1701. Limitations on debt-incurring power. (1) The 21 board of commissioners or other officers of the district 22 shall-have-no-power-to may not incur any debt or liability 23 whatever, either by issuing bonds or otherwise, except as 24 provided in this act1 and any debt-or-liability incurred-in 25 excess-of--such--express--provisions--shall--be--and-remain

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1	absolutely-voidy-except-that-for-the-purpose-of-organization
2	or-for-any-of-the-immediate-purposes-of-this-acty-or-to-make
3	or-purchasesurveysyplansyandspecificationsyorfor
4	streamgaugingandgathering-datav-or-to-make-any-repairs
5	occasioned-by-any-calamity-or-other-unforeseencontingency.
6	the-boardof-commissioners-mayy-in-any-one-yeary-incur-the
7	indebtedness-of-as-many-dollars-as-there-areacresinthe
9	districtyandmaycause-warrants-of-the-district-to-issue
9	therefor. No irrigation district may become indebted, in any
10	manner or for any purpose in any one years in an amount
11	exceeding_15%_of_the_assessed valuation_of_the_district.
12	except as provided in subsection (2).
13	(2) (a) For the purpose of organization: for any of
14	the _immediate_purposes_of_this_chapter:_to_make_or_purchase
15	surveys. plans. and specifications: for stream gauging and
16	gathering data: or to make any repairs occasioned by any
17	calamity or other unforeseen contingency, the board of
18	commissioners may, in any one year, incur the indebtedness
19	of as many dollars as there are acres in the district and
20	may cause warrants of the district to issue therefor.
21	(b) For the purpose of organization, for any of the
22	immediate purposes of this chapter. or to meet the expenses
23	occasioned by any calamity or other unforeseen contingency.
24	the board of commissioners may, in any one year, incur (in
25	addition_to_the_15%_limitation_of_subsection_(11)_an

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1	additional indebtedness not exceeding 10% of the assessed
z	<u>valuation of the district and may cause warrants of the</u>
3	district to issue therefor.
4	(c) The limitation of subsection (1) does not apply to
5	<u>warrants issued for unpaid interest on the valid bonds of</u>
6	any irrigation district.
7	(d) The limitation of subsection (1) does not apply to
8	any bonds issued under this chapter pursuant to a provision
9	which expressly supersedes the limitation.
10	(3) Any debt or liability incurred in excess of the
11	limitations provided by the irrigation district laws is
12	voide"
13	Section 26. Section 89-1703, R.C.M. 1947, is amended
14	to read as follows:
15	<pre>"89-1703. Petition for bonds and ectionthereon</pre>
16	<u>issuance_of_bonds</u> . (1) Forthepurposeofprovidingthe
17	necessaryfundsforconstructing-the-necessary-irrigation
18	canals-end-worksy-including-drainage-worksyandworksfor
19	thegeneration-and-distribution-of-electrical-energy-within
20	said-districty-andacquiringthenecessarypropertyand
21	rightsthereforyandforthepurposeofacquiringby
22	purchaseyorotherwiseywatersywaterrightsycanalsy
23	reservoirsyreservoir-sitesy-and-irrigotion-worksy-drainage
24	worksy-and-warks-forthegenerationanddistributionof
25	electrical-energy-constructedy-or-partially-constructedy-and

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1	forthe-purpose-of-meeting-the-expense-theretofore-incurred
2	or-to-be-thereafter-incurred-incident-tosuchconstruction
3	oracquisitionofsuchworksandpropertyincluding
4	administrativer-engineering-and-legal-expensesr-and-forthe
5	essumptionyesprincipalor-guarantory-of-indebtedness-to
6	the-United-States-on-account-of-district-landsy-and-forthe
7	purposeofotherwisecarryingout-the-provisions-of-this
8	acty-and-of-providing-a-sum-sufficient-to-paytheinterest
9	onoll-of-such-bonds-for-five-(5)-yearsy-or-lessy-the-board
10	of-commissioners-of-any-districtyheretoforeorhereafter
11	organizedundertheprovisions-of-this-actv-may-authorize
12	and-issue-the-negotiable-coupon-bands-ofthedistrictyas
13	andin-the-manner-hereinofter-providedy-A-sum-sufficient-to
14	redeemorpayallyoranyportionyoftheexisting
15	indebtednessofsuchdistrictyevidencedby-outstanding
16	bondsy-delinquent-interest-coupons-and-accrued-interesty-or
17	warrantsy-together-with-all-delinquent-and-accrued-interesty
18	whether-such-indebtedness-be-due-or-not-duer-or-which-has-or
19	mayhereafter-become-payable-at-the-option-of-the-districty
20	or-by-consent-of-the-bondholdersy-or-byanylawfulneansy
21	maybeincludedasaportion-of-the-necessary-funds-for
22	which-said-bonds-are-authorized-andissuedw <u>The board of</u>
23	commissioners of a district established under the provisions
24	of chapter 12 of Title 89 may authorize and issue negotiable
25	coupon_bonds_for_the_district_for_the_purpose_of_providing

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1	the necessary funds:
2	<pre>(a) for constructing the necessary irrigation canals</pre>
3	andworksincluding_drainage_worksand_constructing_works
4	for the generation and distribution of electricity within
5	the district and for acquiring the property and rights
6	necessary therefor:
7	(b) for acquiring, by purchase or otherwise, waters,
8	water rights, canals, reservoirs, reservoir sites,
9	irrigation works, drainage works, and works for the
10	generation and distribution of electricity, whether such
11	works are constructed or partially constructed:
12	(c) for meeting the expense incurred incident to the
13	construction or acquisition of such works and property.
14	including administrative, engineering, and legal expenses:
15	(d) for assuming, as principal or guarantor.
16	indebtedness to the United States on account of district
17	lands:
18	(e) for providing a sufficient amount of money to pay
19	the interest on all negotiable coupon bonds of the district
20	for a period not exceeding 5 years:
21	(f) for redecaing or paying all or any portion of the
22	existing indebtedness of the district, evidenced by
23	outstanding bonds; delinquent interest coupons and accrued
24	interest; or warrants, together with all delinquent and
25	accrued interest. whether such indebtedness has or may
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1	hereafter_become_payable_at_the_option_of_the_district+_by
2	consent of the bondholders or by any lawful means; or
3	(g) for otherwise carrying out the provisions of the
4	irrigation_district_laws.
5	(2) No bonds provided for in this section shall may be
6	authorized or issued by or on behalf of any irrigation
7	district organized hereundery and no contract shall may be
8	made with the United States as <u>provided</u> in section 89–1301 $_{\Psi}$
9	provided, except upon a petition signed by at least sixty
10	percentumf602; in number and acreage; of the holders of
11	title or evidence of title to lands included within said the
12	districty or by seventy-five-per-centum at least (75%) in
13	$number$ and $acreage_{2}$ of the holders of title or evidence of
14	title to such lands who are residents of the county or
15	counties in which lands of the district are situated. Such
16	<u>The</u> petition shall be addressed to the board of
17	commissioners t shall set forth the aggregate amount of
18	bonds to be issued, and the purpose or purposes thereof \mathfrak{g}_{1}
19	shall have attached thereto an affidavit verifying the
20	signatures to said <u>the</u> petition<u>s</u> and shall be filed with
21	the secretary of the board of commissioners. When bonds ${f v}$
22	howevery are issued for the sole purpose of redeeming or
23	paying the existing and outstanding bonds or warrants, or
24	both, including delinguent and accrued interest, of such
25	district, such bonds may be authorized and issued in the

