

SENATE BILL NO. 26

INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS 89-128, 89-1901, AND 89-2818, R.C.M. 1947."

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

Section 1. Section 89-105, R.C.M. 1947, is amended to read as follows:

~~"89-105. Power of department to construct works and to act beyond jurisdiction.~~ Construction of works by department.

(1) Subject to the approval of the board, the department may construct works, the cost of the construction to be paid wholly by means of or with the proceeds of revenue bonds hereinafter authorized or of a grant to aid in financing the construction from the United States or any instrumentality or agency thereof and of other funds provided ~~under the authority of this act for the construction.~~ Before constructing a project, the department shall estimate the cost of the project, the cost of maintaining, repairing, and operating it, and the revenues to be derived therefrom, and a project may not be constructed unless, according to the estimates, the revenues to be derived will be sufficient to pay the cost of maintaining, repairing, and operating it,

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.

(2) ~~However, should~~ Should the bid of the lowest responsible bidder on any capital improvement associated with public works ~~as defined in this section~~ exceed the department estimates of the cost of the improvements by more than ~~five per cent (5%),~~ the department shall obtain approval from the water user association, ~~whenever an association is involved,~~ before the bid is accepted; however, capital improvements of an emergency nature necessary to protect life or property or to supply immediate needs for water do not require such approval.

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

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 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:

10 (a) ~~It is~~ 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) ~~It is~~ 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) ~~It is~~ 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. Water funds rates sale of water appeals~~
 24 ~~to board lease and sale of water rights and property~~
 25 Management of property -- water contracts. (1) Subject to

1 this act and ~~sections~~ 89-103.2, the department may fix and
 2 establish the prices, rates, and charges at which the
 3 resources and facilities made available under this act may
 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 prescribes, ~~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
 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 payable, ~~this~~ 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) 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

1 working and operating conditions.

2 (3) A contract made by the department for the sale of
3 water, use of water, water storage, or other service, or for
4 the sale of any property or facilities, shall provide that,
5 in the event of a failure or default in the payment of
6 moneys specified in the contract to be paid to the
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
10 to furnish or deliver water, use of water, water storage, or
11 other service under the contract does not deprive the
12 department of, or limit any remedy provided by the contract
13 or by law for the recovery of moneys due or which may become
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.

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, or under a contract for the construction or repair

1 of works, that party may appeal to the board for a hearing
2 thereon and a resolution of the dispute by filing written
3 notice of the appeal with the department within ~~thirty~~ (30)
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
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 act,
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 ~~income or profit and revenue of the works and all moneys~~
17 ~~received from the sale or disposal of water, use of water,~~
18 ~~water storage, or other service, and from the operation,~~
19 ~~lease, sale or other disposition of the works, property and~~
20 ~~facilities acquired under this act, shall be deposited to~~
21 ~~the state general fund."~~

22 Section 3. Section 89-401, R.C.M. 1947, is amended to
23 read as follows:

24 "89-401. Disposition of moneys collected. (1) For the
25 purpose of carrying out the provisions of ~~the Water~~

1 ~~Conservation Act, acts amendatory thereto and supplementary~~
 2 ~~thereof, 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:

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 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-granted~~
 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, electrification,
 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

1 distribution of electric current; ~~revenue arising from~~
 2 ~~projects constructed or owned by the department in excess of~~
 3 ~~costs of operation and maintenance, and repayment of~~
 4 ~~principal and interest of any moneys borrowed for the~~
 5 ~~construction of the projects; all sums payable as rentals~~
 6 ~~due for water use, maintenance or operation upon any project~~
 7 ~~owned by the state or for which such rentals are due and~~
 8 ~~payable under any contract or agreement made by any person,~~
 9 ~~association or corporation with the department; all sums of~~
 10 ~~money received by the department for the use of electric~~
 11 ~~current, 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 thereof, 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 acquired under chapter 1 of Title
 24 89; and

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

1 electricity in excess of the maintenance 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. Powers of department concerning waters and~~
 6 ~~appropriations thereof~~ Department powers over state waters.

7 (1) The authority of the department conferred by this ~~act~~
 8 chapter 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 having jurisdiction,
 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
 22 and asserted rights of appropriation not adjudicated by any
 23 court.

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

1 after first giving such notice as it ~~deems~~ considers
 2 appropriate, and make findings of the date and quantity of
 3 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.

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 stream, it may divert or
 21 authorize the diversion at any point on the stream, or any
 22 portion thereof, 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~~

1 ~~except as expressly provided in this act, and this act does~~
 2 ~~not interfere with vested rights to the use of water.~~

3 ~~(8) In addition to the powers conferred on the~~
 4 ~~department elsewhere in this chapter,~~

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
 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 [2] "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 ~~(4)~~ 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

1 engage in using, selling, or disposing of the same, who has
 2 a surplus of water not used or sold, or any person having a
 3 surplus of water, and the right to sell and dispose of the
 4 same, is required, upon the payment or tender to the person
 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 water, 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 ~~said~~ the
 11 surplus of unused or unsold water exists and ~~said~~ the
 12 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:

15 "89-867. Definitions. Unless the context requires
 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.

20 (2) "Beneficial use" means a use of water for the
 21 benefit of the appropriator, other persons, or the public,
 22 including, but not limited to, agricultural (including stock
 23 water), domestic, fish and wildlife, industrial, irrigation,
 24 mining, municipal power, and recreational uses, provided,
 25 ~~however, that a~~ A use of water for slurry to export coal

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 ~~sections~~ 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 or can be obtained 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.

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

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

25 (10) "Waste" means the unreasonable 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~~ of 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~~ 82A-1509.

17 ~~(15) "Act" means the Montana Water Use Act and any~~
18 ~~subsequent amendments or additions thereto."~~

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)~~ (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

1 which is not a part of that surface water. Fresh water shall
 2 be ~~deemed~~ considered to be water fit for domestic,
 3 livestock, or agricultural use. The department, after
 4 notice and hearing, may fix definite standards for
 5 determining fresh water in any controlled ~~ground-water~~
 6 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 ~~(d) (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. 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.

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

1 ~~(4) (6)~~ "Department" means the department of natural
 2 resources and conservation provided for in Title 82A,
 3 chapter 15.

4 ~~(5) (7)~~ "~~Ground-water~~ Groundwater area" means an area
 5 which, as nearly as known facts permit, may be designated so
 6 as to ~~inclose~~ enclose a single and distinct body of ~~ground~~
 7 ~~water groundwater,~~ which shall be described horizontally by
 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 ~~sections~~ 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:

23 "89-899. Legal assistance. (1) When requested by the
 24 department, the attorney general and the county attorneys
 25 within their respective counties shall perform legal

1 services and conduct legal proceedings necessary to carry
2 out the purposes of this ~~act~~ chapter. The department may
3 also employ legal counsel to enforce this ~~act~~ chapter and to
4 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."

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

13 "89-2930. Duty of county attorneys and attorney
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."

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

1 acquired after January 1, 1950, shall, within ~~sixty~~ 60 days
2 after ~~the approval of this act~~ February 25, 1953, or before
3 he diverts any water, file with the department at its office
4 in Helena, Montana, a written statement containing the
5 following information:

- 6 (a) ~~The~~ the name of the claimant and his address;
7 (b) ~~Date~~ date of appropriation or the date when the
8 water was first applied to a beneficial use;
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) ~~The~~ the purpose for which the water is claimed and
15 the place of intended use;
16 (f) ~~The~~ the means of diversion;
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 89-840,~~
22 the name of the county where it was filed;
23 (i) ~~Whether~~ whether the appropriation was made from an
24 adjudicated or nonadjudicated stream, river, or other source
25 of water.

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 ~~excepted~~. 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 act, ~~provided, 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 ~~or. Any a~~ person owning or using any of the waters of ~~each~~
18 the stream or ditch or extension of the ditch, who is
19 dissatisfied with the method of distribution of the waters
20 of ~~each the~~ stream or ditch by ~~each the~~ water commissioner
21 or water commissioners, 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 ~~each the~~ water commissioner or
24 water commissioners, may file his written complaint, duly
25 verified, setting forth the facts of ~~each the~~ claim.

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
3 parties interested in ~~such the~~ hearing as the judge ~~may deem~~
4 considers necessary. At the time fixed for ~~such the~~
5 hearing, the judge must hear and examine the complainant and
6 ~~each~~ other parties as may appear to support or resist such
7 claim, and ~~also~~ examine ~~each 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~~
11 considers just and proper ~~in the premises~~. If it shall
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, ~~then~~ the judge
15 shall give the proper instructions for such distribution.
16 The judge may remove ~~each any~~ water commissioner ~~or water~~
17 ~~commissioners~~ and appoint some other person ~~or persons~~ in
18 his ~~or their~~ stead, if he ~~deems~~ considers that the interests
19 of the parties in the waters mentioned in ~~such the~~ decree
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~~

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
3 to read as follows:

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

20 1-(a) 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-(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 section, and if ~~any such a~~ holder is a nonresident of the
3 county or counties in which the proposed district lies, the
4 post-office address of ~~each the~~ nonresident owner, if known;

5 4-(d) ~~Generally~~ generally, the source from which the
6 lands in the proposed district are to be irrigated, and the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5-(g) 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.

14 (2) The petition shall be accompanied by:

15 ~~(1)~~ (a) a map or plat of the proposed district; 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 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.

23 (3) Here 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

1 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."

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

7 "89-1204. Hearing on petition and appointment of
8 commissioners. (1) At the time specified in the notice
9 mentioned in the preceding section, the district court in
10 which the petition ~~aforsaid~~ is filed shall hear the
11 petition, 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 ~~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~~, may appear and
22 contest the necessity or utility of the proposed district,
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

1 hear and determine whether the requirements of ~~sections~~
2 89-1201, 89-1202, and 89-1203 have been complied with, 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
6 proposed district as may be ~~deemed~~ considered advisable, or
7 as fact, right, and justice may require, ~~but shall not~~
8 ~~exclude from such proposed district any land land~~ which is
9 susceptible of irrigation from the same general source, and
10 by the same general system of works applicable to the other
11 lands of ~~such the~~ proposed district, may not be excluded
12 from the proposed district if the owner or owners of ~~such~~
13 ~~the~~ lands shall file in ~~such the~~ district court a written
14 request that ~~such the~~ lands be included, ~~in such district,~~
15 ~~nor shall any lands which will not, in the judgment of the~~
16 ~~court, be benefited by irrigation by means of said system of~~
17 ~~works, nor shall lands already under irrigation, nor lands~~
18 ~~having water rights appertenant thereto, nor lands that can~~
19 ~~be irrigated from sources more feasible than the district~~
20 ~~system, be included within such proposed district, unless~~
21 ~~the owner of such lands shall consent in writing to the~~
22 ~~inclusion of such lands in the proposed district, as~~
23 ~~hereinafter provided, 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~~

~~forty-acre tracts or smaller subdivisions thereof; provided, however, that where a district is formed to co-operate with the United States, lands previously irrigated and having water rights appurtenant thereto may be included within the district boundaries, if it shall appear to the court that the case will be benefited thereby; and provided further, that all lands having water rights appurtenant thereto, which are served by a system of irrigation works supplying more than ten thousand acres of lands, may, in the discretion of the court, be included in the proposed district on petition of at least a majority both in number and acreage of the holders of title or evidence of title to the land having water rights appurtenant thereto, and served by the same system of irrigation works. Lands of the district need not be contiguous, and any particular tract or tracts, irrespective of their location in the district, may be excluded.~~

(b) Lands which will not, in the judgment of the court, be benefited by irrigation from the works of the proposed district; which are already under irrigation; which have appurtenant water rights; or which can be irrigated from sources more feasible than the proposed district may not be included in the district unless the owner of such lands consents in writing to the inclusion.

(c) Notwithstanding the provisions of subsection

(3)(b), whenever a district is formed to cooperate with the United States, lands previously irrigated and having appurtenant water rights may be included within the district boundaries if it appears to the court that the lands will be benefited by inclusion.

(d) All lands having appurtenant water rights, served by an irrigation works system supplying more than 10,000 acres, may, in the discretion of the court, be included in the proposed district upon petition by at least a majority, both in number and acreage, of the holders of title or evidence of title to the lands served by the irrigation system and having appurtenant water rights.

(e) Lands of the district need not be contiguous. The location of a particular tract in the proposed district is not a bar to exclusion.

(4) For purposes of including or excluding land from a proposed district, the court may subdivide any tract into 40-acre or smaller parcels.

~~(4)(5) If, on final hearing, it is found by the court that the petition does not substantially comply with the aforesaid requirements of this act, or that the facts therein stated are not sustained by the evidence, then the court shall dismiss the petition at the cost of the petitioners, and shall make and enter an order to that effect.~~ But if it is found that said the petition

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

4 ~~1-(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-(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 ~~6-(f) Each 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
 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 ~~therein~~ where the lands included within ~~such the~~ district

1 are situated, ~~provided, however, there shall be omitted~~
 2 ~~from such copy lands~~ lands not situated in the county in
 3 which ~~such the~~ copy is filed shall be omitted from the copy.

4 ~~6-(17)~~ 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
 16 resident of the county in which the division of the
 17 district, or some portion thereof, for which ~~such~~
 18 ~~commissioners as the commissioner is~~ elected, is situated.

19 (2) The commissioners appointed ~~as aforesaid~~ shall
 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 and in~~
 23 ~~the manner hereinafter provided.~~ Each of ~~such the~~
 24 commissioners shall qualify in the same manner as justices
 25 of the peace, ~~and shall give a bond in the sum of two~~

~~thousand dollars, conditioned upon the faithful performance~~
~~of his duties, to be made payable to the state for the~~
~~benefit of the district, which~~ The bond ~~for a commissioner~~
 shall be approved by the district court or judge thereof and
 filed in the office of the clerk of ~~said the court,~~
~~provided, that in~~ In case any district ~~organized~~ established
 under this ~~title~~ chapter is appointed fiscal agent of the
 United States, or is authorized by the United States ~~is~~
~~authorized~~ to make collections of moneys for and on behalf
 of the United States in connection with any federal
 reclamation project, each ~~such~~ commissioner shall execute a
 further and additional official bond in such sum as the
 secretary of the interior may require, conditioned for the
 faithful discharge of the duties of his office, and the
 faithful discharge by the district of its duties as fiscal
 or other agent of the United States under any such
 appointment or authorization, and any such bond may be sued
 upon by the United States, or by any person injured by the
 failure of ~~such the~~ commissioner or the district to fully,
 promptly, and completely perform their respective duties."

Section 17. Section 89-1208, R.C.M. 1947, is amended
 to read as follows:

"89-1208. Compensation and expenses of commissioners—
~~penalty for interest in contract bonds of commissioners.~~

(1) The commissioners, when sitting as a board or when

engaged in the business of the district, shall each receive
~~an amount~~ not to exceed ~~twenty dollars (\$20), per a~~ day for
 services, and, in addition thereto, their necessary expenses
 in attending meetings, or when otherwise engaged on district
 business, including premiums on qualifying bonds and any
 other bonds required of them in connection with their
 office, provided such expenses and per diem ~~be~~ are approved
 by a unanimous vote of ~~said the~~ board, and a mileage
 allowance of ~~twelve 12 cents (\$12)~~ per a mile in attending
 board meetings or when engaged in the business of the
 irrigation district.

(2) No commissioner or any other officer named in this
 act ~~shall may~~ in any manner be interested, directly or
 indirectly, in any contract awarded or to be awarded by the
 board, or in the profits derived therefrom, ~~and for~~ for any
 violation of this provision, such officer ~~shall be deemed is~~
 guilty of a misdemeanor and his conviction thereof shall
 work forfeiture of his office and he shall be punished ~~by a~~
~~fine not exceeding five hundred dollars (\$500.00), or by~~
~~imprisonment in the county jail not exceeding six (6) months~~
~~or by both such fine and imprisonment~~ as provided in
94-7-401.

(3) The commissioners of ~~said an~~ irrigation district
 shall each furnish a bond in the penal sum of ~~twenty five~~
~~hundred dollars (\$2,500.00),~~ with corporate surety

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ The secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one thousand dollars~~
 4 ~~(\$1,000.00)~~, conditioned for the faithful performance of his
 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 ~~said 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 title, or

1 evidence of title, to lands within the district, herein
 2 designated electors, ~~shall be~~ are entitled to vote:

3 1-(a) ~~all~~ 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 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 purposes, 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 reclamation
 22 ~~proposed is~~ has 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~~

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

1 designated by the commissioners for ~~the~~ assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than ~~one~~ 1 acre of irrigable
 4 land within ~~said 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 sections of~~ 89-1308 of this chapter. It shall be the duty
 12 ~~of the~~ The chairman of the commissioners, or such
 13 commissioner as he may delegate, ~~to shall~~ determine before
 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.S. 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 thereto, ~~covering at least two thousand acres of~~
 22 ~~land contiguous in location or of reasonably 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

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

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

6 "89-1320. Petition, ~~hearing,~~ and ~~notice~~ order of
 7 ~~court commissioners~~. 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 ~~sixty-per-cent~~ 60% of the
 11 individual landowners who ~~shall~~ represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by ~~such the proposed~~ district and ~~fifty-one-per-cent~~ 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 ~~such the~~
 18 district is to be created. ~~It is provided, however, that for~~
 19 ~~for~~ the purposes purpose of determining whether the
 20 ~~requirements~~ requirements of acreage and cubic feet of water
 21 ~~inches per second~~ has have been met by the petition, water
 22 diverted from the adjudicated stream and distributed under
 23 ~~other~~ 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
 4 on the petition, and a written notice not less than ~~five~~ 5
 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
 11 constitute the authority for the district to function for
 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 district,
 15 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 ~~limit on,~~ levy, ~~to cover~~
 20 ~~expense determination of levy~~ and indebtedness ~~other than~~
 21 ~~warrant indebtedness act to be created~~. The board of
 22 trustees ~~shall be authorized to pay~~ develop the source of
 23 supply, ~~to~~ clean, improve, and develop the channel of the
 24 stream, and ~~to~~ do and perform other work on the main
 25 distributing system as will be beneficial to the better

1 distribution of the waters of ~~each~~ the decreed water right
 2 stream, but in no case shall pay the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 Whenever waters of the stream under the irrigation district,
 6 created by this act, are commingled with other waters or it
 7 is difficult to determine ~~just~~ how many acres are irrigable
 8 by the water rights held in ~~each~~ the stream, the acre basis
 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 ~~one inch of water, statutory measurement,~~ .025
 12 cubic feet of water per second to the acre. ~~It is further~~
 13 ~~provided, that the~~ The board shall ~~have no authority to pay~~
 14 not issue bonds or ~~to~~ incur any indebtedness other than
 15 warrant indebtedness under the limitations ~~proposed~~ imposed
 16 by law."

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

19 "~~89-1411. Hearing 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 ~~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

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

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

16 "~~89-1616. Penalty for interfering~~ Interference with
 17 commissioners or ~~with~~ distribution system ~~— penalty~~. Any
 18 person who shall in any manner ~~interfere~~ interferes with the
 19 commissioners of an irrigation district, or their lawful
 20 agent or employee in the carrying out of the powers
 21 conferred by this act, or who shall ~~change~~ changes or ~~tamper~~
 22 tampers with any lock box, head gate, or other device for
 23 the apportionment or distribution of water, installed by or
 24 under the authority of ~~each~~ the commissioners, or who shall
 25 in any manner ~~obstruct~~ obstructs or ~~change~~ changes the flow

1 of water in the distribution system of any irrigation
 2 district without authority of the commissioners of the
 3 district, 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 district, so
 6 long as such acts shall continue, and shall likewise be
 7 guilty of ~~a misdemeanor and, on conviction, shall be~~
 8 ~~punishable by a fine of not less than ten dollars (\$10.00)~~
 9 ~~nor more than one hundred dollars (\$100.00), or by~~
 10 ~~imprisonment in the county jail for not less than one (1)~~
 11 ~~day nor more than thirty (30) days or by both such fine and~~
 12 ~~imprisonment~~ obstructing a public officer or criminal
 13 mischief, as appropriate, and is punishable as provided by
 14 94-7-392 or 94-6-102, as applicable."

15 Section 25. Section 89-1701, R.C.M. 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 provided in this act; ~~and any debt or liability incurred in~~
 22 ~~excess of such express provisions shall be and remain~~
 23 ~~absolutely void, except that for the purpose of organization~~
 24 ~~or for any of the immediate purposes of this act, or to make~~
 25 ~~or purchase surveys, plans, and specifications, or for~~

1 ~~stream gauging and gathering data, or to make any repairs~~
 2 ~~occasioned by any calamity or other unforeseen contingency,~~
 3 ~~the board of commissioners may, in any one year, incur the~~
 4 ~~indebtedness of as many dollars as there are acres in the~~
 5 ~~district, and may cause warrants of the district to issue~~
 6 ~~therefor. No irrigation district may become indebted, in any~~
 7 ~~manner or for any purpose in any one year, in an amount~~
 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 immediate purposes of this chapter; to make or purchase
 12 surveys, plans, and specifications; for stream 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, in any one year, incur (in
 22 addition to the 15% limitation of subsection (1)) an
 23 additional indebtedness not exceeding 10% of the assessed
 24 valuation of the district and may cause warrants of the
 25 district to issue therefor.

1 (c) The limitation of subsection (1) does not apply to
 2 warrants issued for unpaid interest on the valid bonds of
 3 any irrigation district.

4 (d) The limitation of subsection (1) does not apply to
 5 any bonds issued under this chapter pursuant to a provision
 6 which expressly supersedes the limitation.

7 (3) Any debt or liability incurred in excess of the
 8 limitations provided by the irrigation district laws is
 9 void."

10 Section 26. Section 89-1703, R.C.M. 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 necessary irrigation~~
 15 ~~canals and works, including drainage works, and works for~~
 16 ~~the generation and distribution of electrical energy within~~
 17 ~~said district, and acquiring the necessary property and~~
 18 ~~rights therefor, and for the purpose of acquiring by~~
 19 ~~purchase, or otherwise, waters, water rights, canals,~~
 20 ~~reservoirs, reservoir sites, and irrigation works, drainage~~
 21 ~~works, and works for the generation and distribution of~~
 22 ~~electrical energy constructed, or partially constructed, and~~
 23 ~~for the purpose of meeting the expense theretofore incurred~~
 24 ~~or to be thereafter incurred incident to such construction~~
 25 ~~or acquisition of such works and property, including~~

1 ~~administrative, engineering and legal expenses, and for the~~
 2 ~~assumption, as principal or guarantor, of indebtedness to~~
 3 ~~the United States on account of district lands, and for the~~
 4 ~~purpose of otherwise carrying out the provisions of this~~
 5 ~~act, and of providing a sum sufficient to pay the interest~~
 6 ~~on all of such bonds for five (5) years, or less, the board~~
 7 ~~of commissioners of any district, heretofore or hereafter~~
 8 ~~organized under the provisions of this act, may authorize~~
 9 ~~and issue the negotiable coupon bonds of the district, as~~
 10 ~~and in the manner hereinafter provided. A sum sufficient to~~
 11 ~~redeem or pay all, or any portion, of the existing~~
 12 ~~indebtedness of such district, evidenced by outstanding~~
 13 ~~bonds, delinquent interest coupons and accrued interest, or~~
 14 ~~warrants, together with all delinquent and accrued interest,~~
 15 ~~whether such indebtedness be due or not due, or which has or~~
 16 ~~may hereafter become payable at the option of the district,~~
 17 ~~or by consent of the bondholders, or by any lawful means,~~
 18 ~~may be included as a portion of the necessary funds for~~
 19 ~~which said bonds are authorized and issued. 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 coupon bonds for the district for the purpose of providing
 23 the necessary funds:

24 (a) for constructing the necessary irrigation canals
 25 and works, including drainage works, and constructing works

1 for the generation and distribution of electricity within
 2 the district and for acquiring the property and rights
 3 necessary therefor:

4 (b) for acquiring, by purchase or otherwise, waters,
 5 water rights, canals, reservoirs, reservoir sites,
 6 irrigation works, drainage works, and works for the
 7 generation and distribution of electricity, whether such
 8 works are constructed or partially constructed;

9 (c) for meeting the expense incurred incident to the
 10 construction or acquisition of such works and property,
 11 including administrative, engineering, and legal expenses;

12 (d) for assuming, as principal or guarantor,
 13 indebtedness to the United States on account of district
 14 lands;

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

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

1 authorize and direct the issuance of the bonds of the
 2 district to the amount and for the purpose or purposes
 3 specified in the petition; fix the numbers, denominations,
 4 and maturity or maturities of ~~said the~~ bonds; specify the
 5 rate of interest thereon, and whether payable annually or
 6 semiannually; designate the place of payment of ~~said the~~
 7 bonds and the interest coupons, within or without the state
 8 of Montana; prescribe the form of ~~said the~~ bonds and
 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
 15 principal of ~~said the~~ bonds when due and all amounts to be
 16 paid to the United States under any contract between the
 17 district and the United States, accompanying which bonds of
 18 the district have not been deposited with the United States
 19 as provided in ~~section~~ 89-1301 ~~provided~~.

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

1 authorize bonds only for the amount needed in addition to
 2 ~~said the~~ contract. Such order or resolution shall also
 3 provide for the confirmation proceedings in the district
 4 court ~~hereinafter mentioned as provided in 89-1704.~~"

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

7 "89-1704. Confirmation by district court. (1) Within
 8 ~~ten~~(10) days after the adoption of the order or resolution
 9 mentioned in the preceding section, the board of
 10 commissioners shall file a petition in the district court of
 11 the judicial district ~~wherein where is located~~ the office of
 12 ~~said the~~ board, 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 giving notice ~~given as hereinafter provided~~. Such The
 18 petition shall set forth;

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

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

23 (3) (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

1 proceedings of the board stated in the petition, and for the
2 confirmation of the bond issue and the special tax or
3 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 judge thereof~~ shall fix the
6 time for the hearing of said the petition, which shall not
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 thereon, 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 situated, and also by posting a written or printed copy of
15 such notice in at least three public places in each division
16 of the district, the first of such publications and such
17 posting to be not less than ~~fifteen~~ (15) days prior to the
18 date fixed for said the hearing.

19 ~~(3)~~ (4) Said 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

1 before the day fixed for the hearing of said the petition,
2 ~~deser-to-or~~ answer said the petition, and may appear at said
3 the hearing and contest the granting of the prayer of said
4 the petition, and the entry of any order of confirmation
5 ~~pursuant thereto~~.

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

15 ~~(4)~~ (6) The provisions of Title 93 respecting the
16 ~~deser-or~~ answer to a verified complaint shall be are
17 applicable to a ~~deser-or~~ an answer to said the petition.
18 The persons so ~~deserring-to-or~~ answering said the petition
19 shall 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 answer, 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 deser-to~~ the petition shall be ~~deemed~~
25 considered to admit as true all the material statements

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

3 ~~(5)~~ (7) Upon the hearing, the district court shall find
4 and determine whether the provisions and requirements of the
5 preceding section have been complied with, and whether
6 notice of the filing of the petition in the district court
7 and of the time and place of the hearing ~~thereon~~ has been
8 ~~due~~ given for the time and in the manner ~~herein~~ prescribed,
9 and ~~shall have power and jurisdiction to say~~ examine and
10 determine the regularity, legality, and validity of the
11 proceedings ~~and~~ preliminary and relative to the issuance of
12 the bonds, and the levy of the special tax or assessment in
13 the petition mentioned, and the legality and validity of
14 ~~said the~~ bonds and special tax or assessment, and ~~any~~ and
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
18 thereof, or to the issuance of ~~said the~~ bonds, or the levy
19 of the ~~said~~ special tax or assessment or any portion
20 thereof. The court, in inquiring into the regularity,
21 legality, and validity of ~~said the~~ proceedings, shall
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 part, and may

1 ratify, approve, and confirm ~~said the~~ bonds and special tax
2 or assessment, and enter its judgment ~~or decree~~ accordingly.

3 ~~(6)~~ (8) From any such judgment ~~or decree~~ an appeal may
4 be taken to the supreme court at any time within ~~ten~~ (10)
5 days from the entry of ~~said the~~ judgment ~~or decree~~. ~~Such the~~
6 appeal shall be taken, perfected, and heard in the manner
7 prescribed by Title 93 covering appeals from district courts
8 to the supreme court. If no ~~such~~ appeal ~~be is~~ taken ~~within~~
9 ~~the in~~ time ~~aforesaid~~, or if taken and the judgment ~~or~~
10 ~~decree~~ of the district court ~~be is~~ affirmed by the supreme
11 court, ~~such the~~ judgment ~~or decree~~ ~~shall be forever~~
12 ~~conclusive upon all the world as to the validity of such~~
13 ~~bonds and said special tax or assessment, and the same shall~~
14 ~~never be called into question in any court in 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."

18 Section 28. Section 89-1705, R.C.M. 1947, is amended
19 to read as follows:

20 "89-1705. Details relating to bonds. (1) All bonds
21 issued under the provisions of this act ~~shall be payable in~~
22 ~~gold coin of the United States, of the standard weight and~~
23 ~~fineness [fineness] existing at the time of the issue, and~~
24 shall run for a period not longer than ~~forty~~ (40) years from
25 their date, but may contain a clause providing for their

1 prior redemption and payment, at the option of the board of
 2 commissioners of the district, on any interest payment date
 3 after ~~five~~(5) years from their date. Instead of straight
 4 maturity bonds, bonds may be issued to mature serially at
 5 such times and in such amounts as the board of commissioners
 6 shall determine, but no bonds so issued shall ~~run~~ run for a
 7 longer period than ~~forty~~(40) years from the date of issue.
 8 ~~Said~~ The bonds shall bear interest from their date until
 9 paid, payable annually or semiannually, with the
 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 Montana, as
 14 the board of commissioners shall prescribe.

15 (2) ~~Each~~ The bonds shall be of such denomination or
 16 denominations, and in such form, as the board of
 17 commissioners shall prescribe. An issue of bonds is ~~hereby~~
 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
 22 shall be numbered consecutively. The board of commissioners
 23 shall fix the date of ~~said~~ the bonds, or they may divide any
 24 issue into two ~~(2)~~ or more divisions and fix different dates
 25 for the bonds of each ~~respective~~ division. The date of any

1 bond must be subsequent to the order or resolution
 2 authorizing it and prior to its delivery to a purchaser from
 3 the district.

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

15 (4) The board of commissioners may provide for the
 16 registration of bonds in their discretion. The secretary of
 17 the board of commissioners and county treasurer, ~~each~~ shall
 18 each keep a record of the bonds sold, or otherwise disposed
 19 of, their date, number, amount, maturity, or maturities,
 20 to whom sold, rate of interest, and the place or places of
 21 payment ~~thereof~~.

22 Section 29. Section 89-1713, R.C.M. 1947, is amended
 23 to read as follows:

24 "89-1713. Purpose of bonds — petition, requirements,
 25 and contents of. if any an irrigation district may issue

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

- 22 (a) How how many series of bonds shall be issued; and
- 23 (b) The the terms, conditions, and liens of the ~~said~~
 24 bonds, and the terms and conditions upon which each of ~~said~~
 25 the series of bonds shall be exchanged for outstanding bonds

1 of ~~said the~~ district, if the same are to be exchanged and
 2 not sold, ~~and any such specifications when set forth in the~~
 3 ~~said petition shall be controlling upon the said board of~~
 4 ~~directors or commissioners. The petitioners shall set forth~~
 5 ~~with particularity in such specifications the contract of~~
 6 ~~exchange to be made and they shall have power to include~~
 7 ~~therein any term, requirement, grant, transfer of property~~
 8 ~~or rights, covenant and condition whatsoever that shall be~~
 9 ~~deemed by the said petitioners to be for the best interests~~
 10 ~~of the said district; and that the board of directors or~~
 11 ~~commissioners of the district shall have the power to~~
 12 ~~authorize and direct the issuance of the said bonds~~
 13 ~~accordingly, and to make any such contract, and to bind the~~
 14 ~~irrigation district thereby.~~

15 (2) The specifications provided for in subsection (1),
 16 when set forth in the petition, are controlling upon the
 17 board of directors or commissioners. 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, grant, 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 commissioners 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 contract."

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

5 "89-1801. Tax or assessment 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 hereinafter 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 ~~be~~
17 ~~are any~~, ~~and all the all~~ lands in the district at the time
18 ~~said the~~ bonds are issued, and all lands subsequently
19 included which are so chargeable under the provisions of
20 this act, shall be and remain liable to be taxed and
21 assessed for the payment of ~~said the~~ bonds and interest, 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
25 deposited with the United States as provided in section

1 89-1301 provided.

2 (2) ~~It shall be the duty of the~~ The board of
3 commissioners of the district, in the order or resolution
4 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 tax or
7 assessment upon all the lands included in the district and
8 subject to taxation and assessment ~~as aforesaid~~, 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
11 thereof at their maturity, or respective maturities, and to
12 meet all payments due or to become due to the United States
13 under any contract between the district and the United
14 States, accompanying which bonds of the district have not
15 been deposited with the United States as provided in section
16 89-1301 provided, at the times such payments by such
17 contract become due and payable. ~~When~~ When straight
18 maturity bonds are issued, ~~it 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
22 for ~~twenty~~ {20} years or less, there shall be annually
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

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

11 (3) A certified copy of such resolution shall be filed
 12 with the clerk of the board of county commissioners of each
 13 county in which the lands of the irrigation district lie,
 14 and the special tax or assessment therein provided for shall
 15 be levied and collected as ~~hereinafter~~ prescribed, and when
 16 so collected shall, by the county treasurer having custody
 17 of the funds of the district, be placed in a special fund
 18 and used solely for the payment of all ~~amounts due or to~~
 19 ~~become due to the United States under any contract between~~
 20 ~~the district and the United States, accompanying which bonds~~
 21 ~~of the district have not been deposited with the United~~
 22 ~~States as in section 89-1301 provided, and for the payment~~
 23 ~~of the interest on and principal of said bonds when due, so~~
 24 ~~long as any of said bonds or the interest coupons thereto~~
 25 ~~appertaining remain outstanding and unpaid bonds issued~~

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 United States,
 6 accompanying which bonds of the district have not been
 7 deposited with the United States as provided in 89-1301, the
 8 special fund shall be known as the United States contract
 9 fund.

10 (4) In the event that for any reason ~~any a~~ special tax
 11 or assessment ~~hereinafter~~ provided for cannot or shall ~~pay~~
 12 not be levied and collected in time to meet any interest
 13 falling due on any bonds issued ~~hereunder~~, ~~then~~ the board of
 14 commissioners shall ~~have the power and authority, and it~~
 15 ~~shall be their duty,~~ to provide for and pay such interest
 16 when due, either out of any of the funds in hand in the
 17 treasury of the district not otherwise appropriated, or by
 18 warrants 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.

21 (5) The board of commissioners shall ~~have power and~~
 22 ~~authority to~~ direct the investment of the funds in any bond
 23 sinking fund ~~as provided~~, in interest-bearing securities,
 24 whenever in their judgment the ~~same~~ investment may be to the
 25 best interest of the district. ~~But all~~ All such securities

1 shall be converted into cash in time to meet the principal
2 on the bonds, payable from such sinking fund promptly at
3 their maturity."