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1	manner provided for by sections 89-1712 and 89-1713.	1	such the contract, the board of commissioners need not
2	(3) Upon the filing of such the petition, the board of	2	authorize the issuance of bonds, or if bonds are required in
3	commissioners shall, by appropriate order or resolution,	3	addition to such <u>the</u> contract, <u>the commissioners</u> may
4	authorize and direct the issuance of the bonds of the	4	authorize bonds only for the amount needed in addition to
5	district to the amount and for the purpose or purposes	5	such the contract. Such order or resolution shall also
6	specified in the petitiony; fix the numbers, denominations,	6	provide for the confirmation proceedings in the district
7	and maturity or maturities of said the bonds; specify the	٦	court hereinafter-mentioned <u>as provided in 89-1704</u> .*
8	rate of interest thereon ; and whether payable annually or	8	Section 27。 Section 89-1704, R.C.M. 1947, is amended
9	semiannually; designate the place of payment of said the	9	to read as follows:
10	bonds and the interest coupons, within or without the state	10	#89-1704. Confirmation by district court. (1) Within
11	of Montana; prescribe the form of said <u>the</u> bonds and	11	ten-{10} days after the adoption of the order or resolution
12	interest coupons to be attached thereto; and provide for the	12	mentioned in the preceding section, the board of
13	levy of a special taxy or assessment as provided in this act	13	commissioners shall file a petition in the district court of
14	provided on all the lands in the district for the irrigation	14	the judicial district wherein <u>where</u> is located the office of
15	and benefit of which said the district was organized and	15	said the boardy is located to determine the validity of the
16	said <u>the</u> bonds are issued, or said <u>the</u> contract is to be	16	proceedings had relative to the issuance of soid the bonds
17	made, sufficient in amount to pay the interest on and	17	and to the levy of said the special tax or assessment.
18	principal of soid the bonds when due and all amounts to be	18	(2) Such action shall be in the nature of a proceeding
19	paid to the United States under any contract between the	19	in rem, and jurisdiction of all parties interested shall be
20	district and the United States, acompanying which bonds of	20	had by <u>giving</u> notice given as hereinafter provided. Such <u>The</u>
21	the district have not been deposited with the United States	21	petition shall set forth:
22	as <u>provided</u> in section 89-1301 provided .	22	<pre>titlent generally, the establishment and organization</pre>
23	(4) If contract is to be made with the United States	23	of the district;
24	as <u>provided</u> in section 89–1301 providedy and bonds are not	24	<pre>t2t(b) a certified copy of the petition mentioned in</pre>

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to be deposited with the United States in connection with

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the preceding section;

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1 <u>t3)[c]</u> a certified copy of the order or resolution
2 mentioned in the preceding section;

3 <u>t4t(d)</u> a prayer for the confirmation of the 4 proceedings of the board stated in the petition, and for the 5 confirmation of the bond issue and the special tax or 6 assessment levied to pay the bonds and interest thereon.

7 (2)(3) Upon the filing of seid this petition in the я district court, the court or-judge-thereof shall fix the 9 time for the hearing of said the petition, which shall may 10 not be less than fifteen-f15; days from the date of filing 11 the petition in said the court, and shall order the clerk of the court to give notice of the filing of said the petition 12 13 and the date of the hearing thereony by publication at least once a week for two 2 calendar weeks in a newspaper 14 15 published or of general circulation in the county where the office of the board of commissioners of the district is 16 situatedy and also by posting a written or printed copy of 17 18 such notice in at least three public places in each division 19 of the district, the first of such publications and such posting to be not less than fifteen-(15) days prior to the 20 date fixed for said the hearing. 21

22 (3)(4) Said The notice shall state the substance of 23 the petition and the time and place fixed for the hearing 24 thereony and that any person interested in or whose rights 25 may be affected by the issuance or sale of said the bonds,

or the levy of said the special tax or assessment, or the 1 proceedings had or to be had by the seid board of 2 commissioners with respect to soid such mattersy may, on or 3 before the day fixed for the hearing of soid the petition, 4 demur-to-or answer soid the petitiony and may appear at soid 5 the hearing and contest the granting of the prayer of said 6 the petitiony and the entry of any order of confirmation 7 pursuant-thereto. 8

[5] Any person interested in or whose rights may be 9 affected by the issuance or sale of said the bonds, or the 10 levy of said the special tax or assessment, or the 11 proceedings had or to be had by the board of commissioners 12 of the district in connection with said such matters, and 13 the entry of any order of confirmation pursuant-theretoy may 14 enter his appearance in such proceedings and demur--to--or 15 answer said the petition and contest the granting of the 16 17 prayer of said the petition.

+++161 The provisions of Title 93 respecting the 18 demurrer--or answer to a verified complaint shall-be are 19 applicable to a-demurrer-or an answer to said the petition. 20 The persons so demurring-to or answering sold the petition 21 shall-be are the defendants in the proceeding, and the board 22 of commissioners shall-be is the plaintiff. Every material 23 statement of the petitiony not specifically controverted by 24 the answery shall be taken as true, and every holder of 25

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title or evidence of title to lands included in the district
 failing to answer or-demur-to the petition shall be deemed
 <u>considered</u> to admit as true all the material statements
 <u>hereof thereof</u>. The procedure in such action shall be
 determined by Title 93.

6 (5)(11) Upon the hearing, the district court shall find and determine whether the provisions and requirements of the 7 preceding section have been complied withy and whether 8 9 notice of the filing of the petition in the district court 10 and of the time and place of the hearing thereon has been 11 duly given for the time and in the manner herein prescribed. 12 and shell--have-power--end-jurisdiction-to may examine and 13 determine the regularity, legality, and validity of the 14 proceedings had preliminary and relative to the issuance of 15 the bonds, and the levy of the special tax or assessment in 16 the petition mentioned, and the legality and validity of said the bonds and special tax or assessmenty and any--and 17 18 all actions taken by the board of commissioners in 19 connection with said such mattersy and shall hear all 20 objections filed to said the proceedings, or any part 21 thereofy or to the issuance of said the bondsy or the levy 22 of the said special tax or assessment or any portion 23 thereof. The court, in inquiring into the regularity, 24 legality, and validity of said the proceedings, shall 25 disregard any error, omission, or other irregularity which

does not affect the substantial rights of the parties to 1 said the proceedings. The court may ratify, approve, and 2 confirm said the proceedings in whole or in party and may 3 ratify, approve, and confirm said the bonds and special tax 4 or assessmenty and enter its judgment or-decree accordingly. 5 6 (6)(8) From any such judgment or-decree an appeal may 7 be taken to the supreme court at any time within ten--+10+ R days from the entry of such the judgment or-decree. Such The 9 appeal shall be taken, perfected, and heard in the manner 10 prescribed by Title 93 covering appeals from district courts 11 to the supreme court. If no such appeal be is taken within 12 the in time aforesaidy or if taken and the judgment or decree of the district court be is affirmed by the supreme 13 14 court, such the judgment or--decree--shall--be--forever 15 conclusive-upon-all-the-world-as-to--the--validity--of--such 16 bonds-and-said-special-tax-or-assessmenty-and-the-same-shall never--be--called-into-question-in-any-court-in-the-state is 17 18 final. The costs of said the proceedings shall be allowed or 19 apportioned between the parties in the discretion of the 20 court." 21 Section 28. Section 89-1705, R.C.M. 1947, is amended 22 to read as follows: 23 *89-1705. Details relating to bonds. (1) All bonds 24 issued under the provisions of this act shall-be-payable-in 25 gold-coin-of-the-United-Statesy-of-the-standard--weight--and

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finances--[finences] -- existing-at-the-time-of-the-issuel-and 1 shall run for a period not longer than forty-1409 years from z 3 their date, but may contain a clause providing for their prior redemption and payment, at the option of the board of 4 5 commissioners of the district, on any interest payment date 6 7 maturity bonds, bonds may be issued to mature serially at 8 such times and in such amounts as the board of commissioners shall determine, but no bonds so issued shall may run for a 9 longer period than forty (40) years from the date of issue. 10 11 Said The bonds shall bear interest from their date until 12 paid, payable annually or semiannually, with the 13 installments of interest to date of maturity of principal to be evidenced by appropriate coupons attached to each bond. 14 Said The bonds and interest coupons shall be payable at such 15 place or placesy within or without the state of Montanay as 16 the board of commissioners shall prescribe. 17

18 (2) Such The bonds shall be of such denomination or 19 denominationsy and in such formy as the board of commissioners shall prescribe. An issue of bonds is hereby 20 21 defined to be all the bonds issued in accordance with a 22 resolution or order of the board of commissioners. Each 23 issue of the bonds of a district shall be numbered 24 consecutively as authorized, and the bonds of each issue 25 shall be numbered consecutively. The board of commissioners 1 shall fix the date of soid the bonds, or they may divide any 2 issue into two (2) or more divisions and fix different dates 3 for the bonds of each respective division. The date of any 4 bond must be subsequent to the order or resolution 5 authorizing it and prior to its delivery to a purchaser from 6 the district.

7 (3) All bonds issued hereunder shall be signed by the president and attested by the secretary of the board under A 9 the cornorate seal of the district, and each of the interest 10 coupons to be attached to said the bonds shall be executed 11 by the signatures of said the president and secretary. Each 12 bond shall be signedy and each interest coupon shall be 13 executed, by the president and secretary of the board of 14 commissioners who may be in office at the date of said the 15 bond and couponsy or at any time thereafter prior to the 16 delivery of said the bond to the purchaser thereof from the 17 district.

18 (4) The board of commissioners may provide for the 19 registration of bonds in their discretion. The secretary of 20 the board of commissioners and county treasurery-each shall 21 <u>each</u> keep a record of the bonds soldy or otherwise disposed 22 ofy; their date, number, amount, maturity, or maturitiesy; 23 to whom soldy; rate of interesty; and the place or nlaces of 24 payment thereof."

Section 29. Section 89-1713, R.C.M. 1947, is amended

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1 to read as follows:

#89-1713. Purpose of bonds -- petition, requirements, 2 3 and contents of. (1) Any An irrigation district may issue such refunding bonds for the purpose of redeeming or paying 4 the indebtednessy or any portion thereofy of the district, 5 6 whether represented by existing and outstanding bonds, 7 interest coupons thereof, or warrants, or--bothy including accrued and unpaid interest on soid the bonds, coupons, and 8 9 warrants, and whether such indebtedness be is due or not 10 duey or which has or may hereafter become payable at the 11 option of the district, or by consent fof the bondholders 12 or warrant holders, or-both, or by any legal means, and 13 whether such indebtedness be is now existing or may 14 hereafter be created, and there-shall-not-be funds in the 15 treasury of such the district are not available for the 16 payment of the same. Such The refunding bonds may be issued 17 in one or more series. The petition for such the refunding 18 bonds_ signedy as required by lawy by at least sixty per 19 centum-(60%) in number and acreage of the holders of title 20 or evidence of title to the lands included within said the 21 districty and addressed to the board of directors or commissioners of the district, may contain the following 22 23 specifications, in addition to the matters now required by 24 lawy-vize:

25 (a) How how many series of bonds shall be issued; and

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1	(b) The the terms, conditions, and liens of the said
2	bondsy and the terms and conditions upon which each of $\frac{1}{3}$
3	the series of bonds shall be exchanged for outstanding bonds
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4	of said <u>the</u> districty if the same are to be exchanged and
5	not sold yand_any-such_specifications_when-set_forth-in-the
6	saidpetitionshallbe-controlling-upon-the-said-board-of
7	directors-or-commissionersThe-petitioners-shall-setforth
8	withparticularityinsuch-specifications-the-contract-of
9	exchange-to-be-mode-and-they-shallhavepowertoinclude
10	thereinanytermy-requirementy-granty-transfer-of-property
11	or-rightsy-covenant-and-condition-whatsoever-thatshellbe
12	deemedby-the-soid-petitioners-to-be-for-the-best-interests
13	of-the-said-district;-and-that-theboardofdirectorsor
14	commissionersofthedistrictshailhavethepower-to
15	outhorizeanddirecttheissuanceofthesaidbonds
16	accordinglyand-to-make-any-such-contracty-and-to-bind-the
17	irrigation-district-thereby.
18	(2) The specifications provided for in subsection (1):
19	when set forth in the petitions are controlling upon the
20	board of directors or commissioners. The petitioners shall
21	in the specifications set forth the contract of exchange to
22	be made, with particularity. The contract may include any
23	term, requirement, grant, transfer of property or rights,
24	covenant, or condition considered by the petitioners to be
25	in the best interest of the district. The petition shall

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state_that_the_board of directors or commissioners of the district may authorize and_direct_the_issuance_of_bonds according_to_the_specifications of the petition: make any such_contract. and bind the irrigation_district_under_the contract.*

Section 30. Section 89-1801, R.C.M. 1947, is amended
to read as follows:

8 #89-1801. Tax or assessment to pay bonds and interest. 9 (1) All bonds and the interest thereon issued hereundery 10 and all payments due or to become due to the United States 11 under any contract between the district and the United 12 States, accompanying which bonds of the district have not 13 been deposited with the United States as provided in section 14 89-1301 provided, shall be paid by revenue derived from a 15 special tax or assessment levied as-hereinafter-provided upon all the lands included in the district, except upon 16 17 such those lands as that have been included in such the 18 district on account of the exchange or substitution of water 19 under the provisions of section 89-1611, if any there bet 20 are any end-all-the All lands in the district at the time 21 sold the bonds are issuedy and all lands subsequently 22 included which are so chargeable under the provisions of 23 this acty shall be and remain liable to be taxed and 24 assessed for the payment of said the bonds and interesty and 25 all payments due or to become due to the United States under any contract between the district and the United States,
 accompanying which bonds of the district have not been
 deposited with the United States as provided in section
 89-1301 provided.