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

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

1 and included each year in the assessment provided for by
2 ~~section 89-1804.~~

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

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 in case of whenever~~ lands having have
 5 appurtenant 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.M. 1947, is amended
 9 to read as follows:

10 "89-1805. Determination Procedure for the
 11 determination of irrigable area. (1) For the purpose of
 12 determining the number of acres of irrigable lands in each
 13 ~~forty-acre~~ 40-acre tract or fractional lot as designated by
 14 the United States public survey, or platted lot, if land is
 15 subdivided in lots and blocks (or ~~where whenever~~ land shall
 16 ~~be is~~ owned in less than ~~forty-acre~~ 40-acre tracts or in
 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 hereunder~~ established under
 20 the provisions of chapter 12 of Title 89, whenever ~~deemed~~
 21 considered advisable and at any time except as otherwise
 22 provided, may cause a careful topographical survey and map
 23 of ~~said the~~ lands to be made, as well as a specific
 24 examination of the character of the soil of each ~~such~~ tract.
 25 Upon completion of ~~such the~~ survey and maps, and

1 examination, the board shall give notice that at a meeting
 2 of ~~said the~~ board, to be held at the office of the board on
 3 a day to be fixed in ~~said the~~ notice, ~~said the~~ board will
 4 determine the irrigable area of each ~~such~~ tract of land in
 5 the district and that it will hear and consider any
 6 objection on the part of any landowner in the district to
 7 ~~such the~~ determination and to adjustment of the irrigable
 8 area of ~~said the~~ district or of any lands within any tract
 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 ~~two 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 whenever~~ 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
 18 ~~said the~~ notice shall be at least ~~five 5~~ days prior to the
 19 date fixed for ~~said the~~ 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 district, and shall hear all persons interested who may
 24 appear, and shall continue in session from day to day
 25 (exclusive of Sundays and legal holidays) as long as may be

1 necessary and until ~~said the~~ determination of irrigable area
 2 ~~shall have been~~ is completed. The board shall hear and
 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 fixed shall become, and thereafter be,
 7 the acreage upon which any special tax or assessment shall
 8 be levied, and each irrigable acre shall pay at the same
 9 rate as every other acre of irrigable land in ~~said the~~
 10 district, ~~shall pay and~~ except as otherwise provided by
 11 law, any any special tax or assessment levied for any
 12 purpose ~~shall be~~ is a lien upon the entire ~~forty-acre~~
 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-acre~~ 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.

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

1 lands in ~~said the~~ district, which list shall contain an
 2 accurate description of each ~~each forty-acre~~ 40-acre tract
 3 or fractional lot as designated by the United States public
 4 survey, or platted lot, if land is subdivided in lots and
 5 blocks (or ~~where whenever~~ land ~~shall be~~ is owned in less
 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~~
 8 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. A 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, however, there shall be~~
 18 ~~omitted from such copy~~ The lands not situated in the county
 19 in which such copy is filed ~~shall be omitted from the copy.~~

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 ~~shall be~~ are owned in less than ~~forty-acre~~
 25 40-acre tracts or in less than the platted lot, then against

1 each such tract) found by ~~said~~ the board to contain no
 2 irrigable land; nor ~~shall~~ may any lien created after the
 3 order of determination ~~herein provided for~~ attach to any
 4 such tract, nor ~~shall~~ may the owner, or owners, of any tract
 5 or tracts have any vote or votes in any proceeding or
 6 election under the provisions of Chapter 146 of the Laws of
 7 1909, or any amendment thereof, or act supplementary
 8 thereto, after the making of such order, unless ~~his~~ said
 9 their land, or a portion thereof, ~~be~~ is found by ~~said~~ the
 10 board to contain an area irrigable from the works, 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 may refund any taxes paid, or cancel any unpaid taxes or
 15 assessments, levied upon an acreage in excess of that so
 16 fixed by ~~said~~ the order of determination, and ~~where whenever~~
 17 necessary, may issue warrants therefor.

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

1 ~~sixty-day~~ 60-day period, petition the district court for
 2 review of the actions of the board of commissioners. ~~But~~
 3 However, one of ~~such~~ these proceedings, if prosecuted to
 4 determination, ~~shall be~~ is exclusive of the other. Upon
 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 court, or taxes
 8 previously levied upon any area shown to be excessive, to be
 9 refunded or canceled.

10 (7) The provisions of ~~sections~~ 89-1402, regarding the
 11 procedure as well as the right and time to appeal, ~~shall~~
 12 apply to any proceeding instituted ~~in pursuance of the~~
 13 ~~provisions of~~ pursuant to this section; provided, ~~however,~~
 14 ~~that nothing in this section shall be deemed or construed to~~
 15 ~~effect or impair~~ affects or impairs the lien of any bonds
 16 issued by the district, ~~and provided, further, that if~~ 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 ~~shall not be~~ is not necessary to file
 21 in ~~said~~ the office the certified copy of the resolution and
 22 order of the board, or of the list, ~~hereinafter~~ provided for
 23 in this section.

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

1 the United States under the federal reclamation laws
 2 ~~heretofore or hereafter enacted~~, or under any act of
 3 ~~Congress~~, Congress which ~~shall permit of~~ permits the
 4 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, or for the assumption as
 8 principal or guarantor, of indebtedness to the United States
 9 on account of district ~~land~~ lands, the determination of the
 10 irrigable area of the lands in ~~said~~ the district may be made
 11 by the ~~said~~ 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, ~~hereinafter~~ provided for in ~~section~~ 89-1806
 17 shall pay not be had."

18 Section 33. Section 89-1806, R.C.M. 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 ~~organized hereunder shall have~~
 25 established under the provisions of chapter 12 of Title 89

1 has been filed, as ~~hereinafter~~ provided in ~~section~~ 89-1703
 2 provided, the board of commissioners of ~~such~~ the district
 3 shall examine, or cause to be examined, each ~~forty-acre~~
 4 40-acre tract or fractional lot as designated by the United
 5 States public survey, or platted lot, if land is subdivided
 6 in lots and blocks (or ~~where~~ whenever land ~~shall be~~ is owned
 7 in less than ~~forty-acre~~ 40-acre tracts or in less than the
 8 platted lot, then ~~against~~ each such tract) of land in ~~said~~
 9 the district, and cause a careful topographical survey and
 10 map to be made, in the manner provided for in ~~section~~
 11 89-1805. Upon such examination, the board shall determine
 12 the number of irrigable acres in each such tract, and shall
 13 apportion and distribute the cost of the works or
 14 improvements for which ~~said~~ the bonds are to be issued, over
 15 the tracts within ~~said~~ the district according to the
 16 irrigable area in each of ~~said~~ the tracts or subdivisions,
 17 so that each such irrigable acre ~~shall be~~ is required to
 18 bear the same burden of such costs as each other irrigable
 19 acre in ~~said~~ the district, ~~and the~~ except as otherwise
 20 provided by law. The special tax or assessment levied to
 21 meet the principal of and interest on ~~said~~ the bonds so
 22 authorized, ~~shall become~~ is a lien upon the entire tract of
 23 which such irrigable area forms a part or portion as of ~~the~~
 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

1 acres in each such tract as so determined ~~shall pay~~ not be
2 diminished but may be increased during the term for which
3 any such bonds ~~may be~~ are issued or until the bonds ~~shall be~~
4 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 each an~~
12 ~~event, it shall not be necessary to need not~~ cause an
13 additional survey, or maps, or examination, of any of such
14 tracts to be ~~again~~ made, or to redetermine the irrigable
15 area of any such tract.

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

1 necessary to be levied against each irrigable acre in the
2 district to meet the interest on and principal of ~~said the~~
3 authorized bond issue, and any tax levied for such purposes
4 ~~shall be~~ is a lien upon the entire tract of which ~~said the~~
5 irrigable area forms a part. If any landowner in the
6 district ~~shall appear~~ appears before the board at ~~said that~~
7 time and ~~pay~~ pays in cash the amount fixed against his ~~said~~
8 land as its proportion of the amount found necessary for the
9 purposes for which ~~said the~~ bonds were authorized and are to
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
12 shall be reduced by the amount of such payment. Any person
13 interested who ~~shall fail~~ fails to appear before the board
14 at ~~said the~~ meeting ~~shall pay~~ not thereafter be permitted to
15 contest the proceedings of ~~said the~~ board, 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 land, 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

1 overruled by the board, ~~such the~~ objection without further
 2 proceedings shall be regarded as appealed to the district
 3 court, 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
 11 district, unless appealed from as provided in ~~said section~~
 12 89-1704 ~~provided~~.

13 (5) ~~Provided, however, that whenever~~ Whenever the
 14 irrigable area of the lands in any irrigation district ~~shall~~
 15 ~~have has~~ been determined and confirmed, no owner or holder
 16 of title or evidence of title to lands in ~~said the~~ district,
 17 during the period of ~~when~~ any bonds thereafter authorized
 18 ~~shall be are~~ issued and outstanding, ~~shall pay~~ 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 thereon, 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

1 to read as follows:

2 "89-1811. County treasurer as custodian of district
 3 funds. The county treasurer of the county ~~wherein~~ where the
 4 office of an irrigation district is located ~~shall be is~~ the
 5 custodian of all funds belonging to the district, and he
 6 shall pay out such funds upon the order of the board of
 7 commissioners, except ~~to the~~ payments on bonds and interest,
 8 for which no order ~~shall be is~~ necessary. ~~Where~~ If any
 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 authority to pay~~ 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, or any part thereof, ~~may,~~ upon order of the
 21 district's board of commissioners, 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
 25 district. Such orders of the board of commissioners shall be

1 signed by the president and secretary of the board, and
2 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 preceding 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,
10 ~~shall be~~ is sold by the treasurer of the county ~~wherein~~
11 ~~where~~ such land is situated, in the manner provided by law
12 for the sale of lands for delinquent taxes for state and
13 county purposes, and taxes or assessments of ~~such the~~
14 irrigation district form all or a part of the taxes for
15 which such lands are sold, ~~it shall be the duty of~~ the
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 ~~such the~~ sale or sales, the total tax
19 or assessment of ~~such the~~ irrigation district, inclusive of
20 the interest and penalty thereon as provided for by the
21 general laws relating to delinquent taxes for state and
22 county purposes, and whenever any such lands are struck off
23 at such sale to the county ~~wherein where the same they are~~
24 ~~situate,~~ situated pursuant to the provisions of ~~section~~
25 84-4124, the county treasurer of ~~such the~~ county must, upon

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
4 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
7 evidence of and conclusive of the interest and claim of ~~said~~
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 ~~said the~~ district evidenced thereby shall
13 bear interest at the rate of ~~one per centum per 11~~ 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 therein, in ~~the~~ manner 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~~
23 lands and premises."

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

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 ~~herein provided for~~
 4 have been issued for the taxes and assessments of ~~such the~~
 5 irrigation district, 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 codes law~~, and out of the proceeds of the sale,
 11 ~~thereof~~ the county treasurer of ~~said the~~ county shall pay to
 12 the holder or holders of ~~such the~~ certificates the sum ~~or~~
 13 ~~same~~ 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 pay~~, 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 case the~~,
 4 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~~
 8 ~~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 ~~case~~ indebtedness, ~~said this~~ proposition, together with
 12 any plan proposed to carry the ~~case~~ 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 secure the irrigation of lands of the~~
 18 ~~state, and thereby title is~~ to promote the prosperity and
 19 welfare of the people, ~~its provisions shall be liberally~~
 20 ~~construed so as to effect the objects and purposes herein~~
 21 ~~set forth of Montana 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.M. 1947, is amended
 25 to read as follows:

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

11 Section 40. Section 89-2203, R.C.M. 1947, is amended
 12 to read as follows:

13 "89-2203. Amendment and circulation of
 14 petition ~~circulation~~ — court consideration ~~by court~~. No
 15 petition having as many signers as are required by ~~this~~
 16 ~~section 89-2201~~ shall may be declared void, but the court
 17 may at any time permit the petition to be amended in form
 18 and substance to conform to the facts, if the facts justify
 19 the organization of a drainage district. Several similar
 20 petitions for the organization of the same district may be
 21 circulated, and, when filed, together shall ~~together~~ be
 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 ~~said 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 court, 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 ~~said the~~ petition."

6 Section 41. Section 89-2302, R.C.M. 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 May following their election. At the
 13 first regular election following the organization of a
 14 district, and in districts ~~heretofore~~ organized and in
 15 existence on ~~the date when this act takes effect~~ March 1,
 16 1921, and which, on petition, ~~has have~~ been divided into
 17 divisions, ~~as heretofore provided,~~ at the first regular
 18 election following the date of the order making such
 19 division, there shall be elected three commissioners, one
 20 commissioner being elected from each division of which he
 21 must be an actual landowner ~~and resident of the county or~~
 22 ~~counties;~~ one of ~~each the~~ commissioners, to be determined by
 23 lot, shall hold office until the first Tuesday in May in the
 24 year following his election, another of ~~each the~~
 25 commissioners, to be determined by lot, shall hold office

1 until the first Tuesday in May in the second year following
 2 his election, and the third of ~~each~~ the commissioners shall
 3 hold office until the first Tuesday in May in the third year
 4 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."

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

15 "89-2348. ~~Assessments 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 competent for~~ the court ~~to~~ may order the
 19 assessment for construction of new work, to be paid in not
 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 issue, for the construction of new work. The court shall

1 also, by such order, fix a date on which the first
 2 installment of the assessments for construction shall become
 3 due, not more than ~~five~~ (5) years after the date of the
 4 order, and each of ~~said~~ the installments shall draw interest
 5 at the rate fixed by the court in accordance with law from
 6 the date of ~~said~~ the order."

7 Section 43. Section 89-2411, R.C.M. 1947, is amended
 8 to read as follows:

9 "89-2411. ~~Omissions by~~ ~~corrected~~ Correction of
 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 ~~or~~ or 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 voidable; 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

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."

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

8 "89-2701. Continuation of existing districts. All
 9 drain districts of the state of Montana, organized prior to
 10 ~~the enactment of sections 89-2201 to 89-2502 and sections~~
 11 ~~89-2801 to 89-2820, inclusive March 1, 1921,~~ and continued
 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~~ the drainage district laws upon the
 18 commissioners of drainage districts ~~organized under such~~
 19 ~~sections."~~

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

22 "89-2711. Rules of practice applicable. The same rules
 23 relative to the filing of ~~answers,~~ answers and replies
 24 ~~which now exist~~ relative to other causes of action affecting
 25 the title to real property shall apply in actions to exclude

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

3 Section 46. Section 89-2810, R.C.M. 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~~ 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~~ the district, the annexed
 12 lands shall be assessed a like sum of benefits and damages
 13 as ~~said the similar~~ the similar lands in the ~~said~~ district to which they
 14 are sought to be annexed, and a sum for construction of ~~said~~
 15 the work, which shall be equal to all sums assessed, for the
 16 complete construction of the drainage system in the district
 17 to which they are sought to be annexed against lands having
 18 the same assessment of benefits in ~~said the~~ the district."

19 Section 47. Section 89-2926, R.C.M. 1947, is amended
 20 to read as follows:

21 "89-2926. Waste and contamination of ~~ground-water~~
 22 groundwater prohibited ~~exception duties of department. (1)~~
 23 ~~No ground-waters~~ groundwater shall may be wasted ~~without~~
 24 ~~beneficial use.~~ The department shall require all wells
 25 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
 5 shall be so constructed and maintained as to prevent the
 6 waste, contamination, or pollution of ~~ground-waters~~
 7 groundwater 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:

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

16 (2)(b) the inadvertent loss of ~~ground-water~~
 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 must be removed from a
 24 mine to permit mining operations or to preserve the mine in
 25 good condition;

1 (4)(d) the disposal of ~~ground-water~~ groundwater used
 2 in connection with ~~production, for reduction~~ producing,
 3 reducing, smelting, and milling metallic ores and industrial
 4 minerals, or that displaced from an aquifer by the storage
 5 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."

11 Section 48. Section 89-2929, R.C.M. 1947, is amended
 12 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 ~~Montana~~
 18 are required by law to file with agencies of the state of
 19 ~~Montana.~~"

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

22 "89-3425. Challenging voters ~~oath penalty for false~~
 23 subscriptions. An elector may challenge any person who claims
 24 the right to vote. Before voting, any person challenged must
 25 take and sign the following oath or affirmation administered

1 by an election judge:

2 "I(name) solemnly swear (or affirm) that I am an
3 elector of the district and have not voted today." False
4 subscription to the oath or affirmation is ~~perjury and~~
5 ~~punishable as such is false swearing and is punishable 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
10 of this act ~~shall not be construed to, do not in any manner,~~
11 abrogate or limit in any manner the rights, powers, duties,
12 and functions of the department, ~~conservation commission,~~
13 conservation districts, department of health and
14 environmental sciences, or the fish and game commission; but
15 ~~shall be held to be~~ are supplementary thereto and in aid
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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LC 0049

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. 89-105. 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. 89-115 and 89-401. 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. 89-125. 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. 89-319. Subsection (1) of the amendment inserts a sentence which was erroneously dropped.

Section 6. 89-823. 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. 89-867 and 89-2911. 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. 89-899 and 89-2930. 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. 89-907. 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. 89-911. 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. 89-1015. 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. 89-1202. The awkward phraseology in connection with determining the proper court for filing the petition is revised to be clearer.

Section 15. 89-1204. The section is extensively rewritten for clarity.

Section 16. 89-1205. 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. 89-1208. 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. 89-1220. 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. 89-1311. 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. 89-1319. As it stood, this one sentence section lacked a verb. It has been rewritten to remedy this situation.

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

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

Section 23. 89-1411. 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. 89-1616. 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. 89-1701 and 89-1901. Section 89-1901 is repealed and 89-1701 is extensively rewritten to combine the provisions on limitations on indebtedness.

Section 26. 89-1703. Subsection (1) is considerably rewritten for clarity.

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

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

Section 29. 89-1713. The last portion of the section is rewritten for clarity.

Section 30. 89-1801. 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. 89-1803, 89-1805, 89-1806. The phrase "except as otherwise provided by law" is added to make clearer the fact that different lands may bear different charges.

Section 34. 89-1811. 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. 89-1816 and 89-1819. 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. 89-2003. "Description of" is replaced by "Described" for clarity.

Sections 38 and 52. 89-128, 89-2109, 89-2818. 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. 89-2126. 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. 89-2302. The requirement that a commissioner be a resident of county containing some portion of district lands is rewritten for clarity.

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

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

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

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

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

Section 47. 89-2926. 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. 89-2929. "Filled" is changed to "filed" to correct an error.

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

Section 50. 89-3449. 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.