5 (2) It--shall--be--the--duty--of--the line board of commissioners of the district, in the order or resolution 6 7 authorizing and directing the issuance of bonds of the 8 district mentioned in section 89-1703, to shall provide for 9 the annual levy and collection of a special tax or 10 assessment upon all the lands included in the district and 11 subject to taxation and assessment as-aforesaid, sufficient 12 in amount to meet the interest on said the bonds promptly 13 when and as the same accruesy and to discharge the principal 14 thereof at their maturity, or respective maturities, and to 15 meet all payments due or to become due to the United States 16 under any contract between the district and the United 17 States, accompanying which bonds of the district have not been deposited with the United States as provided in section 18 89-1301 provided, at the times such payments by such 19 contract become due and payable. Where When straight 20 maturity bonds are issued, it-shall-be-the-duty-of the board 21 22 of commissioners of the district to shall create and 23 maintain a sinking fund sufficient to pay and discharge said the bonds at maturity. If said the bonds shall-be are issued 24 25 for twenty-f209 years or less, there shall be annually

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levied for such the sinking fund a special tax or 1 assessmenty-as-aforesaidy sufficient to produce a net amount 2 represented by the quotient found by dividing the aggregate 3 amount of the principal of the bonds by the number of years 4 5 the bonds have to run; but if said the bonds are issued for 6 more than twenty---{20} years, then it shall is not be 7 necessary to levy a special tax or assessment for sinking fund until the twentieth 20th year prior to the maturity of 8 9 the bonds, at which time and each year thereafter there shall be levied and collected a special tax or assessment 10 11 sufficient to produce a net sum equal to one-twentieth +1/20+ part of the aggregate amount of the principal of the 12 13 bonds-

14 (3) A certified copy of such resolution shall be filed with the clerk of the board of county commissioners of each 15 16 county in which the lands of the irrigation district lie, 17 and the special tax or assessment therein provided for shall 18 be levied and collected as hereinafter prescribedy and when 19 so collected shall, by the county treasurer having custody 20 of the funds of the district, be placed in a special fund 21 and used solely for the payment of all amounts-due-or-to become-due-to-the-United-States-under-anv--contract--between 22 23 the-district-and-the-United-Statesy-accompanying-which-bonds 24 of--the--district--have--not--been-deposited-with-the-United 25 States-as-in-section-89-1381-providedy-and-for--the--payment

1 of--the-interest-on-and-principal-of-said-bonds-when-ducy-so 2 tong-as-any-of-said-bonds-or-the--interest--coupons--thereto appertaining--remain--outstanding--and--unpaid bonds issued 3 under the provisions of this chapter and interest thereon. 4 5 so long as any of the bonds or interest coupons remain outstanding and unpaid. Whenever the payments are made for 6 amounts due or to become due to the United States, under a 7 8 contract between the district and the United States. 9 accompanying which bonds of the district have not been 10 deposited with the United States as provided in 89-1301, the 11 special fund shall be known as the United States contract 12 fund. 13 (4) In the event that for any reason any a special tax 14 or assessment hereinabove provided for cannot or shall may 15 not be levied and collected in time to meet any interest 16 falling due on any bonds issued hereunder, then the board of 17 commissioners shall have--the--power-and-authority-and-it 18 shall-be-their-dutyy-to provide for and pay such interest when due, either out of any of the funds in hand in the 19 20 treasury of the district not otherwise appropriated or by 21 warrants drawn against the next district tax or assessment

24 (5) The board of commissioners shall heve-power-and 25 authority-to direct the investment of the funds in any bond

addition to those mentioned in section 89-1701.

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levied or to be levied. Soid Ihese warrants shall be in

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sinking fund aforesaidy in interest-bearing securitiesy whenever in their judgment the same investment may be to the best interest of the district. But-all All such securities shall be converted into cash in time to meet the principal on the bondsy payable from such sinking fund promptly at their maturity."

7 Section 31. Section 89-1803, R.C.M. 1947, is amended 8 to read as follows:

9 #89-1803. All irrigable lands chargeable alike. (1) All irrigable lands in each irrigation district, except such 10 11 lands as--have--been that are included within such the 12 district on-account because of the exchange or substitution 13 of watery under the provisions of section 89-1611, shall pay 14 at the same rate for all purposes for which said the lands 15 are chargedt, providing-howevery except, as otherwise 16 provided by laws that there There may be a minimum charge of five--dollars-(\$5+00) against each separately owned tract of 17 18 land regardless of its size, as hereinafter provided in section 89-1804; and-except-that-whenever Whenever water 19 used for the irrigation of any lands within an irrigation 20 21 district shall-be is obtained by pumping to different 22 elevations, the cost of maintenance, operation, and pumping 23 to each separate elevation shall be apportioned and levied 24 upon the lands lying under the ditch or ditches running from 25 that particular elevation, in such manner as may be

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determined fair and equitable by the board of commissioners
 after considering the facts in each case. Such This
 apportionment shall be made by the board of commissioners
 and included each year in the assessment provided for by
 section 89-1804.

(2) The amount of such the assessment for maintenance. 6 operation, and pumping of water to each separate elevation, 7 8 whenever there are different elevations, shall be determined by the board of commissioners in such mannery and upon such 9 10 notice to the persons interested in said the districty as 11 sold the board in its rules and-regulations may providet. 12 and--provided--furthery-that-where <u>Whenever</u> a contract shall 13 have has been made with the United States, the lands within 14 the district, whether originally included or later annexed to the district, shall pay in accordance with the federal 15 16 reclamation laws and the public notices, orders, and regulations issued thereundery and in compliance with any 17 18 contracts made by the United States with the owners of said the landst and in compliance furthery with the contract 19 20 between the districts and the United Statest. and-provided furthery-that-where Whenever the works necessary for the 21 completed project shall-be are constructed progressively. 22 over a period of years, and that where whenever a portion of 23 24 the lands within the district are or can be irrigated one 1 25 year or more before the completion of the entire project.

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then-and-in-that-casey-such those lands, so irrigated or 1 that can be so irrigated through the built portion of the 2 project, shall pay for the cost of operating that portion of 4 4 the project serving them with irrigation watery and also shall pay such portion of the interest charges as its 5 irrigable area bears to the irrigable area of the entire 6 7 projectt. and--in--case--of Whenever lands having have 8 appurtement thereto a partial water right or partial rights 9 in a system of irrigation other than that of the districts. 10 the amounts payable shall be equitably apportioned.*

Section 32. Section 89-1805; R.C.M. 1947; is amended
 to read as follows:

13 *89-1805. Betermination Procedure for the 14 determination of irrigable area. (1) For the purpose of 15 determining the number of acres of irrigable lands in each 16 forty-acre 40-acre tract or fractional lot as designated by 17 the United States public surveys or platted lot, if land is 18 subdivided in lots and blocks (or where whenever land shall 19 be is owned in less than forty-acre <u>40-acre</u> tracts or in less than the platted lot, then against in each such tract) 20 21 of land in the district, the board of commissioners of any 22 irrigation district organized--hereunder established under 23 the provisions of chapter 12 of Title 89, whenever deemed 24 considered advisable and at any time except as otherwise 25 provided, may cause a careful topographical survey and map

1 of said the lands to be made, as well as a specific examination of the character of the soil of each such tract. 2 Upon completion of such <u>the</u> survey and mapsy and 3 examination, the board shall give notice that at a meeting * 5 of soid the board, to be held at the office of the board on 6 a day to be fixed in said the notice, said the board will 7 determine the irrigable area of each such tract of land in 8 the district and that it will hear and consider any 9 objection on the part of any landowner in the district to 10 such the determination and to adjustment of the irrigable 11 area of said the district or of any lands within any tract 12 or subdivision thereof. It shall-not-be is not necessary to 13 describe said the tracts in said the notice. Such The 14 notice shall be given by publicationy once a week for two 2 15 successive calendar weeksy in a newspaper of general 16 circulation in the county where the office of the board is 17 located, and where whenever lands of any irrigation district 18 lie in more than one county, such the notice shall also be oublished in a newspaper or newspapers of general 19 20 circulation in each such county. The last publication of said the notice shall be at least five 5 days prior to the 21 22 date fixed for said the meeting.

(2) At such the meeting, the board shall proceed to
 determine and fix the number of acres in each tract or
 subdivision irrigable from the works or proposed works of

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the districty and shall hear all persons interested who may 1 2 appeary and shall continue in session from day to day 3 (exclusive of Sundays and legal holidays) as long as may be 4 necessary and until said the determination of irrigable area 5 shell-have-been is completed. The board shall hear and 6 receive all evidence offered, including maps and surveys caused to be prepared by it as well as maps and surveys 7 prepared by any owner of lands. Upon such determination, 8 9 the irrigable area so fixed shall becomey and thereafter bey 10 the acreage upon which any special tax or assessment shall 11 be levied, and each irrigable acre shall pay at the same 12 rate as every other acre of irrigable land in said the district, shall--payt--and except as otherwise provided by 13 14 laws ony Any special tax or assessment levied for any purpose shall--be is a lien upon the entire forty-acre 15 16 40-acre tract or fractional lot as designated by the United 17 States public survey or platted lot, if land is subdivided in lots and blocks (or where whenever land shall-be is owned 18 in less than forty-acre <u>40-acre</u> tracts or in less than the 19 platted lot, then against each such tract) of land in the 20 21 district of which said the irrigable area forms a part, and 22 said the lien shall attach to said the entire tract as of 23 the-first-day-of January 1 in the year in which said the 24 special tax or assessment is levied.

25 (3) Upon completing such the determination, the board

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shall fix, by appropriate resolution or order, the total 1 acreage and the irrigable acreage of each such tract or 2 subdivisiony and shall cause to be prepared a list of all 3 lands in said the district, which list shall contain an 4 accurate description of each such-forty-acre 40-acre tract 5 or fractional lot as designated by the United States public 6 survey, or platted lot, if land is subdivided in lots and 7 blocks (or where whenever land shall-be is owned in less A than forty-acre 40-acre tracts or in less than the platted 9 lot, then against of each such tract} of land in said the 10 district. the total acreage and the number of irrigable 11 acres therein as so fixed and determined, and the name of 12 the ownery or holder of title or evidence of title thereof, 13 14 ascertained as provided in section B9-1201. Such This list, 15 when completed and adopted, shall be filed in the office of the board of commissioners and shall remain there for public 16 inspection. A certified copy of such the resolution and 17 list shall be filed with the county clerk and recorder of 18 each county in which any portion of the lands in said the 19 district are situated a provided y-howevery-there-shall-be 20 omitted-from-such-copy The lands not situated in the county 21 in which such copy is filed shall be omitted from the copy. 22 (4) No special tax or assessment shall may be levied 23 against any forty-sere 40-acre tracty or fractional lot as 24 designated by the United States public survey, or platted 25

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lot, if land is subdivided in lots and blocks (or where 1 whenever lands shall-be are owned in less than forty-acre 2 40-acre tracts or in less than the platted lot, then against 3 4 each such tract) found by said the board to contain no irrigable land; nor shall may any lien created after the 5 order of determination herein-provided-for attach to any 6 7 such tract, nor shall may the ownery or ownersy of any tract or tracts have any vote or votes in any proceeding or 8 9 election under the provisions of Chapter 146 of the Laws of 1909 or any amendment thereofy or act supplementary 10 thereto, after the making of such order, unless his-soid 11 12 their landy or a portion thereofy-be is found by said the board to contain an area irrigable from the worksy or 13 14 proposed worksy of said the district.

15 (5) Upon the determination provided for in this 16 section, the board of commissioners shall-have the power-to 17 <u>may</u> refund any taxes paidy or cancel any unpaid taxes or 18 assessmentsy levied upon an acreage in excess of that so 19 fixed by said the order of determinationy and where whenever 20 necessary, may issue warrants therefor.

21 (6) Within sixty 60 days after such the resolution 22 adopting soid the list, the board of commissioners may 23 petition the district court for confirmation of their acts 24 in determining the irrigable areay--os-sforesaidy and in 25 refunding or canceling any taxes or assessments. The

majority in number and acreage of the holders of title or 1 evidence of title to lands in said the district, ascertained 2 3 as provided in this act provided, way, likewise, within such sixty-day 60-day periody petition the district court for 4 5 review of the actions of the board of commissioners. But However, one of such these proceedings, if prosecuted to 6 7 determination, shall--be is exclusive of the other. Upon such proceeding, the court may order any assessment of taxes 8 9 upon any land or lands to be reduced or raised according to 10 the irrigable area as found by the courty or taxes previously levied upon any area shown to be excessive to be 11 12 refunded or canceled.

13 (7) The provisions of section 89-1402v regarding the 14 procedure as well as the right and time to appealy-shall 15 apply to any proceeding instituted in-pursuance-of-the 16 provisions--of pursuant to this section; providedy-howevery 17 that nothing in this section shall-be-deemed-or-construed-to 18 affect-or-impair affects or impairs the lien of any bonds 19 issued by the district, and providedy-furthery-that-if If confirmation proceedings are held and a certified copy of 20 21 the order of confirmation be is filed with the county clerk and recorder of the county in which any portion of said the 22 **Z**3 lands is situated, it shall-not-be is not necessary to file 24 in said the office the certified copy of the resolution and 25 order of the boardy or of the listy-hereinabove provided for

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2 (8) Provided --- howevery--that-where Whenever districts 3 have been established in order to co-operate cooperate with 4 the United States under the federal reclamation laws heretofore--or--hereafter--enactedy or under any act of 5 6 Econoressy concress which shell--permit--of permits the 7 performance by the United States of work in this state, for A the purposes of construction of irrigation works, including drainage works, or for purchase, extension, operation, or 9 10 maintenance of construction works, or for the assumption as principal or guarantory of indebtedness to the United States 11 on account of district laws lands, the determination of the 12 irrigable area of the lands in said the district may be made 13 14 by the said board of commissioners in the manner provided in 15 this section provided or by the United States at the option of the latter, and, if the United States determines the 16 17 irrigable area, the proceeding for the apportionment and distribution of the costs of the proposed works or 18 19 improvementsy--hereinafter provided for in section 89-1806 20 shall may not be had."