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
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~~ 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,

no changes in SB 26, & will not be re-run.

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, resolution, or other security therefor.

8 (2) ~~However, 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 water, 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

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 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:

10 (a) ~~It is~~ 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) ~~It is~~ 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) ~~It is~~ 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. Water funds rates sale of water appeals~~
 24 ~~to board lease and sale of water rights and property~~
 25 Management of property -- water contracts. (1) Subject to

1 this act and ~~sections~~ 89-103.2, the department may fix and
 2 establish the prices, rates, and charges at which the
 3 resources and facilities made available under this act may
 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 prescribes, ~~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
 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 payable, ~~this~~ 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) 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

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 26
2 INTRODUCTION 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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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,

There are no changes in SB26, & will not be re-run.

Please refer to white copy for complete text. SECOND READING
SECOND PRINTING

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, resolution, or other security therefor.

8 (2) ~~However, 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;
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24 projects to be finally constructed shall qualify as parts of
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SB26

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 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
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10 (a) ~~It is~~ 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;

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 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) ~~It is~~ in an adjoining country, unless the exercise of
 18 those powers is not permitted under the laws of that country
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21 Section 2. Section 89-115, R.C.M. 1947, is amended to
 22 read as follows:

23 "~~89-115. Water funds rates sale of water appeals~~
 24 ~~to board lease and sale of water rights and property~~
 25 ~~Managers of property -- water contracts.~~ (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
 3 resources and facilities made available under this act may
 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 prescribes, ~~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
 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 payable, ~~this~~ 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) 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

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"

SENATE BILL NO. 26
INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; REPEALING SECTIONS 89-128, 89-1901, AND 89-2818, R.C.M. 1947."

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

Section 1. Section 89-105, R.C.M. 1947, is amended to read as follows:

~~"89-105. Power of department to construct works and to act beyond jurisdiction~~ Construction of works by department.

(1) Subject to the approval of the board, the department may construct works, the cost of the construction to be paid wholly by means of or with the proceeds of revenue bonds hereinafter authorized or of a grant to aid in financing the construction from the United States or any instrumentality or agency thereof and ~~of~~ other funds provided ~~under the authority of this act~~ for the construction. Before constructing a project, the department shall estimate the cost of the project, the cost of maintaining, repairing, and operating it, and the revenues to be derived therefrom, and a project may not be constructed unless, according to the estimates, the revenues to be derived will be sufficient to pay the cost of maintaining, repairing, and operating it.

engage in using, selling, or disposing of the same, who has a surplus of water not used or sold, or any person having a surplus of water, and the right to sell and dispose of the same, is required, upon the payment or tender to the person entitled thereto of an amount equal to the usual and customary rates per ~~inch~~ INCH OR cubic foot of water per second, to convey and deliver to the person ~~such the~~ surplus of unsold water, or so much thereof for which ~~said the~~ payment or tender ~~shall have been~~ has been made, and shall continue ~~to~~ to convey and deliver the same weekly so long as ~~said the~~ surplus of unused or unsold water exists and ~~said the~~ payment or tender ~~be~~ is made as aforesaid."

Section 7. Section 89-867, R.C.M. 1947, is amended to read as follows:

"89-867. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of 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,~~ however, that a use of water for slurry to export coal

Committee of Whole Amendments, 2 pgs involved are printed in blue - Refer to Previous run for complete text.

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

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

6 "89-1320. Petition, ~~hearing,~~ and ~~notice~~ order of
 7 ~~court commissioners.~~ 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 ~~sixty-per-cent~~ 60% of the
 11 individual landowners who shall represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by ~~each the proposed~~ district and ~~fifty-one-per-cent~~ 51% of,
 14 the ~~inches~~ INCHES OF WATER OR cubic feet of water per
 15 second, decreed or adjudicated in the stream ~~is from~~ which
 16 ~~such the~~ irrigation district is to operate, shall be filed
 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~~
 19 ~~provided, however, that for~~ For the purposes ~~purpose~~ of
 20 determining whether the ~~requirement~~ requirements of acreage
 21 and cubic feet of water inches per second OR INCHES OF WATER
 22 ~~has~~ have been set by the petition, water diverted from the
 23 adjudicated stream and distributed under ~~other~~ irrigation
 24 districts other than the one to be created under this act,
 25 shall may not be considered; however, such water and acreage

1 distribution of the waters of ~~each the~~ decreed water right
 2 stream, but in no case shall ~~may~~ the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 Whenever waters of the stream under the irrigation district,
 6 created by this act, are commingled with other waters or it
 7 is difficult to determine ~~just~~ how many acres are irrigable
 8 by the water rights held in ~~each the~~ stream, the acre basis
 9 of levy shall be determined by the number of ~~inches~~ INCHES
 10 OR cubic feet of water per second owned by such party or
 11 parties at the rate of ~~one inch of water, statutory~~
 12 ~~measurement,~~ ONE INCH OF WATER, STATUTORY MEASUREMENT, OR
 13 .025 cubic feet of water per second to the acre. ~~It is~~
 14 ~~further provided, that the~~ The board shall ~~have no authority~~
 15 ~~to may not~~ issue bonds or ~~to~~ incur any indebtedness other
 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 ~~same~~ 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

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: "1"
3. Amend page 35, section 21, lines 14 and 15.
Following: "inches"
Strike: "INCHES OF WATER OR"
Following: "per second"
Strike: "1"
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,"
Strike: "ONE INCH OF WATER, STATUTORY MEASUREMENT, OR"

AND AS AMENDED
BE CONCURRED IN

1 SENATE BILL NO. 26
2 INTRODUCED BY GRAHAM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
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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, resolution, or other security therefor.

8 (2) ~~However, 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 associations, ~~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 water, 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

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 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:

10 (a) ~~in 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~~ 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~~ 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. Water funds--rates--sale of--water--appeals~~
 24 ~~to--board--lease--and--sale--of--water--rights--and--property~~
 25 ~~management of property -- water contracts.~~ (1) Subject to

1 this act and ~~section~~ section 89-103.2, the department may fix and
 2 establish the prices, rates, and charges at which the
 3 resources and facilities made available under this act may
 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 prescribes; ~~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
 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 payable; ~~this~~ 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) 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

1 working and operating conditions.

2 (3) A contract made by the department for the sale of
3 water, use of water, water storage₁ or other service_v or for
4 the sale of any property or facilities_v shall provide that₁
5 in the event of a failure or default in the payment of
6 moneys specified in the contract to be paid to the
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
10 to furnish or deliver water, use of water, water storage₁ or
11 other service under the contract does not deprive the
12 department of_v or limit any remedy provided by the contract
13 or by law for the recovery of moneys due or which may become
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.

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_v or under a contract for the construction or repair

1 of works, that party may appeal to the board for a hearing
2 thereon and a resolution of the dispute by filing written
3 notice of the appeal with the department within ~~thirty~~ (30)
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
8 associations, abandon₁ or otherwise dispose of any ~~rights-of~~
9 ~~way~~ rights-of-way, easements₁ or property when it determines
10 that they are no longer needed for the purposes of this act,
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, easements₁ or property to be
15 sold, transferred, abandoned₁ or otherwise disposed of. ~~At~~
16 ~~income-or-profit-and-revenue-of-the--works--and--all--moneys~~
17 ~~received--from--the--sale--or--disposal--of--water,--use--of--water,~~
18 ~~water-storage,--or--other--service,--and--from--the--operation,~~
19 ~~lease,--sale--or--other--disposition--of--the--works,--property--and~~
20 ~~facilities--acquired--under--this--act,--shall--be--deposited--to~~
21 ~~the--state--general--fund."~~

22 Section 3. Section 89-401, R.C.M. 1947, is amended to
23 read as follows:

24 "89-401. Disposition of moneys collected. ~~(1)~~ For the
25 purpose of carrying out the provisions of ~~the--water~~

1 ~~Conservation Act, acts amendatory thereto and supplementary~~
 2 ~~thereof, 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:

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 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-granted~~
 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, electrification,
 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

1 distribution of electric current; revenues ~~arising from~~
 2 ~~projects constructed or owned by the department in excess of~~
 3 ~~costs of operation and maintenance and repayment of~~
 4 ~~principal and interest of any moneys borrowed for the~~
 5 ~~construction of the projects; all sums payable as rentals~~
 6 ~~due for water use, maintenance or operation upon any project~~
 7 ~~owned by the state or for which such rentals are due and~~
 8 ~~payable under any contract or agreement made by any person,~~
 9 ~~association or corporation with the department; all sums of~~
 10 ~~money received by the department for the use of electric~~
 11 ~~currents 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 thereof, 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 acquired under chapter 1 of Title
 24 89; and

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

1 ~~electricity in excess of the maintenance and operation of~~
2 ~~the electrification system or project."~~

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

5 ~~"89-125. Powers-of-department--concerning--waters--and~~
6 ~~appropriations--thereof Department powers over state waters.~~

7 (1) The authority of the department conferred by this act
8 ~~chapter~~ 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 having jurisdiction,
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
22 and asserted rights of appropriation not adjudicated by any
23 court.

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

1 after first giving such notice as it ~~deems~~ considers
2 appropriate, and make findings of the date and quantity of
3 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.

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 stream, it may divert or
21 authorize the diversion at any point on the stream, or any
22 portion thereof, when it is done without injury to a prior
23 appropriator.

24 ~~(7)--This-act-does-not--repeat--or--amend--an--existing~~
25 ~~statute--pertaining--to--the--appropriation--or--use--of--water~~

1 ~~except as expressly provided in this act, and this act does~~
 2 ~~not interfere with vested rights to the use of water.~~

3 ~~(8) In addition to the powers conferred on the~~
 4 ~~department elsewhere in this chapter.~~

5 (1) ~~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
 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 (2) "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 (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

1 engage in using, selling, or disposing of the same, who has
 2 a surplus of water not used or sold, or any person having a
 3 surplus of water, and the right to sell and dispose of the
 4 same, is required, upon the payment or tender to the person
 5 entitled thereto of an amount equal to the usual and
 6 customary rates per inch ~~inch~~ per cubic foot of water per
 7 second, to convey and deliver to the person ~~such~~ the surplus
 8 of unsold water, or so much thereof for which ~~said~~ the
 9 payment or tender ~~shall have been~~ has been made, and shall
 10 continue ~~to~~ 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."

13 Section 7. Section 89-867, R.C.M. 1947, is amended to
 14 read as follows:

15 "89-867. Definitions. Unless the context requires
 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.

20 (2) "Beneficial use" means a use of water for the
 21 benefit of the appropriator, other persons, or the public,
 22 including but not limited to, agricultural (including stock
 23 water), domestic, fish and wildlife, industrial, irrigation,
 24 mining, municipal power, and recreational uses, provided,
 25 ~~however, that a~~ A use of water for slurry to export coal

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.

14 (6) "Well" means any artificial opening or excavation
15 in the ground, however made, by which groundwater is sought
16 or can be obtained 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.

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

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

25 (10) "Waste" means the unreasonable 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 82A-1509.

17 ~~(15) "Act" means the Montana Water Use Act and any~~
18 ~~subsequent amendments or additions thereto.~~

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 ~~(1)~~(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

1 which is not a part of that surface water. Fresh water shall
 2 be deemed considered to be water fit for domestic,
 3 livestock, or agricultural use. The department, after
 4 notice and hearing, may fix definite standards for
 5 determining fresh water in any controlled ~~ground-water~~
 6 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 ~~(d)(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. 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.

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

1 ~~(f)(6)~~ "Department" means the department of natural
 2 resources and conservation provided for in Title 82A,
 3 chapter 15.

4 ~~(g)(7)~~ "Ground-water Groundwater area" means an area
 5 which, as nearly as known facts permit, may be designated so
 6 as to ~~inclose~~ enclose a single and distinct body of ground
 7 water groundwater, which shall be described horizontally by
 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 ~~(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:

23 "89-899. Legal assistance. (1) When requested by the
 24 department, the attorney general and the county attorneys
 25 within their respective counties shall perform legal

1 services and conduct legal proceedings necessary to carry
2 out the purposes of this ~~act~~ chapter. The department may
3 also employ legal counsel to enforce this ~~act~~ chapter and to
4 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."

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

13 "89-2930. Duty of county attorneys and attorney
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."~~

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

1 acquired after January 1, 1950, shall, within ~~sixty 60~~ days
2 after ~~the approval of this act~~ February 25, 1953, or before
3 he diverts any water, file with the department at its office
4 in Helena, Montana, a written statement containing the
5 following information:

- 6 (a) ~~The~~ the name of the claimant and his address;
7 (b) ~~Date~~ date of appropriation or the date when the
8 water was first applied to a beneficial use;
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) ~~The~~ the purpose for which the water is claimed and
15 the place of intended use;
16 (f) ~~The~~ the means of diversion;
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 89-818,~~
22 the name of the county where it was filed;
23 (i) ~~Whether~~ whether the appropriation was made from an
24 adjudicated or nonadjudicated stream, river, or other source
25 of water.

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 act, ~~provided 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~~ ditch, 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 commissioners, 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 commissioners, 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
 2 petition, and shall direct that such notice be given to the
 3 parties interested in such ~~the~~ hearing as the judge ~~may-deem~~
 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 claim, 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~~
 11 ~~considers~~ just and proper ~~in--the--premises~~. If it ~~shall~~
 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, then 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 or ~~persons~~ in
 18 his or ~~their~~ stead, if he ~~deems~~ ~~considers~~ that the interests
 19 of the parties in the waters mentioned in such ~~the~~ decree
 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~~

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
3 to read as follows:

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

20 1(a) 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(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 section; and if ~~any such~~ a holder is a nonresident of the
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
6 lands in the proposed district are to be irrigated, and the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5(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.

14 (2) The petition shall be accompanied by:
15 (1)(a) a map or plat of the proposed district; 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 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.

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

1 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."

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. (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 petition, 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 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~~, may appear and
 22 contest the necessity or utility of the proposed district,
 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

1 hear and determine whether the requirements of sections
 2 89-1201, 89-1202, and 89-1203 have been complied with, 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
 6 proposed district as may be deemed considered advisable, or
 7 as fact, right, and justice may require, ~~but shall not~~
 8 ~~exclude from such proposed district any land~~ Land which is
 9 susceptible of irrigation from the same general source, and
 10 by the same general system of works applicable to the other
 11 lands of such ~~the~~ proposed district, may not be excluded
 12 from the proposed district if the owner or owners of such
 13 ~~the~~ lands shall file in such ~~the~~ district court a written
 14 request that such ~~the~~ lands be included, ~~in such district,~~
 15 ~~nor shall any lands which will not, in the judgment of the~~
 16 ~~court, be benefited by irrigation by means of said system of~~
 17 ~~works, nor shall lands already under irrigation, nor lands~~
 18 ~~having water rights appurtenant thereto, nor lands that can~~
 19 ~~be irrigated from sources more feasible than the district~~
 20 ~~system, be included within such proposed district, unless~~
 21 ~~the owner of such lands shall consent in writing to the~~
 22 ~~inclusion of such lands in the proposed district, as~~
 23 ~~hereinafter provided, 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~~

~~1 forty-acre tracts or smaller subdivisions thereof; provided,~~
~~2 however, that where a district is formed to cooperate with~~
~~3 the United States, lands previously irrigated and having~~
~~4 water rights appurtenant thereto may be included within the~~
~~5 district boundaries, if it shall appear to the court that~~
~~6 the same will be benefited thereby; and provided further,~~
~~7 that all lands having water rights appurtenant thereto,~~
~~8 which are served by a system of irrigation works supplying~~
~~9 more than ten thousand acres of lands, may, in the~~
~~10 discretion of the court, be included in the proposed~~
~~11 district on petition of at least a majority both in number~~
~~12 and acreage of the holders of title or evidence of title to~~
~~13 the land having water rights appurtenant thereto, and served~~
~~14 by the same system of irrigation works. Lands of the~~
~~15 district need not be contiguous, and any particular tract or~~
~~16 tracts, irrespective of their location in the district, 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 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 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 appurtenant water rights, 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 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 40-acre 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; but--if If it is found that said the petition~~

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

4 1*(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*(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 6*(f) ~~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
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

1 are situated, ~~provided, however, there shall be omitted~~
2 ~~from such copy~~ lands not situated in the county in
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
16 resident of the county in which the division of the
17 district, or some portion thereof, for which ~~such~~
18 ~~commissioners so the commissioner is~~ elected, is situated.

19 (2) The commissioners appointed ~~as-foresaid~~ shall
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-and-in~~
23 ~~the manner hereinafter provided.~~ Each of ~~such the~~
24 commissioners shall qualify in the same manner as justices
25 of the peace, ~~and shall give a bond in the sum of two~~

1 ~~thousand dollars, conditioned upon the faithful performance~~
 2 ~~of his duties, to be made payable to the state for the~~
 3 ~~benefit of the district; which~~ The bond for a commissioner
 4 shall be approved by the district court or judge thereof and
 5 filed in the office of the clerk of ~~said the court,~~
 6 ~~provided that in~~ In case any district organized established
 7 under this title chapter is appointed fiscal agent of the
 8 United States, or is authorized by the United States ~~is~~
 9 ~~authorized~~ to make collections of moneys for and on behalf
 10 of the United States in connection with any federal
 11 reclamation project, each ~~such~~ commissioner shall execute a
 12 further and additional official bond in such sum as the
 13 secretary of the interior may require, conditioned for the
 14 faithful discharge of the duties of his office, and the
 15 faithful discharge by the district of its duties as fiscal
 16 or other agent of the United States under any such
 17 appointment or authorization, and any such bond may be sued
 18 upon by the United States, or ~~by~~ any person injured by the
 19 failure of ~~such the~~ commissioner or the district to fully,
 20 promptly, and completely perform their respective duties."

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)~~ per a day for
 3 services, and, in addition thereto, their necessary expenses
 4 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
 8 by a unanimous vote of ~~said the~~ board, and a mileage
 9 allowance of twelve 12 cents ~~(\$12)~~ per 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 board, or in the profits derived therefrom, ~~and for~~ for any
 16 violation of this provision, such officer ~~shall be deemed~~ is
 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), 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 24-7-401.