21 Section 33. Section 89-1806, R.C.M. 1947, is amended 22 to read as follows:

23 #89-1806. Determination---of---irrigable--erea--- 24 apportionment-and-distribution-of-costs-of-proposed-works-or
 25 improvements <u>Apportionment_of_costs_when_bonds__issued</u>. (1)

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Whenever a petition for the issuance of bonds of any 1 irrigation district organized---hereunder---shall---hove 2 established under the provisions of chapter 12 of Title 89 з has been filed, as hereinbefore provided in section 89-1703 4 provided, the board of commissioners of such the district 5 shall examiner or cause to be examined, each forty-acre 6 40-acre tract or fractional lot as designated by the United 7 States public survey or platted lot, if land is subdivided 8 in lots and blocks (or where whenever land shall-be is owned Q. in less than forty-acre 40-acre tracts or in less than the 10 platted lot, then against each such tract) of land in said 11 the districty and cause a careful topographical survey and 12 map to be madey in the manner provided for in section 13 89-1805. Upon such examination, the board shall determine 14 the number of irrigable acres in each such tract; and shall 15 apportion and distribute the cost of the works or 16 improvements for which said the bonds are to be issued, over 17 the tracts within said the district according to the 18 irrigable area in each of said the tracts or subdivisions, 19 so that each such irrigable acre shall--be is required to 20 21 bear the same burden of such costs as each other irrigable 22 acre in said the district, and-the except as otherwise provided by law. The special tax or assessment levied to 23 24 meet the principal of and interest on said the bonds so 25 authorizedy---shall-become is a lien upon the entire tract of

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which such irrigable area forms a part or portion as of the first-day-of January 1 of the year in which such the special tax or assessment is levied, and the number of irrigable acres in each such tract as so determined shall may not be diminished but may be increased during the term for which any such bonds may-be are issued or until the bonds shall-be are liquidated in full.

(2) Providedy-howevery-that-if Whenever a proceeding 8 for the determination, in whole or in part, of the irrigable 9 10 area of the lands in said the district has already been hady 11 or a topographical survey or maps thereof preparedy or a 12 court confirmation of said prior proceedings had, in part or in full, the said board may, in its discretion, adopt all or 13 such portions of said the prior proceedingst and in-such-on 14 15 eventy--it--shall--not--be--necessary--to need not cause an 16 additional survey or maps or examinations of any of such 17 tracts to be entrine made or to redetermine the irrigable 19 area of any such tract.

19 (3) The board shall make such determination after the 20 hearing had and shall fix the total acreage and the 21 irrigable acreager and shall cause a list of such irrigable 22 area to be made and filed, and the proceedings of the board 23 in connection with such determination, including said the 24 hearing and notice of said the hearing, and order or 25 resolution fixing the irrigable area and the preparation and

filing of said the list, shall conform to the requirements 1 set forth in section 89-1805. At such the hearing, the said 2 board shall also determine the amount and rate per acre 3 necessary to be levied against each irrigable acre in the 4 5 district to meet the interest on and principal of said the 6 authorized bond issue, and any tax levied for such purposes 7 shall--be is a lien upon the entire tract of which said the 8 irrigable area forms a part. If any landowner in the 9 district shall-eppear appears before the board at said that 10 time and pay pays in cash the amount fixed against his said 11 land as its proportion of the amount found necessary for the 12 purposes for which said the bonds were authorized and are to 13 be issued, his land shall be excluded from the lien of the bond issue and the amount of bonds intended to be issued 14 shall be reduced by the amount of such payment. Any person 15 interested who shall-fail fails to appear before the board 16 at said the meeting shall may not thereafter be permitted to 17 18 contest the proceedings of said the boardy or any part 19 thereof, except upon special application to the court in the proceedings for the confirmation of said the bonds and a 20 showing of reasonable excuse for failure to appear before 21 soid the board of commissioners. 22

(4) In case any such landowner makes objection to the
proceedings of said the board in determining the irrigable
area in his own or any other tract of landy or the amount or

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1 rate per acre of the special tax and assessment to be levied Z against each irrigable acre in the district for the purposes 3 of the proposed bond issuer and soid the objection is overruled by the board, such the objection without further 4 5 proceedings shall be regarded as appealed to the district 6 courty and shall, with the other proceedings of said the 7 board at soid the meeting, be heard at the proceedings to 8 confirm said the bonds, as provided in section 89-1704, and 9 when so confirmed, said the order overruling such objection 10 and confirming the order of the board determining the 11 irrigable area of each tract of land and apportioning the 12 cost of the improvement theretoy shall become final, binding, and conclusive upon said the landowner and upon the 13 14 district, unless appealed from as provided in said--section 15 89-1704 provided.

16 (5) Providedy -- howevery -- that -- whenever Whenever the 17 irrigable area of the lands in any irrigation district shall 18 have has been determined and confirmed, no owner or holder 19 of title or evidence of title to lands in said the district. 20 during the period of when any bonds thereafter authorized 21 shell-be are issued and outstanding, shell may have the 22 taxable acreage of his said lands fixed or adjudicated in 23 the manner provided by sections 89-1404 to through 89-1408y 24 in such manner or to such extent as to reduce the acreage 25 subject to the payment of such the bonds or interest

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1 thereony or in such manner as to affect the security of
2 such the bonds or interest thereon.^m

3 Section 34. Section 89-1811, R.C.M. 1947, is amended 4 to read as follows:

5 #89-1811. County treasurer as custodian of district funds. The county treasurer of the county wherein where the 6 office of an irrigation district is located shall-be is the 7 custodian of all funds belonging to the district, and he R shall pay out such funds upon the order of the board of 9 commissioners, except es-to payments on bonds and interesty 10 for which no order shall-be is necessary. Where If any 11 portion of the funds belonging to a district here has been 12 13 collected for the purpose of establishing a reserve fund, the county treasurer shall pay such portion to the district 14 on order of the district's board of commissionersy who shall 15 16 have--authority--to may invest the same in state or federal 17 bonds or in savings certificates of institutions insured by 18 the federal deposit insurance corporation. Where moneys of 19 a district in the United States contract fund established 20 pursuant to section--89-1809 89-1801(3) are in excess of 21 those needed to pay a district's next succeeding annual 22 contract obligation or obligations to the United States, 23 such excessy or any part thereofy may, upon order of the 24 district's board of commissionersy and with the consent of 25 the United States officer administering the contract for

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which the contract fund has been established, be paid to the
 district for use in meeting other obligations of the
 district. Such orders of the board of commissioners shall be
 signed by the president and secretary of the board, and
 shall bear the official seal of the district."