23 (3) The commissioners of ~~said 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

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ ~~the~~ secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one--thousand--dollars~~
 4 ~~{\$1,000.00}~~, conditioned for the faithful performance of his
 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 ~~said 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 title or

1 evidence of title, to lands within the district, herein
 2 designated electors, ~~shall be~~ ~~are~~ entitled to vote:

3 1. (a) ~~At~~ 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 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 purposes, 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 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~~

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

1 designated by the commissioners for the assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than one 1 acre of irrigable
 4 land within ~~said 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
 13 commissioner as he may delegate, ~~to shall~~ determine before
 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 thereto, ~~serving at least two thousand acres of~~
 22 ~~land contiguous in location or of reasonably compact area~~
 23 ~~and 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

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

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

6 "89-1320. Petition~~s~~, hearing~~s~~ and notice--order of
 7 court--commissioners. 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 ~~sixty-per-cent~~ 60% of the
 11 individual landowners who ~~shall~~ represent not less than
 12 ~~fifty-one-per-cent~~ 51% of the irrigable acres to be affected
 13 by ~~such the proposed~~ district and ~~fifty-one-per-cent~~ 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
 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~~
 19 ~~provided--however--that--for~~ For the purposes ~~purpose~~ of
 20 determining whether the requirement ~~requirements~~ of acreage
 21 and cubic feet of water inches per second ~~OR INCHES-OF-WATER~~
 22 ~~has have~~ been met by the petition, water diverted from the
 23 adjudicated stream and distributed under other irrigation
 24 districts ~~other~~ than the one to be created under this act
 25 ~~shall may~~ not be considered; however, such water and acreage

1 shall be required to pay ~~ony-and~~ 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 petition
 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 finds
 8 from such hearing 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--~~limit-on~~ levy, 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 supply, ~~to~~ clean, improve, and develop the channel of the
 24 stream, ~~and to~~ do and perform other work on the main
 25 distributing system as will be beneficial to the better

1 distribution of the waters of ~~such the~~ decreed water right
 2 stream, but in no case ~~shall~~ may the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 ~~Whenever~~ waters of the stream under the irrigation district
 6 created by this act are commingled with other waters or it
 7 is difficult to determine just 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~~ cubic feet of water per second owned by such party or
 11 parties at the rate of ~~one inch of water, statutory~~
 12 ~~measurement, ONE INCH OF WATER, STATUTORY MEASUREMENT, OR~~
 13 .025 cubic feet of water per second to the acre. ~~It is~~
 14 ~~further provided, that the the~~ board ~~shall have no authority~~
 15 to may not issue bonds or to incur any indebtedness other
 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 ~~same~~ 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
 2 circulation in the county where ~~said the~~ petition is filed,
 3 WITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE
 4 COUNTY, a notice stating the time and place fixed by the
 5 district court fixed when and where the hearing on ~~said the~~
 6 petition will be had and containing a brief statement of the
 7 matters set forth in ~~said the~~ petition and the object
 8 thereof, ~~if~~ if any portion of the lands sought to be
 9 excluded from the district ~~the~~ 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
 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 ~~penalty~~. Any
 21 person who ~~shall~~ in any manner interfere ~~interferes~~ with the
 22 commissioners of an irrigation district, or their lawful
 23 agent or employee in the carrying out of the powers
 24 conferred by this act, or who ~~shall change~~ changes or temper
 25 tampers with any lock box, head gate, or other device for

1 the apportionment or distribution of water installed by or
 2 under the authority of such ~~the~~ commissioners 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
 6 district shall, in the discretion of the commissioners, be
 7 subject to a forfeiture of his right to the delivery of
 8 water through the distribution system of the district so
 9 long as such acts shall continue, and shall ~~likewise be~~ is
 10 guilty of a ~~misdemeanor and, on conviction, shall be~~
 11 ~~punishable by a fine of not less than ten dollars (\$10.00)~~
 12 ~~nor more than one hundred dollars (\$100.00), 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~~
 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.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 act; ~~and any debt or liability incurred in~~
 25 ~~excess of such express provisions shall be and remain~~

1 ~~absolutely void, except that for the purpose of organization~~
 2 ~~or for any of the immediate purposes of this act, or to make~~
 3 ~~or purchase surveys, plans, and specifications, or for~~
 4 ~~stream gauging and gathering data, or to make any repairs~~
 5 ~~occasioned by any calamity or other unforeseen contingency,~~
 6 ~~the board of commissioners may, in any one year, incur the~~
 7 ~~indebtedness of as many dollars as there are acres in the~~
 8 ~~district, and may cause 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
 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 (1)) an

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 limitations provided by the irrigation district laws is
 12 void."

13 Section 26. Section 89-1703, R.C.M. 1947, is amended
 14 to read as follows:

15 "89-1703. Petition for bonds and action thereon
 16 issuance of bonds. (1) ~~for the purpose of providing the~~
 17 ~~necessary funds for constructing the necessary irrigation~~
 18 ~~canals and works including drainage works and works for~~
 19 ~~the generation and distribution of electrical energy within~~
 20 ~~said district and acquiring the necessary property and~~
 21 ~~rights therefor and for the purpose of acquiring by~~
 22 ~~purchase or otherwise waters water rights canals~~
 23 ~~reservoirs reservoir sites and irrigation works drainage~~
 24 ~~works and works for the generation and distribution of~~
 25 ~~electrical energy constructed or partially constructed and~~

1 ~~for the purpose of meeting the expense theretofore incurred~~
 2 ~~or to be thereafter incurred incident to such construction~~
 3 ~~or acquisition of such works and property including~~
 4 ~~administrative engineering and legal expenses and for the~~
 5 ~~assumption as principal or guarantory of indebtedness to~~
 6 ~~the United States on account of district lands and for the~~
 7 ~~purpose of otherwise carrying out the provisions of this~~
 8 ~~act and of providing a sum sufficient to pay the interest~~
 9 ~~on all of such bonds for five (5) years or less the board~~
 10 ~~of commissioners of any district heretofore or hereafter~~
 11 ~~organized under the provisions of this act may authorize~~
 12 ~~and issue the negotiable coupon bonds of the district as~~
 13 ~~and in the manner hereinafter provided. A sum sufficient to~~
 14 ~~redeem or pay all or any portion of the existing~~
 15 ~~indebtedness of such district evidenced by outstanding~~
 16 ~~bonds delinquent interest coupons and accrued interest or~~
 17 ~~warrants together with all delinquent and accrued interest~~
 18 ~~whether such indebtedness be due or not due or which has or~~
 19 ~~may hereafter become payable at the option of the district~~
 20 ~~or by consent of the bondholders or by any lawful means~~
 21 ~~may be included as a portion of the necessary funds for~~
 22 ~~which said bonds are authorized and issued. The board of~~
 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~~

1 the necessary funds:
 2 (a) for constructing the necessary irrigation canals
 3 and works, 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 (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 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

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 hereunder, and no contract shall may be
 8 made with the United States as provided in section 89-1301,
 9 provided, except upon a petition signed by at least sixty
 10 per--centum--{60%}, in number and acreage, of the holders of
 11 title or evidence of title to lands included within said the
 12 district, or by seventy-five-per-centum at least {75%}, in
 13 number and acreage, 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 The petition shall be addressed to the board of
 17 commissioners¹, shall set forth the aggregate amount of
 18 bonds to be issued, and the purpose or purposes thereof²,
 19 shall have attached thereto an affidavit verifying the
 20 signatures to said the petition² and shall be filed with
 21 the secretary of the board of commissioners. When bonds³
 22 however, are issued for the sole purpose of redeeming or
 23 paying the existing and outstanding bonds or warrants, or
 24 both, including delinquent and accrued interest, of such
 25 district, such bonds may be authorized and issued in the

1 manner provided for by sections 89-1712 and 89-1713.

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

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

1 ~~such the~~ contract, the board of commissioners need not
2 authorize the issuance of bonds, or if bonds are required in
3 addition to ~~such the~~ contract, ~~the commissioners~~ may
4 authorize bonds only for the amount needed in addition to
5 ~~such the~~ contract. Such order or resolution shall also
6 provide for the confirmation proceedings in the district
7 court hereinafter-mentioned as provided in 89-1704."

8 Section 27. Section 89-1704, R.C.M. 1947, is amended
9 to read as follows:

10 *89-1704. Confirmation by district court. (1) Within
11 ten-~~(10)~~ 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 board~~ is located to determine the validity of the
16 proceedings ~~had~~ relative to the issuance of ~~said the~~ bonds
17 and to the levy of ~~said the~~ special tax or assessment.

18 (2) Such action shall be in the nature of a proceeding
19 in rem, and jurisdiction of all parties interested shall be
20 had by giving notice ~~given-as-hereinafter-provided~~. Such the
21 petition shall set forth:

22 (1) ~~(a)~~ generally, the establishment and organization
23 of the district;

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

1 ~~(3)(c)~~ a certified copy of the order or resolution
2 mentioned in the preceding section;

3 ~~(4)(d)~~ 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 ~~said this~~ petition in the
8 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-(15)~~ days from the date of filing
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 thereon, by publication at least
14 once a week for ~~two 2~~ calendar weeks in a newspaper
15 published or of general circulation in the county where the
16 office of the board of commissioners of the district is
17 situated, and also by posting a written or printed copy of
18 such notice in at least three public places in each division
19 of the district, the first of such publications and such
20 posting to be not less than ~~fifteen-(15)~~ days prior to the
21 date fixed for ~~said the~~ hearing.

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

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

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

18 ~~(4)(6)~~ The provisions of Title 93 respecting the
19 ~~demurrer--or~~ answer to a verified complaint ~~shall-be are~~
20 applicable to ~~a-demurrer--or an~~ answer to ~~said the~~ petition.
21 The persons so ~~demurring-to-or~~ answering ~~said the~~ petition
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 petition, not specifically controverted by
25 the answer, shall be taken as true, and every holder of

1 title or evidence of title to lands included in the district
 2 failing to answer ~~or demur to~~ the petition shall be deemed
 3 ~~considered~~ to admit as true all the material statements
 4 hereof ~~thereof~~. The procedure in such action shall be
 5 determined by Title 93.

6 ~~(5)(1)~~ Upon the hearing, the district court shall find
 7 and determine whether the provisions and requirements of the
 8 preceding section have been complied with, and ~~whether~~
 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 ~~shall have power and 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
 17 ~~said the~~ bonds and special tax or assessment, and ~~any~~ and
 18 all actions taken by the board of commissioners in
 19 connection with ~~said such~~ matters, and shall hear all
 20 objections filed to ~~said the~~ proceedings, or any part
 21 thereof, or to the issuance of ~~said the~~ bonds, 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

1 does not affect the substantial rights of the parties to
 2 ~~said the~~ proceedings. The court may ratify, approve, and
 3 confirm ~~said the~~ proceedings in whole or in part, and may
 4 ratify, approve, and confirm ~~said the~~ bonds and special tax
 5 or assessment, and enter its judgment ~~or decree~~ accordingly.

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)~~
 8 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 ~~ofore~~said, 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 assessment, and the same shall~~
 17 ~~never be called into question in any 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~~
 25 ~~gold coin of the United States, of the standard weight and~~

1 ~~finances--[fineness]--existing-at-the-time-of-the-issue-and~~
 2 shall run for a period not longer than ~~forty-(40)~~ years from
 3 their date, but may contain a clause providing for their
 4 prior redemption and payment, at the option of the board of
 5 commissioners of the district, on any interest payment date
 6 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
 10 longer period than ~~forty-(40)~~ years from the date of issue.
 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 places, within or without the state of Montana, as
 17 the board of commissioners shall prescribe.

18 (2) ~~Such the~~ bonds shall be of such denomination or
 19 denominations, and in such form, 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

1 shall fix the date of ~~said 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
 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 signed, 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 coupons, 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 treasury ~~each~~ shall
 21 ~~each~~ keep a record of the bonds sold, or otherwise disposed
 22 of, their date, number, amount, maturity, or maturities, ~~;~~
 23 to whom sold, ~~;~~ rate of interest, ~~;~~ and the place or places of
 24 payment thereof."

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

1 to read as follows:

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
5 the indebtedness, or any portion thereof, of the district,
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
9 warrants, and whether such indebtedness be is due or not
10 due, or which has or may hereafter become payable at the
11 option of the district, or by consent ~~[of]~~ ~~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, signed, as required by law, by at least ~~sixty-per~~
19 ~~centue~~ ~~(60%)~~ in number and acreage of the holders of title
20 or evidence of title to the lands included within said ~~the~~
21 district, and addressed to the board of directors or
22 commissioners of the district, may contain the following
23 specifications, in addition to the matters now required by
24 law ~~viz~~:

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

1 (b) ~~The the terms, conditions, and liens of the said~~
2 ~~bonds, 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, if the same are to be exchanged and~~
5 ~~not sold, and any such specifications when set forth in the~~
6 ~~said petition shall be controlling upon the said board of~~
7 ~~directors or commissioners. The petitioners shall set forth~~
8 ~~with particularity in such specifications the contract of~~
9 ~~exchange to be made and they shall have power to include~~
10 ~~therein any term, requirement, grant, transfer of property~~
11 ~~or rights, covenant and condition whatsoever that shall be~~
12 ~~deemed by the said petitioners to be for the best interests~~
13 ~~of the said district, and that the board of directors or~~
14 ~~commissioners of the district shall have the power to~~
15 ~~authorize and direct the issuance of the said bonds~~
16 ~~accordingly, and to make any such contract, and to bind the~~
17 ~~irrigation district thereby.~~

18 (1) 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 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

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."~~

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
 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~~
 16 upon all the lands included in the district, except upon
 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 ~~be~~
 20 ~~are any~~, ~~and all the~~ All lands in the district at the time
 21 ~~said the~~ bonds are issued, and all lands subsequently
 22 included which are so chargeable under the provisions of
 23 this act, shall be and remain liable to be taxed and
 24 assessed for the payment of ~~said the~~ bonds and interest, and
 25 all payments due or to become due to the United States under

1 any contract between the district and the United States,
 2 accompanying which bonds of the district have not been
 3 deposited with the United States as provided in section
 4 89-1301 provided.

5 ~~(2) It shall be the duty of the~~ The board of
 6 commissioners of the district, in the order or resolution
 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 accrue, 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
 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 shall be the duty of~~ the board
 22 of commissioners of the district ~~to shall~~ create and
 23 maintain a sinking fund sufficient to pay and discharge ~~said~~
 24 ~~the~~ bonds at maturity. If ~~said the~~ bonds ~~shall be~~ are issued
 25 for ~~twenty-(20)~~ years or less, there shall be annually

1 levied for such ~~the~~ sinking fund a special tax or
 2 assessment ~~as aforesaid~~ sufficient to produce a net amount
 3 represented by the quotient found by dividing the aggregate
 4 amount of the principal of the bonds by the number of years
 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
 8 fund until the ~~twentieth~~ 20th year prior to the maturity of
 9 the bonds, at which time and each year thereafter there
 10 shall be levied and collected a special tax or assessment
 11 sufficient to produce a net sum equal to one-twentieth
 12 ~~(1/20)~~ part of the aggregate amount of the principal of the
 13 bonds.

14 (3) A certified copy of such resolution shall be filed
 15 with the clerk of the board of county commissioners of each
 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 prescribed 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~~
 22 ~~become due to the United States under any contract between~~
 23 ~~the district and the United States, accompanying which bonds~~
 24 ~~of the district have not been deposited with the United~~
 25 ~~States as in section 89-1301 provided, and for the payment~~

1 ~~of the interest on and principal of said bonds when due, so~~
 2 ~~long 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~~
 7 ~~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
 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 duty, 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, or by
 21 warrants drawn against the next district tax or assessment
 22 levied or to be levied. ~~Said~~ These warrants shall be in
 23 addition to those mentioned in ~~section~~ 89-1701.

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

1 sinking fund ~~aforsaid~~ in interest-bearing securities
 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 bonds, payable from such sinking fund promptly at
 6 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)
 10 All irrigable lands in each irrigation district, except such
 11 lands ~~as have been~~ that are included within ~~such the~~
 12 district ~~on account because~~ of the exchange or substitution
 13 of water, under the provisions of section 89-1611, shall pay
 14 at the same rate for all purposes for which ~~said the~~ lands
 15 are charged, ~~providing--however~~ except as otherwise
 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 89-1804, ~~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

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

6 (2) The amount of ~~such the~~ assessment for maintenance,
 7 operation, and pumping of water to each separate elevation,
 8 whenever there are different elevations, shall be determined
 9 by the board of commissioners in such manner, and upon such
 10 notice to the persons interested in ~~said the~~ district, as
 11 ~~said the~~ board in its rules ~~and--regulations~~ may provide, ~~and--provided--further--that--where~~ whenever a contract ~~shall~~
 12 ~~have has~~ been made with the United States, the lands within
 13 the district, whether originally included or later annexed
 14 to the district, shall pay in accordance with the federal
 15 reclamation laws and the public notices, orders, and
 16 regulations issued thereunder, and in compliance with any
 17 contracts made by the United States with the owners of ~~said~~
 18 ~~the~~ lands, and in compliance ~~further~~ with the contract
 19 ~~between the districts and the United States,~~ ~~and--provided~~
 20 ~~further--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 the lands within the district are or can be irrigated ~~one~~ 1
 24 year or more before the completion of the entire project,
 25

1 ~~then-and-in-that-case, such those~~ lands, so irrigated or
 2 that can be so irrigated through the built portion of the
 3 project, shall pay for the cost of operating that portion of
 4 the project serving them with irrigation waters, and also
 5 shall pay such portion of the interest charges as its
 6 irrigable area bears to the irrigable area of the entire
 7 project, ~~and--in--case--of whenever~~ lands having ~~have~~
 8 appurtenant 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."

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

13 "89-1805. Determination 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 survey, 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 40-acre~~ tracts or in
 20 less than the platted lot, then ~~against in~~ each such tract)
 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
 2 examination of the character of the soil of each ~~such~~ tract.
 3 Upon completion of ~~such the~~ survey and maps, and
 4 examination, the board shall give notice that at a meeting
 5 of ~~said 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 publication, once a week for two 2
 15 successive calendar weeks, 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

1 the district, and shall hear all persons interested who may
 2 appear 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 ~~shall have been is~~ completed. The board shall hear ~~and~~
 6 ~~receive~~ all evidence offered, including maps and surveys
 7 caused to be prepared by it as well as maps and surveys
 8 prepared by any owner of lands. Upon such determination,
 9 the irrigable area so fixed shall become, and thereafter be
 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~~
 13 ~~district, shall pay, and except as otherwise provided by~~
 14 ~~law, any Any~~ special tax or assessment levied for any
 15 purpose ~~shall be is~~ a lien upon the entire ~~forty-acre~~
 16 ~~40-acre~~ tract or fractional lot as designated by the United
 17 States public survey, or platted lot, if land is subdivided
 18 in lots and blocks (or where ~~whenever~~ land ~~shall be is~~ owned
 19 in less than ~~forty-acre 40-acre~~ 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
 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

1 shall fix, by appropriate resolution or order, the total
 2 acreage and the irrigable acreage of each ~~such~~ tract or
 3 subdivision, and shall cause to be prepared a list of all
 4 lands in ~~said the~~ district, which list shall contain an
 5 accurate description of each ~~such forty-acre 40-acre~~ tract
 6 or fractional lot as designated by the United States public
 7 survey, or platted lot, if land is subdivided in lots and
 8 blocks (or where ~~whenever~~ land ~~shall be is~~ owned in less
 9 than ~~forty-acre 40-acre~~ tracts or in less than the platted
 10 lot, then ~~against of~~ each such tract) of land in ~~said the~~
 11 district, the total acreage and the number of irrigable
 12 acres therein as so fixed and determined, and the name of
 13 the owner or holder of title or evidence of title thereof,
 14 ascertained as provided in ~~section~~ 89-1201. ~~This~~ Such ~~his~~ list,
 15 when completed and adopted, shall be filed in the office of
 16 the board of commissioners and shall remain there for public
 17 inspection. A certified copy of ~~such the~~ resolution and
 18 list shall be filed with the county clerk and recorder of
 19 each county in which any portion of the lands in ~~said the~~
 20 district are situated, ~~provided, however, 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.~~

23 (4) No special tax or assessment ~~shall may~~ be levied
 24 against any ~~forty-acre 40-acre~~ tract, or fractional lot as
 25 designated by the United States public survey, or platted

1 lot, if land is subdivided in lots and blocks (or where
 2 ~~whenever~~ lands ~~shall be~~ are owned in less than forty-acre
 3 ~~40-acre~~ tracts or in less than the platted lot, then against
 4 each such tract) found by ~~said the~~ board to contain no
 5 irrigable land; nor ~~shall~~ may any lien created after the
 6 order of determination ~~herein--provided-for~~ attach to any
 7 such tract, nor ~~shall~~ may the owner or owners of any tract
 8 or tracts have any vote or votes in any proceeding or
 9 election under the provisions of Chapter 146 of the Laws of
 10 1909, or any amendment thereof, or act supplementary
 11 thereto, after the making of such order, unless ~~his-said~~
 12 ~~their~~ land, or a portion thereof, ~~be is~~ found by ~~said the~~
 13 board to contain an area irrigable from the works, or
 14 proposed works, 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 paid, or cancel any unpaid taxes or
 18 assessments levied upon an acreage in excess of that so
 19 fixed by ~~said the~~ order of determination, and where ~~whenever~~
 20 necessary, may issue warrants therefor.

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

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

13 (7) The provisions of ~~section 89-1402~~ regarding the
 14 procedure as well as the right and time to appeal, ~~shall~~
 15 apply to any proceeding instituted ~~in--pursuance--of--the~~
 16 ~~provisions--of~~ pursuant to this section; ~~provided--however~~
 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 provided further 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 ~~said the~~ office the certified copy of the resolution and
 25 order of the board, or of the list, ~~hereinabove~~ provided for

1 ~~in this section.~~

2 (8) ~~Provided--however--that--where~~ Whenever districts
3 have been established in order to ~~co-operate~~ cooperate with
4 the United States under the federal reclamation laws
5 ~~heretofore--or--hereafter--enacted~~ or under any act of
6 Congress ~~congress~~ which ~~shall--permit--of~~ permits the
7 performance by the United States of work in this state, for
8 the purposes of construction of irrigation works, including
9 drainage works, or for purchase, extension, operation, or
10 maintenance of construction works, or for the assumption as
11 principal or guarantory of indebtedness to the United States
12 on account of district ~~laws~~ lands, the determination of the
13 irrigable area of the lands in ~~said~~ the district may be made
14 by the ~~said~~ board of commissioners in the manner ~~provided~~ in
15 this section ~~provided~~ or by the United States at the option
16 of the latter, and, if the United States determines the
17 irrigable area, the proceeding for the apportionment and
18 distribution of the costs of the proposed works or
19 improvements ~~--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--area--~~
24 ~~apportionment--and--distribution--of--costs--of--proposed--works--or~~
25 ~~improvements~~ Apportionment of costs when bonds issued. (1)

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

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

8 (2) ~~Provided, however, that if whenever~~ a proceeding
 9 for the determination, in whole or in part, of the irrigable
 10 area of the lands in ~~said the~~ district has already been had
 11 or a topographical survey or maps thereof prepared, or a
 12 court confirmation of ~~said~~ prior proceedings had, in part or
 13 in full, the ~~said~~ board may, in its discretion, adopt all or
 14 such portions of ~~said the~~ prior proceedings, and ~~in such an~~
 15 ~~event, it shall not be necessary to read not~~ cause an
 16 additional survey or maps or examination of any of such
 17 tracts to be ~~again~~ made, or to redetermine the irrigable
 18 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 acreage, 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

1 filing of ~~said the~~ list, shall conform to the requirements
 2 set forth in section 89-1805. At such ~~the~~ hearing, the ~~said~~
 3 board shall also determine the amount and rate per acre
 4 necessary to be levied against each irrigable acre in the
 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 appear~~ 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
 14 bond issue and the amount of bonds intended to be issued
 15 shall be reduced by the amount of such payment. Any person
 16 interested who ~~shall fail~~ 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~~ board, 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.

23 (4) In case any such landowner makes objection to the
 24 proceedings of ~~said the~~ board in determining the irrigable
 25 area in his own or any other tract of land, or the amount or

1 rate per acre of the special tax and assessment to be levied
 2 against each irrigable acre in the district for the purposes
 3 of the proposed bond issue 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
 6 court, and shall, with the other proceedings of ~~said the~~
 7 board at ~~said 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 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.

16 (5) ~~Provided--however--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 ~~shall-be~~ are issued and outstanding, ~~shall~~ may have the
 22 taxable acreage of his ~~said~~ lands fixed or adjudicated in
 23 the manner provided by ~~sections~~ 89-1404 to through 89-1408,
 24 in such manner or to such extent as to reduce the acreage
 25 subject to the payment of ~~such the~~ bonds or interest

1 thereon, or in such manner as to affect the security of
 2 ~~such the~~ bonds or interest thereon."

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
 6 funds. The county treasurer of the county ~~wherein where~~ the
 7 office of an irrigation district is located ~~shall-be~~ is the
 8 custodian of all funds belonging to the district, and he
 9 shall pay out such funds upon the order of the board of
 10 commissioners, except ~~as-to~~ payments on bonds and interest,
 11 for which no order ~~shall-be~~ is necessary. ~~Where if~~ any
 12 portion of the funds belonging to a district ~~have~~ has been
 13 collected for the purpose of establishing a reserve fund,
 14 the county treasurer shall pay such portion to the district
 15 on order of the district's board of commissioners, who ~~shall~~
 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 excess, or any part thereof, ~~may~~, upon order of the
 24 district's board of commissioners, and with the consent of
 25 the United States officer administering the contract for

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

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

8 "89-1816. Proceeds of sale. Whenever ~~pursuant to the~~
 9 ~~provisions of the preceding section~~ 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
 12 chapter, or included within any extension of such district,
 13 ~~shall be~~ is sold by the treasurer of the county wherein
 14 ~~where~~ such land is situated, in the manner provided by law
 15 for the sale of lands for delinquent taxes for state and
 16 county purposes, and taxes or assessments of such the
 17 irrigation district for all or a part of the taxes for
 18 which such lands are sold, ~~it shall be the duty of~~ the
 19 county treasurer making such sale or sales to shall place to
 20 the credit of the proper funds of such irrigation district,
 21 out of the proceeds of such the sale or sales, the total tax
 22 or assessment of such the irrigation district, inclusive of
 23 the interest and penalty thereon as provided for by the
 24 general laws relating to delinquent taxes for state and
 25 county purposes, and whenever any such lands are struck off

1 at such sale to the county wherein ~~where the same they~~ are
 2 ~~situate,~~ situated pursuant to the provisions of section
 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 said the district evidenced thereby shall
 16 bear interest at the rate of ~~one per centum per~~ 13 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 therein, 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

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 district, 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 said the county, within
11 three 1 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 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 county, and against which the
20 certificates provided for by this chapter have been issued
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."

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

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

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

19 "89-2109. Interpretation of act title. The object of
20 this act--being-to-secure-the-irrigation-of-lands-of-the
21 state--and-thereby title is to promote the prosperity and
22 welfare of the people--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

1 a liberal interpretation."

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
6 commissioners of any irrigation district, before the making
7 of any contract with the United States hereunder, shall
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 examined, and approved and affirmed, 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~~ and circulation of
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

1 separate adult signers on the several filed petitions ~~filed~~
2 who own lands within ~~said the~~ proposed drainage district.
3 All petitions for the organization of ~~said the~~ district
4 filed prior to the hearing on ~~said the~~ petition shall be
5 considered by the court, 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
8 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. ~~11~~ 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 district, 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
22 division, there shall be elected three commissioners, one
23 commissioner being elected from each division of which he
24 must be an actual landowner ~~and resident of--the--county--or~~
25 ~~counties;~~ one of ~~such the~~ commissioners, to be determined by

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 year, who shall hold office for a term of three
 9 ~~2~~ years and until his successor is elected and qualified;
 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.M. 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,
 21 ~~it shall be--competent--for~~ the court to may order the
 22 assessment for construction of new work, 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 work, or for the payment of

1 the principal and interest of such notes or bonds of ~~said~~
 2 ~~the~~ district, as the court ~~shall grant~~ grants authority to
 3 issue, for the construction of new work. The court shall
 4 also, by such order, fix a date on which the first
 5 installment of the assessments for construction shall become
 6 due, not more than ~~five--(5)~~ years after the date of the
 7 order, and each of ~~said the~~ installments shall draw interest
 8 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. Omissions--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~~
 16 ~~more tracts of land or easements in a drainage district, or~~
 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 or~~ 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 voidable;~~ but the
 25 commissioners of ~~said the~~ drainage district shall

1 thereafter, as soon as they discover the omission, or as
 2 soon as they have notice thereof, either agree with the
 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
 6 the omitted lands and corporations, and award such damages
 7 as ~~shall be~~ are just, and report the facts, together with
 8 such assessments and awards, to the court."

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

11 "89-2701. Continuation of existing districts. All
 12 drain districts of the state of Montana, organized prior to
 13 ~~the enactment of sections 89-2281 to 89-2502 and sections~~
 14 ~~89-2801 to 89-2820, inclusive March 1, 1921,~~ and continued
 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~~
 18 drainage district laws, and the commissioners of such drain
 19 districts shall have all the power and authority conferred
 20 by ~~said sections~~ the drainage district laws upon the
 21 commissioners of drainage districts ~~organized under such~~
 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

1 relative to the filing of ~~demurrers,~~ answers and replies
 2 ~~which now exist~~ relative to other causes of action affecting
 3 the title to real property shall apply in actions to exclude
 4 lands from a drainage district, and all issues arising may
 5 be tried by the court without a jury."

6 Section 46. Section 89-2810, R.C.M. 1947, is amended
 7 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 ~~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
 14 and benefited are found in ~~said the~~ district, the annexed
 15 lands shall be assessed a like sum of benefits and damages
 16 as ~~said the similar~~ lands in the ~~said~~ district to which they
 17 are sought to be annexed, 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
 23 to read as follows:

24 "89-2926. Waste and contamination of ~~ground-water~~
 25 groundwater prohibited--~~exception--duties-of-department. (1)~~

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
 4 plugged or capped. It shall also require all flowing wells
 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
 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,
 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;

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

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

4 (4)(d) the disposal of ~~ground-water~~ groundwater used
 5 in connection with ~~production--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 (4) The department at any time may hold a hearing on
 10 its own motion or upon petition signed by a representative
 11 body of users of ~~ground-water~~ groundwater in any area or
 12 subarea 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 ~~filed--[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 Montana."

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~~

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

5 "I(name) solemnly swear (or affirm) that I am an
 6 elector of the district and have not voted today." False
 7 subscription to the oath or affirmation is ~~perjury and~~
 8 ~~punishable as such is false swearing and is punishable as~~
 9 provided in 94-7-203."

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

12 "89-3449. Other agencies not affected. The provisions
 13 of this act ~~shall not be construed to do not in any manner~~
 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.

1 Section 52. Repealer. Sections 89-128, 89-1901, and
 2 89-2818, R.C.M. 1947, are repealed.

-End-

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
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~~ 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,

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, resolution, or other security therefor.

8 (2) ~~However, 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~~ purpose of this act is to meet, so far as
19 possible, a ~~state-wide~~ statewide need for the conservation
20 and use of water, 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

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 construction, ~~however~~ 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 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. Water funds--rates--sale of water--appeals~~
 24 ~~to--board--lease--and--sale--of--water--rights--and--property~~
 25 Management of property -- water contracts. (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
 3 resources and facilities made available under this act may
 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 prescribes; ~~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
 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 payable; ~~this~~ 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) 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

1 working and operating conditions.

2 (3) A contract made by the department for the sale of
3 water, use of water, water storage₁ or other service₁ or for
4 the sale of any property or facilities₁ shall provide that₁
5 in the event of a failure or default in the payment of
6 moneys specified in the contract to be paid to the
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
10 to furnish or deliver water, use of water, water storage₁ or
11 other service under the contract does not deprive the
12 department of₁ or limit any remedy provided by the contract
13 or by law for the recovery of moneys due or which may become
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.

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 contract₁ or under a contract for the construction or repair

1 of works, that party may appeal to the board for a hearing
2 thereon and a resolution of the dispute by filing written
3 notice of the appeal with the department within ~~thirty (30)~~
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
8 associations, abandon₁ or otherwise dispose of any ~~rights-of-~~
9 ~~way~~ rights-of-way, easements₁ or property when it determines
10 that they are no longer needed for the purposes of this act
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, easements₁ or property to be
15 sold, transferred, abandoned₁ or otherwise disposed of. ~~All~~
16 ~~income-or-profit-and-revenue-of-the-works-and-all-moneys~~
17 ~~received--from--the-sale-or-disposal-of-water, use-of-water,~~
18 ~~water-storage₁ or other service₁, and from the operation,~~
19 ~~lease,--sale-or-other-disposition-of-the-works, property and~~
20 ~~facilities-acquired-under-this-act, shall be deposited to~~
21 ~~the-state-general-fund.~~"

22 Section 3. Section 89-401, R.C.M. 1947, is amended to
23 read as follows:

24 "89-401. Disposition of moneys collected. (1) For the
25 purpose of carrying out the provisions of the ~~Water~~

1 ~~Conservation Act, acts amendatory thereto and supplementary~~
 2 ~~thereof, 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:

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 thereof, 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-granted~~
 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, electrification,
 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

1 distribution of electric current; ~~revenues arising from~~
 2 ~~projects constructed or owned by the department in excess of~~
 3 ~~costs of operation and maintenance, and repayment of~~
 4 ~~principal and interest of any moneys borrowed for the~~
 5 ~~construction of the projects; all sums payable as rentals~~
 6 ~~due for water use, maintenance or operation upon any project~~
 7 ~~owned by the state or for which such rentals are due and~~
 8 ~~payable under any contract or agreement made by any person,~~
 9 ~~association or corporation with the department; all sums of~~
 10 ~~money received by the department for the use of electric~~
 11 ~~current, 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 thereof, 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 acquired under chapter 1 of Title
 24 89; and

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

1 electricity in excess of the maintenance and operation of
 2 the electrification system or project."

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

5 ~~"89-125. Powers of department concerning waters and~~
 6 ~~appropriations thereof~~ Department powers over state waters.

7 (1) The authority of the department conferred by this act
 8 chapter 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 having jurisdiction,
 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
 22 and asserted rights of appropriation not adjudicated by any
 23 court.

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

1 after first giving such notice as it deems considers
 2 appropriate and make findings of the date and quantity of
 3 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.

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 stream, it may divert or
 21 authorize the diversion at any point on the stream, or any
 22 portion thereof, when it is done without injury to a prior
 23 appropriator.

24 ~~(7) This act does not repeat or amend an existing~~
 25 ~~statute pertaining to the appropriation or use of water~~

1 ~~except as expressly provided in this act, and this act does~~
 2 ~~not interfere with vested rights to the use of water.~~

3 ~~{8} In addition to the powers conferred on the~~
 4 ~~department elsewhere in this chapter,~~

5 {1} 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
 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 {2} "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 ~~{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

1 engage in using, selling, or disposing of the same, who has
 2 a surplus of water not used or sold, or any person having a
 3 surplus of water, and the right to sell and dispose of the
 4 same, is required, upon the payment or tender to the person
 5 entitled thereto of an amount equal to the usual and
 6 customary rates per inch ~~INCH OR INCH OR cubic foot of water~~
 7 per second, to convey and deliver to the person ~~such the~~
 8 surplus of unsold water, or so much thereof for which ~~said~~
 9 ~~the~~ payment or tender ~~shall have been~~ has been made, and
 10 shall continue ~~so~~ to convey and deliver the same weekly so
 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:

15 "89-867. Definitions. Unless the context requires
 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.