Section 35. Section 89-1816, R.C.M. 1947, is amended
to read as follows:

8 #89-1816. Proceeds of sale. Whenevery-pursuant-to--the 9 provisions--of-the-preceding-sectiony any lot, tract, piece, 10 or parcel of land included within and forming a part of any 11 irrigation district created under the provisions of this chaptery or included within any extension of such districty 12 13 shall--be is sold by the treasurer of the county wherein 14 where such land is situatedy in the manner provided by law 15 for the sale of lands for delinguent taxes for state and county purposes, and taxes or assessments of such the 16 irrigation district form all or a part of the taxes for 17 18 which such lands are sold, it--sholl--be--the--duty--of the county treasurer making such sale or sales to shall place to 19 20 the credit of the proper funds of such irrigation district. out of the proceeds of such the sale or sales, the total tax 21 or assessment of such the irrigation district, inclusive of 22 the interest and penalty thereon as provided for by the 23 24 general laws relating to delinguent taxes for state and 25 county purposes, and whenever any such lands are struck off

at such sale to the county wherein where the same they are 1 situater situated pursuant to the provisions of section 2 3 84-4124, the county treasurer of such the county must, upon 4 the issuance of the certificate of tax sale to said the 5 county, issue to said the irrigation district, and in its 6 corporate name, a debenture certificate for the amount of 7 taxes and assessments due to said the irrigation district 8 from said the lands and premises so sold, inclusive of the 9 interest and penalty thereon, which certificate shall-be is 10 evidence of and conclusive of the interest and claim of said 11 the irrigation district in, to, against, and upon the lands 12 and premises so struck off to said the county at such the 13 tax sale, and from---and after the issuance of said the 14 certificate, the sum named therein and the taxes and 15 assessments of seid the district evidenced thereby shall 16 bear interest at the rate of one-per-centum-per 1% a month 17 from the date of said the certificate until redeemed in the 18 manner provided for by law for the redemption of the lands 19 sold for delinquent state and county taxes, or until paid 20 from the proceeds of the sale of the lands and premises 21 described thereiny in the manner provided for by section 22 2235-of-these-codes law, and duplicates of such certificates 23 so issued to said the irrigation district shall be filed in 24 the office of the county clerk and county treasurer of said 25 the county with the certificate of tax sale of said the

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1 lands and premises."

2 Section 36. Section 89-1819, R.C.M. 1947, is amended 3 to read as follows:

4 #89-1819. Sale by county commissioners when land not 5 redeemed. When the lands and premises so sold for taxes, and 6 upon and against which the certificates herein-provided-for 7 have been issued for the taxes and assessments of such the 8 irrigation districty are not redeemed within the time 9 provided for by section 84-4132, it-shall-be-the-duty-of the board of county commissioners of said the county, within 10 11 three 3 months thereafter, to shall cause said these lands 12 and premises to be sold as provided for by section-2235--of 13 these-codes law, and out of the proceeds of the sales 14 thereof the county treasurer of said the county shall pay to 15 the holder or holders of such the certificates the sum or 16 sums for which the same were issued, with interest as therein provided for to the date of said the sale of said 17 18 the lands by the board of county commissioners, and no lands 19 and premises so held by any country and against which the 20 certificates provided for by this chapter have been issuedy 21 shall may, upon such sale, be struck off or sold for a less 22 sum than the amount of taxes and assessments of said the 23 irrigation district represented by said the certificate, 24 inclusive of the interest thereon, in addition to the state 25 and county taxes, if any, against the same."

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Section 37. Section 89-2003, R.C.M. 1947, is amended
 to read as follows:

#89-2003. Contents of petition. Said The petition of 3 89-2002 shall set forth the amount of the outstanding bonds, 4 coupons, and other indebtedness, if such--there-be any, 5 together with the general description of the--same them; 6 showing the amount of each description--of described 7 indebtedness and the ownership, so far as known, of the same 8 indebtedness. Said The petition shall also state the assets 9 of said the district, including any irrigation system, if 10 any systems: dams: reservoirs; canals, franchises, water 11 rights, and other property; and in case any proposition has 12 been made by the holders of said the indebtedness to settle 13 the some indebtedness, sold this proposition, together with 14 any plan proposed to carry the same proposition into 15 execution. shall be included in said the petition." 16 Section 38. Section 89-2109, R.C.M. 1947, is amended 17 18 to read as follows: #89-2109. Interpretation of act title. The object of 19 20 this oct--being--to--secure--the-irrigation-of-lands-of-the 21 state, and thereby title is to promote the prosperity and **Z**2 welfare of the peopley--its-provisions-shall-be-liberally 23 construed-so-as-to-effect-the-objects--and--purposes--herein 24 set--forth of Montana, through the sound management of the 25 state's water resources, and its provisions are to be given

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1 <u>a liberal interpretation</u>.*

2 Section 39. Section 89-2126, R.C.M. 1947, is amended
3 to read as follows:

4 "89-2126. Court-to--approve--contracts United States 5 contracts -- court approval required. The board of commissioners of any irrigation district, before the making 6 of any contract with the United States hereunder, shall 7 8 commence a special proceeding in the district court of the 9 state. in--and by which the proceedings of the board and of 10 said the district leading up to the making of any such 11 contract and the validity of the terms thereof shall be 12 judicially examinedy and approved and affirmedy or 13 disapproved or and disaffirmed."

14 Section 40. Section 89-2203, R.C.M. 1947, is amended 15 to read as follows:

16 *89-2203. Amendment of and circulation 17 petition--circulation -- court consideration by-court. No 18 petition having as many signers as are required by this 19 section 89-2201 shall may be declared void, but the court 20 may at any time permit the petition to be amended in form 21 and substance to conform to the facts, if the facts justify 22 the organization of a drainage district. Several similar 23 petitions for the organization of the same district may be 24 circulated, and, when filed, together shall together be 25 regarded as one petition having as many signers as there are

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separate adult signers on the several filed petitions filedy 1 2 who own lands within said the proposed drainage district. All petitions for the organization of soid the district з 4 filed prior to the hearing on said the petition shall be 5 considered by the courty the same as if filed with the first 6 petitions placed on file, and the signatures thereon 7 . contained shall be counted in determining whether sufficient landowners have signed soid the petition." 8 Section 41. Section 89-2302, R.C.M. 1947, is amended 9 10 to read as follows: #89-2302. Election of commissioners -- terms regular 11 term of office. (1) The regular election of commissioners 12 13 shall be held annually on the first Tuesday in April of each year; the term of office of commissioners shall commence on 14 the first Tuesday in May following their election. At the 15 first regular election following the organization of a 16 17 districty and in districts heretofore organized and in 18 existence on the-date-when-this-act-takes--effect March 1: 1921, and which, on petition, has have been divided into 19 20 divisions, as-hereinbefore-providedy at the first regular 21 election following the date of the order making such division, there shall be elected three commissioners, one 22

- 24 must be an actual landowner and-resident-of--the--county--or
- 25 counties; one of such the commissioners, to be determined by

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commissioner being elected from each division of which he

1 lot, shall hold office until the first Tuesday in May in the 2 year following his election, another of such the 3 commissioners, to be determined by lot, shall hold office 4 until the first Tuesday in May in the second year following 5 his election, and the third of such the commissioners shall 6 hold office until the first Tuesday in May in the third year 7 following his election: thereafter one commissioner shall be 8 elected each years who shall hold office for a term of three 9 3 years and until his successor is elected and gualified; provided that the person elected as a commissioner in each 10 11 year to succeed the commissioner whose term is then expiring 12 must be elected as a commissioner from the same division as 13 the commissioner whom he is to succeed.

14 (2) Each commissioner must be a resident of a county
 15 where a portion of the district lands are situated."