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

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 water₁ or in the case of a public agency₂ 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 water₁ 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 or can be obtained 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.

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

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

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

1 through the design or negligent operation of an
2 appropriation or water distribution facility₁ or the
3 application of water to anything but a beneficial use.

4 (11) "Political" subdivision₂ means any county,
5 incorporated city or town, public corporation₂ or district
6 created pursuant to state law₁ 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 82A-1509.

17 ~~{15}-"Act"-means-the-Montana-Water-Use-Act-and-any~~
18 ~~subsequent-amendments-or-additions-thereto."~~

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) (1) "Ground-water~~ Groundwater" means any fresh
24 water beneath the land surface or beneath the bed of a
25 stream, lake, reservoir₁ or other body of surface water₁ and

1 which is not a part of that surface water. Fresh water shall
 2 be deemed considered to be water fit for domestic,
 3 livestock, or agricultural use. The department, after
 4 notice and hearing, may fix definite standards for
 5 determining fresh water in any controlled ~~ground--water~~
 6 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 (d)(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. 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.

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

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

4 (g)(7) "~~Ground--water~~ Groundwater area" means an area
 5 which, as nearly as known facts permit, may be designated so
 6 as to ~~inclose~~ enclose a single and distinct body of ground
 7 water groundwater, which shall be described horizontally by
 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 (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:

23 "89-899. Legal assistance. (1) When requested by the
 24 department, the attorney general and the county attorneys
 25 within their respective counties shall perform legal

1 services and conduct legal proceedings necessary to carry
2 out the purposes of this ~~act~~ chapter. The department may
3 also employ legal counsel to enforce this ~~act~~ chapter and to
4 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."

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

13 "89-2930. Duty of county attorneys and attorney
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."

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

1 acquired after January 1, 1950, shall, within ~~sixty~~ 60 days
2 after ~~the approval of this act~~ February 25, 1953, or before
3 he diverts any water, file with the department at its office
4 in Helena, Montana, a written statement containing the
5 following information:

- 6 (a) ~~The~~ the name of the claimant and his address;
7 (b) ~~Date~~ date of appropriation or the date when the
8 water was first applied to a beneficial use;
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) ~~The~~ the purpose for which the water is claimed and
15 the place of intended use;
16 (f) ~~The~~ the means of diversion;
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 89-810,~~
22 the name of the county where it was filed;
23 (i) ~~Whether~~ whether the appropriation was made from an
24 adjudicated or nonadjudicated stream, river, or other source
25 of water.

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 act, ~~provided, 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~~ ditch, 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 commissioners, 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 commissioners, 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
 2 petition, and shall direct that such notice be given to the
 3 parties interested in such ~~the~~ hearing as the judge ~~may deem~~
 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 claim, 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~~
 11 ~~considers~~ just and proper ~~in the premises~~. If it ~~shall~~
 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, ~~then~~ 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 ~~or persons~~ in
 18 his ~~or their~~ stead, if he ~~deems~~ ~~considers~~ that the interests
 19 of the parties in the waters mentioned in such ~~the~~ decree
 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~~

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
3 to read as follows:

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

20 1. (a) 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. (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 section, and if ~~any such~~ a holder is a nonresident of the
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
6 lands in the proposed district are to be irrigated, and the
7 character of the works, water rights, canals, and other
8 property proposed to be acquired or constructed for
9 irrigation purposes in the proposed district;

10 5. (e) 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.

14 1. The petition shall be accompanied by:

15 1. (a) a map or plat of the proposed district; 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 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.

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

1 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."

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. (1) At the time specified in the notice
 9 mentioned in the preceding section, the district court in
 10 which the petition ~~eforesaid~~ is filed shall hear the
 11 petition, 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 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~~ may appear and
 22 contest the necessity or utility of the proposed district,
 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

1 hear and determine whether the requirements of sections
 2 89-1201, 89-1202, and 89-1203 have been complied with, 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
 6 proposed district as may be deemed considered advisable or
 7 as fact, right, and justice may require, ~~but shall not~~
 8 ~~exclude from such proposed district any land~~ land which is
 9 susceptible of irrigation from the same general source, and
 10 by the same general system of works applicable to the other
 11 lands of ~~such the~~ proposed district, may not be excluded
 12 from the proposed district if the owner or owners of such
 13 ~~the~~ lands shall file in ~~such the~~ district court a written
 14 request that ~~such the~~ lands be included, ~~in such district,~~
 15 ~~nor shall any lands which will not, in the judgment of the~~
 16 ~~court, be benefited by irrigation by means of said system of~~
 17 ~~works, nor shall lands already under irrigation, nor lands~~
 18 ~~having water rights appurtenant thereto, nor lands that can~~
 19 ~~be irrigated from sources more feasible than the district~~
 20 ~~system, be included within such proposed district, unless~~
 21 ~~the owner of such lands shall consent in writing to the~~
 22 ~~inclusion of such lands in the proposed district, as~~
 23 ~~hereinafter provided, 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~~

~~forty-acre tracts or smaller subdivisions thereof; provided,~~
~~however, that where a district is formed to cooperate with~~
~~the United States, lands previously irrigated and having~~
~~water rights appurtenant thereto may be included within the~~
~~district boundaries, if it shall appear to the court that~~
~~the same will be benefited thereby; and provided further,~~
~~that all lands having water rights appurtenant thereto~~
~~which are served by a system of irrigation works supplying~~
~~more than ten thousand acres of lands, may, in the~~
~~discretion of the court, be included in the proposed~~
~~district on petition of at least a majority both in number~~
~~and acreage of the holders of title or evidence of title to~~
~~the land having water rights appurtenant thereto, and served~~
~~by the same system of irrigation works. Lands of the~~
~~district need not be contiguous, and any particular tract or~~
~~tracts, irrespective of their location in the district, may~~
~~be excluded.~~

(b) Lands which will not, in the judgment of the
court, be benefited by irrigation from the works of the
proposed district; which are already under irrigation; which
have appurtenant water rights; or which can be irrigated
from sources more feasible than the proposed district may
not be included in the district unless the owner of such
lands consents in writing to the inclusion.

(c) Notwithstanding the provisions of subsection

(3)(b), whenever a district is formed to cooperate with the
United States, lands previously irrigated and having
appurtenant water rights may be included within the district
boundaries if it appears to the court that the lands will be
benefited by inclusion.

(d) All lands having appurtenant water rights, served
by an irrigation works system supplying more than 10,000
acres, may, in the discretion of the court, be included in
the proposed district upon petition by at least a majority,
both in number and acreage, of the holders of title or
evidence of title to the lands served by the irrigation
system and having appurtenant water rights.

(e) Lands of the district need not be contiguous. The
location of a particular tract in the proposed district is
not a bar to exclusion.

(4) For purposes of including or excluding land from a
proposed district, the court may subdivide any tract into
40-acre or smaller parcels.

(5) If, on final hearing, it is found by the court
that the petition does not substantially comply with the
eforesaid requirements of this act, or that the facts
therein stated are not sustained by the evidence, then the
court shall dismiss the petition at the cost of the
petitioners, and shall make and enter an order to that
effect; but if it is found that said the petition

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

4 ~~1w(a)~~ Setting setting forth said findings and allowing
 5 said ~~the~~ petition;

6 ~~2w(b)~~ Establishing establishing the proposed district;

7 ~~3w(c)~~ Giving giving accurate descriptions of the lands
 8 included within the proposed district;

9 ~~4w(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 ~~5w(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 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
 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~~ where the lands included within such ~~the~~ district

1 are situated, ~~provided, however, there shall be omitted~~
 2 ~~from such copy-lands~~ Lands not situated in the county in
 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
 16 resident of the county in which the division of the
 17 district, or some portion thereof, for which such
 18 ~~commissioners so the commissioner is~~ commissioner is elected, is situated.

19 (2) The commissioners appointed ~~as~~ as ~~fore~~ fore
 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~~ as ~~and~~ and
 23 ~~the manner hereinafter provided.~~ the manner hereinafter provided. Each of such ~~the~~
 24 commissioners shall qualify in the same manner as justices
 25 of the peace, ~~and shall give a bond in the sum of two~~

~~thousand dollars, conditioned upon the faithful performance~~
~~of his duties, to be made payable to the state for the~~
~~benefit of the district, which~~ The bond for a commissioner
 shall be approved by the district court or judge thereof and
 filed in the office of the clerk of ~~said the court,~~
~~provided, that in~~ In case any district ~~organized~~ established
 under this ~~title~~ chapter is appointed fiscal agent of the
 United States, or is authorized by the United States ~~to~~
 authorized to make collections of moneys for and on behalf
 of the United States in connection with any federal
 reclamation project, each ~~such~~ commissioner shall execute a
 further and additional official bond in such sum as the
 secretary of the interior may require, conditioned for the
 faithful discharge of the duties of his office, and the
 faithful discharge by the district of its duties as fiscal
 or other agent of the United States under any such
 appointment or authorization, and any such bond may be sued
 upon by the United States, or by any person injured by the
 failure of ~~such the~~ commissioner or the district to fully,
 promptly, and completely perform their respective duties."

Section 17. Section 89-1208, R.C.M. 1947, is amended to read as follows:

"89-1208. Compensation and expenses of commissioners--
~~penalty for interest in contract bonds of commissioners.~~
(1) The commissioners, when sitting as a board or when

engaged in the business of the district, shall each receive
~~an amount~~ not to exceed ~~twenty dollars (\$20)~~ per a day for
 services, and, in addition thereto, their necessary expenses
 in attending meetings, or when otherwise engaged on district
 business, including premiums on qualifying bonds and any
 other bonds required of them in connection with their
 office, provided such expenses and per diem be are approved
 by a unanimous vote of ~~said the~~ board, and a mileage
 allowance of ~~twelve 12 cents (\$12)~~ per a mile in attending
 board meetings or when engaged in the business of the
 irrigation district.

(2) No commissioner or any other officer named in this
 act ~~shall~~ may in any manner be interested, directly or
 indirectly, in any contract awarded or to be awarded by the
 board, or in the profits derived therefrom, ~~and for~~ for any
 violation of this provision, such officer ~~shall be deemed is~~
 guilty of a misdemeanor and his conviction thereof shall
 work forfeiture of his office and he shall be punished ~~by a~~
~~fine not exceeding five hundred dollars (\$500.00), or by~~
~~imprisonment in the county jail not exceeding six (6) months~~
~~or by both such fine and imprisonment~~ as provided in
~~24-7-401.~~

(3) The commissioners of ~~said an~~ irrigation district
 shall each furnish a bond in the penal sum of ~~twenty-five~~
~~hundred dollars (\$2,500.00),~~ with corporate surety

1 conditioned for the faithful performance of their duties
 2 under this act, ~~and the~~ the secretary shall furnish bond,
 3 with corporate surety, in the sum of ~~one-thousand-dollars~~
 4 ~~(\$1,000.00)~~, conditioned for the faithful performance of his
 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 ~~said 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 title, or

1 evidence of title, to lands within the district, herein
 2 designated electors, ~~shall be~~ are entitled to vote:

3 1*(a) ~~At~~ 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 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 purposes, 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 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~~

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

1 designated by the commissioners for the assessment and
 2 taxation purposes or within the congressional subdivisions,
 3 but any elector owning any less than ~~one~~ 1 acre of irrigable
 4 land within ~~said 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
 13 commissioner as he may delegate, ~~to~~ shall determine before
 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 thereto, ~~servng-at-least-two-thousand-acres--of~~
 22 ~~ten--contiguous--in-location-or-of-reasonably-compact-area~~
 23 ~~at~~ 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

1 of competent jurisdiction and at least 2,000 acres of land,
 2 contiguous in location or of reasonably compact area, are
 3 being served by the single stream or source."

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

6 "89-1320. Petition~~s~~₁—hearing~~s~~₁ and notice—order of
 7 court—commissioners. 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 ~~sixty-per-cent 60%~~₁ of the
 11 individual landowners who ~~shall~~₁ represent not less than
 12 ~~fifty-one-per-cent 51%~~₁ of the irrigable acres to be affected
 13 by ~~such the proposed~~₁ district and ~~fifty-one-per-cent 51%~~₁ of
 14 the inches ~~INCHES OF WATER OR~~₁ cubic feet of water per
 15 ~~second~~₁ decreed or adjudicated in the stream ~~in~~₁ from which
 16 ~~such the~~₁ irrigation district is to operate, shall be filed
 17 with the clerk of the district court of the county or
 18 counties in which ~~such the~~₁ district is to be created. ~~It is~~₁
 19 ~~provided, however, that for~~₁ For the purposes ~~purpose~~₁ of
 20 determining whether the ~~requirement~~₁ requirements of acreage
 21 and ~~cubic feet of water inches per second OR INCHES OF WATER~~₁
 22 ~~has have~~₁ been met by the petition, water diverted from the
 23 adjudicated stream and distributed under other irrigation
 24 districts ~~other~~₁ than the one to be created under this act
 25 ~~shall may~~₁ not be considered; however, such water and acreage

1 shall be required to pay ~~any and~~₁ all assessments the same as
 2 other water and acreage affected by irrigation districts
 3 created under this act. Upon filing of ~~said the~~₁ petition,
 4 the court shall set a date for a hearing on the petition~~y~~₁
 5 and a written notice not less than ~~five 5~~₁ days prior to ~~such~~₁
 6 ~~the~~₁ hearing shall be mailed to each landowner or water right
 7 owner affected by the proposed district. If the court finds~~y~~₁
 8 from such hearing~~y~~₁ 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~~₁ 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~~s~~₁ who ~~shall~~₁
 14 be ~~are~~₁ landowners or water right owners, affected by such
 15 district~~y~~₁ to act until the first annual meeting~~y~~₁—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—~~limit on~~₁ levy~~s~~₁ to—cover
 20 ~~expense—determination of levy—~~₁ and indebtedness other than
 21 ~~warrant—indebtedness—not to be—created.~~₁ The board of
 22 trustees ~~shall be authorized to may~~₁ develop the source of
 23 supply~~s~~₁ to clean, improve~~s~~₁ and develop the channel of the
 24 stream~~s~~₁ and to do and perform other work on the main
 25 distributing system as will be beneficial to the better

1 distribution of the waters of such ~~the~~ decreed water right
 2 stream, but in no case shall ~~may~~ the board, to cover the
 3 expenses of such work, levy to exceed ~~twenty-five~~ 25 cents
 4 per acre in any one year. ~~It is further provided, that when~~
 5 ~~Whenever~~ waters of the stream under the irrigation district
 6 created by this act, are commingled with other waters or it
 7 is difficult to determine just 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-water, statutory~~
 12 ~~measurement, ONE INCH OF WATER, STATUTORY MEASUREMENT, OR~~
 13 ~~ONE INCH OF WATER, STATUTORY MEASUREMENT, OR~~ .025 cubic feet
 14 of water per second to the acre. ~~It is further provided,~~
 15 ~~that the~~ The board shall have no authority to ~~may not~~ issue
 16 bonds or to incur any indebtedness other than warrant
 17 indebtedness under the limitations ~~proposed~~ 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 ~~same~~ 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
 2 circulation in the county where ~~said the~~ petition is filed,
 3 WITH PREFERENCE GIVEN TO A NEWSPAPER PUBLISHED IN THE
 4 COUNTY, a notice stating the time and place fixed by the
 5 district court ~~fixed~~ when and where the hearing on ~~said the~~
 6 petition will be had and containing a brief statement of the
 7 matters set forth in ~~said the~~ petition and the object
 8 thereof, ~~if~~ If any portion of the lands sought to be
 9 excluded from the district ~~lie~~ 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
 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 ~~penalty~~. Any
 21 person who shall in any manner ~~interfere~~ interferes with the
 22 commissioners of an irrigation district, or their lawful
 23 agent or employee in the carrying out of the powers
 24 conferred by this act, or who shall ~~change~~ changes or ~~temper~~
 25 tampers with any lock box, head gate, or other device for

1 the apportionment or distribution of water, installed by or
 2 under the authority of such ~~the~~ commissioners, 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
 6 district, shall, in the discretion of the commissioners, be
 7 subject to a forfeiture of his right to the delivery of
 8 water through the distribution system of the district, so
 9 long as such acts ~~shall~~ continue, and ~~shall likewise be~~ is
 10 guilty of ~~a misdemeanor and, on conviction, shall be~~
 11 ~~punishable by a fine of not less than ten dollars (\$10.00)~~
 12 ~~nor more than one hundred dollars (\$100.00), 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~~
 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.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 act, ~~and any debt or liability incurred in~~
 25 ~~excess of such express provisions shall be and remain~~

1 ~~absolutely void, except that for the purpose of organization~~
 2 ~~or for any of the immediate purposes of this act, or to make~~
 3 ~~or purchase surveys, plans, and specifications, or for~~
 4 ~~stream gauging and gathering data, or to make any repairs~~
 5 ~~occasioned by any calamity or other unforeseen contingency,~~
 6 ~~the board of commissioners may, in any one year, incur the~~
 7 ~~indebtedness of as many dollars as there are acres in the~~
 8 ~~district, and may cause 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
 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 (1)) an

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 limitations provided by the irrigation district laws is
 12 void."