16 Section 42. Section 89-2348, R.C.N. 1947, is amended 17 to read as follows:

18 #89-2348. Assessments--for--construction Construction 19 assessments -- annual installment. At the time of the 20 confirmation of such the assessments as provided in 89-2342, it-shall-be--competent--for the court to may order the 21 22 assessment for construction of new worky to be paid in not 23 more than fifteen-f15; annual installments, of such amounts 24 and at such times as will be convenient for the 25 accomplishment of the proposed worky or for the payment of

1 the principal and interest of such notes or bonds of said the districty as the court shall-grant grants authority to 2 3 issuev for the construction of new work. The court shall also by such order fix a date on which the first 4 5 installment of the assessments for construction shall become due, not more than five--- (5) years after the date of the 6 7 order, and each of said the installments shall draw interest я at the rate fixed by the court in accordance with law from 9 the date of said the order." 10 Section 43. Section 89-2411, R.C.M. 1947, is amended 11 to read as follows: 12 #89-2411. Gmissions--how---corrected Correction of

13 omissions. Omission to assess benefits, or to assess for 14 construction, or to make additional assessments, or to make 15 assessment for repairs, or to award damages to any one or more tracts of land or easements in a drainage districty or 16 17 to assess benefits, or--to assess for construction, or-to 18 assess for repairs, or to make additional assessments 19 against any corporation which should have been assessed. 20 shall-neither does not affect the jurisdiction of the court 21 to confirm the report nor to render the benefits 22 assessed, or the assessments for construction, or additional 23 assessments, or assessments for repairs against other lands, 24 or assessments against any corporation voidablev; but the commissioners of said the drainage district shall 25

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1 thereafter, as soon as they discover the omission, or as soon as they have notice thereof, either agree with the 2 3 omitted parties upon the proper assessments and award the 4 damages or assess such benefits, make such assessments for 5 construction, and make such additional assessments against the omitted lands and corporationsy and award such damages 6 7 as shall-be are justy and report the facts, together with such assessments and awards, to the court." 8

9 Section 44. Section 89-2701, R.C.M. 1947, is amended
10 to read as follows:

#89-2701. Continuation of existing districts. All 11 12 drain districts of the state of Montana, organized prior to the-enactment-of-sections-89-2201-to--89-2502--and--sections 13 89-2881--to--89-2820,-inclusive March 1, 1921, and continued 14 15 in existence pursuant to section 89-2820 100. Chapter 129. 16 Laws 1921, shall continue their existence as drain districts 17 under and pursuant to all of the provisions of said-sections drainage_ district laws, and the commissioners of such drain 16 19 districts shall have all the power and authority conferred by said--sections the drainage district laws upon the 20 commissioners of drainage districts organized--under--such 21 sections." 22

23 Section 45. Section 89-2711, R.C.N. 1947, is amended 24 to read as follows:

25 #89-2711. Rules of practice applicable. The same rules

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L relative to the filing of demurrersy answers and replies which-now-exist relative to other causes of action affecting the title to real property shall apply in actions to exclude ands from a drainage district, and all issues arising may be tried by the court without a jury."

Section 46. Section 89-2810, R.C.M. 1947, is amended
to read as follows:

8 #89-2810. Assessments against annexed lands. Said The 9 commissioners shall, after the time for appeal is past, 10 assess against each parcel, tract, and easement of end-said the annexed lands reasonable and just benefits, and shall 11 12 assess against said these lands for construction and repairs 13 such sums as shall be are just. If lands similarly situated 14 and benefited are found in soid the district, the annexed 15 lands shall be assessed a like sum of benefits and damages 16 as send the similar lands in the sand district to which they 17 are sought to be annexedy and a sum for construction of said 18 the work, which shall be equal to all sums assessed, for the complete construction of the drainage system in the district 19 to which they are sought to be annexed against lands having 20 21 the same assessment of benefits in said the district." 22 Section 47. Section 89-2926, R.C.M. 1947, is amended 23 to read as follows:

24 **89-2926. Waste and contamination of ground--water
 25 groundwater prohibited--exception---duties-of-department. (1)

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1 No ground--waters groundwater shall may be wasted without 2 beneficial-use. The department shall require all wells 3 producing waters which contaminate other waters to be plugged or capped. It shall also require all flowing wells 4 5 to be so capped or equipped with valves that the flow of 6 water can be stopped when the water is not being put to 7 beneficial use. Likewise, both flowing and nonflowing wells shall be so constructed and maintained as to prevent the 8 9 waste, contamination, or pollution of ground--waters 10 groundwater through leaky casings, pipes, fittings, valves, 11 or pumps either above or below the land surface, provided, 12 however, in the following cases the withdrawal or use of 13 ground--water groundwater shall not be construed as waste 14 under this act:

15 (1)(a) the withdrawal of reasonable quantities of 16 ground----water groundwater in connection with the 17 construction, development, testing, or repair of a well or 18 other means of withdrawal of ground-waters groundwater;

19 (2)(b) the inadvertent loss of ground---water
20 groundwater owing to breakage of a pump, valve, pipe, or
21 fitting, if reasonable diligence is shown by the person in
22 effecting the necessary repair;

t3 (3)(c) the disposal of ground---weter groundwater
without further beneficial use that must be withdrawn for
the sole purpose of improving or preserving the utility of

land by draining the same or that <u>must be</u> removed from a
 mine to permit mining operations or to preserve the mine in
 good condition;

4 (47(d) the disposal of ground-water oroundwater used
5 in connection with productiony-for-reduction producing.
6 reducing, smelting, and milling metallic ores and industrial
7 minerals, or that displaced from an aquifer by the storage
8 of other mineral resources.

9 <u>(21</u> The department at any time may hold a hearing on it's own motiony or upon petition signed by a representative body of users of ground-water <u>orpundwater</u> in any area or subareay to determine whether the water supply within such area or subarea is used in compliance with this act.**

14 Section 48. Section 89-2929, R.C.M. 1947, is amended 15 to read as follows:

16 #89-2929. Reports to-be-in-addition-to-other-reports 17 required by water well drillers. The forms, reports, and 18 information required to be filled-filled by this act shall 19 be are in addition to all other reports and information 20 which the drillers of water wells in the state of-Montana 21 are required by law to file with agencies of the state of 22 Montana."

23 Section 49. Section 89-3425, R.C.M. 1947, is amended
24 to read as follows:

25 #89-3425. Challenging voters--ooth--penalty-for--folse

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subscription. An elector may challenge any person who claims
 the right to vote. Before voting, any person challenged must
 take and sign the following oath or affirmation administered
 by an election judge:

b "I(name) solemnly swear (or affirm) that I am an
c elector of the district and have not voted today." False
7 subscription to the oath or affirmation is perjury-and
8 punishable-as-such <u>false_swearing_and_is_punishable_as</u>
9 provided_in 94-7-203."

Section 50. Section 89-3449, R.C.N. 1947, is amended to read as follows:

#89-3449. Other agencies not affected. The provisions 12 13 of this act shall-not-be-construed-toy do not in-any-mannery 14 abrogate or limit in any manner the rights, powers, duties, 15 and functions of the department, conservation--commission, 16 conservation districts, department of health and 17 environmental sciences, or the fish and game commission; but 18 shall-be-held-to-be are supplementary thereto and in aid 19 thereof."

20 Section 51. Severability. If a part of this act is 21 invalid, all valid parts that are severable from the invalid 22 part remain in effect. If a part of this act is invalid in 23 one or more of its applications, the part remains in effect 24 in all valid applications that are severable from the 25 invalid applications. ₹

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- 1 Section 52. Repeater. Sections 89-128, 89-1901, and
- 2 89-2818, R.C.M. 1947, are repealed.

-End-

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