13 Section 26. Section 89-1703, R.C.M. 1947, is amended
 14 to read as follows:

15 "89-1703. Petition for bonds and ~~action thereon~~
 16 issuance of bonds. (1) ~~For the purpose of providing the~~
 17 ~~necessary funds for constructing the necessary irrigation~~
 18 ~~canals and works, including drainage works, and works for~~
 19 ~~the generation and distribution of electrical energy within~~
 20 ~~said districts and acquiring the necessary property and~~
 21 ~~rights therefor, and for the purpose of acquiring by~~
 22 ~~purchase or otherwise, waters, water rights, canals,~~
 23 ~~reservoirs, reservoir sites, and irrigation works, drainage~~
 24 ~~works, and works for the generation and distribution of~~
 25 ~~electrical energy constructed, or partially constructed, and~~

1 ~~for the purpose of meeting the expense theretofore incurred~~
 2 ~~or to be thereafter incurred incident to such construction~~
 3 ~~or acquisition of such works and property including~~
 4 ~~administrative, engineering and legal expenses, and for the~~
 5 ~~assumption, as principal or guaranty, of indebtedness to~~
 6 ~~the United States on account of district lands, and for the~~
 7 ~~purpose of otherwise carrying out the provisions of this~~
 8 ~~act, and of providing a sum sufficient to pay the interest~~
 9 ~~on all of such bonds for five (5) years, or less, the board~~
 10 ~~of commissioners of any district, heretofore or hereafter~~
 11 ~~organized under the provisions of this act, may authorize~~
 12 ~~and issue the negotiable coupon bonds of the district, as~~
 13 ~~and in the manner hereinafter provided, a sum sufficient to~~
 14 ~~redeem or pay all or any portion of the existing~~
 15 ~~indebtedness of such districts, evidenced by outstanding~~
 16 ~~bonds, delinquent interest coupons and accrued interest, or~~
 17 ~~warrants, together with all delinquent and accrued interest,~~
 18 ~~whether such indebtedness be due or not due, or which has or~~
 19 ~~may hereafter become payable at the option of the district,~~
 20 ~~or by consent of the bondholders, or by any lawful means,~~
 21 ~~may be included as a portion of the necessary funds for~~
 22 ~~which said bonds are authorized and issued. The board of~~
 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~~

1 the necessary funds:

2 (a) for constructing the necessary irrigation canals
3 and works, 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 (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 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

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 hereunder, and no contract shall may be
8 made with the United States as provided in section 89-1301,
9 provided, except upon a petition signed by at least sixty
10 per-centum--{60%} in number and acreage, of the holders of
11 title or evidence of title to lands included within said the
12 district, or by seventy-five-per-centum at least {75%} in
13 number and acreage, 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 The petition shall be addressed to the board of
17 commissioners, shall set forth the aggregate amount of
18 bonds to be issued, and the purpose or purposes thereof,
19 shall have attached thereto an affidavit verifying the
20 signatures to said the petition, and shall be filed with
21 the secretary of the board of commissioners. When bonds,
22 however, are issued for the sole purpose of redeeming or
23 paying the existing and outstanding bonds or warrants, or
24 both, including delinquent and accrued interest, of such
25 district, such bonds may be authorized and issued in the

1 manner provided for by ~~sections~~ 89-1712 and 89-1713.

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

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

1 ~~such the~~ contract, the board of commissioners need not
 2 authorize the issuance of bonds, or if bonds are required in
 3 addition to ~~such the~~ contract, the commissioners may
 4 authorize bonds only for the amount needed in addition to
 5 ~~such the~~ contract. Such order or resolution shall also
 6 provide for the confirmation proceedings in the district
 7 court ~~hereinafter-mentioned~~ as provided in 89-1704."

8 Section 27. Section 89-1704, R.C.M. 1947, is amended
 9 to read as follows:

10 "89-1704. Confirmation by district court. (1) Within
 11 ~~ten-(10)~~ 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 board~~ is located to determine the validity of the
 16 proceedings ~~had~~ relative to the issuance of ~~said the~~ bonds
 17 and to the levy of ~~said the~~ special tax or assessment.

18 (2) Such action shall be in the nature of a proceeding
 19 in rem, and jurisdiction of all parties interested shall be
 20 had by giving notice ~~given-as-hereinafter-provided~~. ~~Such the~~
 21 petition shall set forth:

22 (1)(a) generally, the establishment and organization
 23 of the district;

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

1 ~~(3)(c)~~ a certified copy of the order or resolution
2 mentioned in the preceding section;

3 ~~(4)(d)~~ 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)(1)~~ Upon the filing of ~~said this~~ petition in the
8 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-(15)~~ days from the date of filing
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 thereon, by publication at least
14 once a week for ~~two~~ 2 calendar weeks in a newspaper
15 published or of general circulation in the county where the
16 office of the board of commissioners of the district is
17 situated, and also by posting a written or printed copy of
18 such notice in at least three public places in each division
19 of the district, the first of such publications and such
20 posting to be not less than ~~fifteen-(15)~~ days prior to the
21 date fixed for ~~said the~~ hearing.

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

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

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

18 ~~(4)(6)~~ The provisions of Title 93 respecting the
19 ~~demurrer--or~~ answer to a verified complaint ~~shall-be are~~
20 applicable to ~~a-demurrer-or~~ an answer to ~~said the~~ petition.
21 The persons so ~~demurring-to-or~~ answering ~~said the~~ petition
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 petition, not specifically controverted by
25 the answer, shall be taken as true, and every holder of

1 title or evidence of title to lands included in the district
 2 failing to answer ~~or demur to~~ the petition shall be deemed
 3 ~~considered~~ to admit as true all the material statements
 4 hereof ~~thereof~~. The procedure in such action shall be
 5 determined by Title 93.

6 ~~(5)(7)~~ Upon the hearing, the district court shall find
 7 and determine whether the provisions and requirements of the
 8 preceding section have been complied with, and ~~whether~~
 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 ~~shall have power and 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
 17 ~~said the~~ bonds and special tax or assessment, and ~~any and~~
 18 all actions taken by the board of commissioners in
 19 connection with ~~said such~~ matters, and shall hear all
 20 objections filed to ~~said the~~ proceedings, or any part
 21 thereof, or to the issuance of ~~said the~~ bonds, 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

1 does not affect the substantial rights of the parties to
 2 ~~said the~~ proceedings. The court may ratify, approve, and
 3 confirm ~~said the~~ proceedings in whole or in part, and may
 4 ratify, approve, and confirm ~~said the~~ bonds and special tax
 5 or assessment, and enter its judgment ~~or decree~~ accordingly.

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)~~
 8 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 aforesaid, 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 assessment, and the same shall~~
 17 ~~never be called into question in any 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~~
 25 ~~gold coin of the United States, of the standard weight and~~

1 ~~finances--[fineness]--existing at the time of the issue, and~~
 2 shall run for a period not longer than ~~forty (40)~~ years from
 3 their date, but may contain a clause providing for their
 4 prior redemption and payment, at the option of the board of
 5 commissioners of the district, on any interest payment date
 6 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
 10 longer period than ~~forty (40)~~ years from the date of issue.
 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 places, within or without the state of Montana, as
 17 the board of commissioners shall prescribe.

18 (2) ~~Such the~~ bonds shall be of such denomination or
 19 denominations, and in such form, 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

1 shall fix the date of ~~said 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
 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 signed, 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 coupons, 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 treasury, ~~each~~ shall
 21 ~~each~~ keep a record of the bonds sold, or otherwise disposed
 22 of, ~~i~~ their date, number, amount, maturity, or maturities, ~~i~~
 23 to whom sold, ~~i~~ rate of interest, ~~i~~ and the place or places of
 24 payment thereof."

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

1 to read as follows:

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
5 the indebtedness, or any portion thereof, of the district,
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
9 warrants, and whether such indebtedness be is due or not
10 due, or which has or may hereafter become payable at the
11 option of the district, or by consent [of] ~~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, signed, as required by law, 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 district, and addressed to the board of directors or
22 commissioners of the district, may contain the following
23 specifications, in addition to the matters now required by
24 law, ~~viz~~:

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

1 (b) ~~The the~~ terms, conditions, and liens of the ~~said~~
2 bonds, 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, if the same are to be exchanged and
5 not sold, ~~and any such specifications when set forth in the~~
6 ~~said petition shall be controlling upon the said board of~~
7 ~~directors or commissioners. The petitioners shall set forth~~
8 ~~with particularity in such specifications the contract of~~
9 ~~exchange to be made and they shall have power to include~~
10 ~~therein any term, requirement, grant, transfer of property~~
11 ~~or rights, covenant and condition whatsoever that shall be~~
12 ~~deemed by the said petitioners to be for the best interests~~
13 ~~of the said district; and that the board of directors or~~
14 ~~commissioners of the district shall have the power to~~
15 ~~authorize and direct the issuance of the said bonds~~
16 ~~accordingly, and to make any such contract, and to bind the~~
17 ~~irrigation district thereby.~~

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 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

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."

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
 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~~
 16 upon all the lands included in the district, except upon
 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 ~~be~~
 20 ~~are any~~ ~~and all the~~ All lands in the district at the time
 21 ~~said the~~ bonds are issued, and all lands subsequently
 22 included which are so chargeable under the provisions of
 23 this act, shall be and remain liable to be taxed and
 24 assessed for the payment of ~~said the~~ bonds and interest, and
 25 all payments due or to become due to the United States under

1 any contract between the district and the United States,
 2 accompanying which bonds of the district have not been
 3 deposited with the United States as provided in section
 4 89-1301 provided.

5 (~~2~~) ~~it shall be the duty of the~~ The board of
 6 commissioners of the district, in the order or resolution
 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 accrue, 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
 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 shall be the duty of~~ the board
 22 of commissioners of the district to shall create and
 23 maintain a sinking fund sufficient to pay and discharge ~~said~~
 24 the bonds at maturity. If ~~said the~~ bonds ~~shall be~~ are issued
 25 for ~~twenty~~ ~~{20}~~ years or less, there shall be annually

1 levied for such ~~the~~ sinking fund a special tax or
 2 assessment ~~as aforesaid~~ sufficient to produce a net amount
 3 represented by the quotient found by dividing the aggregate
 4 amount of the principal of the bonds by the number of years
 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
 8 fund until the ~~twentieth~~ ~~20th~~ year prior to the maturity of
 9 the bonds, at which time and each year thereafter there
 10 shall be levied and collected a special tax or assessment
 11 sufficient to produce a net sum equal to one-twentieth
 12 ~~(1/20)~~ part of the aggregate amount of the principal of the
 13 bonds.

14 (3) A certified copy of such resolution shall be filed
 15 with the clerk of the board of county commissioners of each
 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 prescribed, 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~~
 22 ~~become due to the United States under any contract between~~
 23 ~~the district and the United States, accompanying which bonds~~
 24 ~~of the district have not been deposited with the United~~
 25 ~~States as in section 89-1301 provided, and for the payment~~

1 ~~of the interest on and principal of said bonds when due, so~~
 2 ~~long 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~~
 7 ~~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
 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 duty~~ 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, or by
 21 warrants drawn against the next district tax or assessment
 22 levied or to be levied. ~~Said~~ ~~These~~ warrants shall be in
 23 addition to those mentioned in section 89-1701.

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

1 sinking fund ~~aforsaid~~ in interest-bearing securities
 2 whenever in their judgment the ~~some investment~~ may be to the
 3 best interest of the district. ~~But-~~at~~~~ All such securities
 4 shall be converted into cash in time to meet the principal
 5 on the bonds, payable from such sinking fund promptly at
 6 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)
 10 All irrigable lands in each irrigation district, except such
 11 lands ~~as have been~~ that are included within such ~~the~~
 12 district ~~on account because~~ of the exchange or substitution
 13 of water, under the provisions of section 89-1611, shall pay
 14 at the same rate for all purposes for which ~~said the~~ lands
 15 are charged, ~~providing however~~ except as otherwise
 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 89-1804, ~~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

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

6 (2) The amount of such ~~the~~ assessment for maintenance,
 7 operation, and pumping of water to each separate elevation,
 8 whenever there are different elevations, shall be determined
 9 by the board of commissioners in such manner, and upon such
 10 notice to the persons interested in ~~said the~~ district, as
 11 ~~said the~~ board in its rules ~~and regulations~~ may provide,
 12 ~~and provided further that where~~ Whenever a 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
 16 reclamation laws and the public notices, orders, and
 17 regulations issued thereunder, and in compliance with any
 18 contracts made by the United States with the owners of ~~said~~
 19 ~~the~~ lands, and in compliance ~~further~~ with the contract
 20 between the districts and the United States, ~~and provided~~
 21 ~~further 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,

1 ~~then and in that case, such those~~ lands, so irrigated or
 2 that can be so irrigated through the built portion of the
 3 project, shall pay for the cost of operating that portion of
 4 the project serving them with irrigation water, and also
 5 shall pay such portion of the interest charges as its
 6 irrigable area bears to the irrigable area of the entire
 7 project. ~~and in case of~~ whenever lands having have
 8 appurtenant 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."

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

13 "89-1805. Determination 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 survey, 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 ~~40-acre~~ tracts or in
 20 less than the platted lot, then ~~against in~~ each such tract)
 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
 2 examination of the character of the soil of each ~~such~~ tract.
 3 Upon completion of ~~such the~~ survey and maps, and
 4 examination, the board shall give notice that at a meeting
 5 of ~~said 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 publication, once a week for ~~two 2~~
 15 successive calendar weeks, in a newspaper of general
 16 circulation in the county where the office of the board is
 17 located, and where ~~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 2~~ 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

1 the district, and shall hear all persons interested who may
 2 appear 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 ~~shall have been is~~ completed. The board shall hear and
 6 receive all evidence offered, including maps and surveys
 7 caused to be prepared by it as well as maps and surveys
 8 prepared by any owner of lands. Upon such determination,
 9 the irrigable area so fixed shall become, and thereafter be,
 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~~
 13 ~~district, shall pay, and except as otherwise provided by~~
 14 ~~law, any Any~~ special tax or assessment levied for any
 15 purpose ~~shall be is~~ a lien upon the entire ~~forty-acre~~
 16 ~~40-acre~~ tract or fractional lot as designated by the United
 17 States public survey, or platted lot, if land is subdivided
 18 in lots and blocks (or where whenever land ~~shall be is~~ owned
 19 in less than ~~forty-acre 40-acre~~ 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
 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

1 shall fix, by appropriate resolution or order, the total
 2 acreage and the irrigable acreage of each ~~such~~ tract or
 3 subdivision, and shall cause to be prepared a list of all
 4 lands in ~~said the~~ district, which list shall contain an
 5 accurate description of each ~~such forty-acre 40-acre~~ tract
 6 or fractional lot as designated by the United States public
 7 survey, or platted lot, if land is subdivided in lots and
 8 blocks (or where whenever land ~~shall be is~~ owned in less
 9 than ~~forty-acre 40-acre~~ tracts or in less than the platted
 10 lot, then ~~against of~~ each such tract) of land in ~~said the~~
 11 district, the total acreage and the number of irrigable
 12 acres therein as so fixed and determined, and the name of
 13 the owner, or holder of title or evidence of title thereof,
 14 ascertained as provided in section 89-1201. ~~Such This~~ list,
 15 when completed and adopted, shall be filed in the office of
 16 the board of commissioners and shall remain there for public
 17 inspection. A certified copy of ~~such the~~ resolution and
 18 list shall be filed with the county clerk and recorder of
 19 each county in which any portion of the lands in ~~said the~~
 20 district are situated, ~~provided, however, 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.

23 (4) No special tax or assessment ~~shall may~~ be levied
 24 against any ~~forty-acre 40-acre~~ tract, or fractional lot as
 25 designated by the United States public survey, or platted

1 lot, if land is subdivided in lots and blocks (or where
 2 ~~whenever~~ lands ~~shall be~~ are owned in less than forty-acre
 3 ~~40-acre~~ tracts or in less than the platted lot, then against
 4 each such tract) found by ~~said the~~ board to contain no
 5 irrigable land; nor ~~shall~~ may any lien created after the
 6 order of determination ~~herein provided for~~ attach to any
 7 such tract, nor ~~shall~~ may the owners or owners of any tract
 8 or tracts have any vote or votes in any proceeding or
 9 election under the provisions of Chapter 146 of the Laws of
 10 1909, or any amendment thereof, or act supplementary
 11 thereto, after the making of such order, unless ~~his said~~
 12 ~~their~~ land, or a portion thereof, ~~be is~~ found by ~~said the~~
 13 board to contain an area irrigable from the works, or
 14 proposed works, 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 paid, or cancel any unpaid taxes or
 18 assessments, levied upon an acreage in excess of that so
 19 fixed by ~~said the~~ order of determination, and where ~~whenever~~
 20 necessary, may issue warrants therefor.

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

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

13 (7) The provisions of ~~section 89-1402,~~ regarding the
 14 procedure as well as the right and time to appeal, ~~shall~~
 15 apply to any proceeding instituted ~~in pursuance of the~~
 16 ~~provisions of~~ pursuant to this section; ~~provided, however,~~
 17 ~~that~~ nothing in this section ~~shall be deemed or construed to~~
 18 ~~effect or impair~~ affects or impairs the lien of any bonds
 19 issued by the district, ~~and provided further 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 ~~said the~~ office the certified copy of the resolution and
 25 order of the board, or of the list, ~~hereinabove~~ provided for

1 in this section.

2 (8) ~~Provided--however--that--where~~ Whenever districts
3 have been established in order to ~~co-operate~~ cooperate with
4 the United States under the federal reclamation laws
5 ~~heretofore--or--hereafter--enacted,~~ or under any act of
6 ~~Congress,~~ Congress which ~~shall--permit--of~~ permits the
7 performance by the United States of work in this state, for
8 the purposes of construction of irrigation works, including
9 drainage works, or for purchase, extension, operation, or
10 maintenance of construction works, or for the assumption as
11 principal or guarantory of indebtedness to the United States
12 on account of district ~~tax~~ lands, the determination of the
13 irrigable area of the lands in ~~said~~ the district may be made
14 by the ~~said~~ board of commissioners in the manner provided in
15 this section provided or by the United States at the option
16 of the latter, and, if the United States determines the
17 irrigable area, the proceeding for the apportionment and
18 distribution of the costs of the proposed works or
19 improvements, ~~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--area--~~
24 ~~apportionment--and--distribution--of--costs--of--proposed--works--or~~
25 ~~improvements~~ Apportionment of costs when bonds issued. (1)

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

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

8 (2) ~~Provided, however, that if whenever~~ a proceeding
 9 for the determination, in whole or in part, of the irrigable
 10 area of the lands in ~~said the~~ district has already been had
 11 or a topographical survey or maps thereof prepared, or a
 12 court confirmation of ~~said~~ prior proceedings had, in part or
 13 in full, the ~~said~~ board may, in its discretion, adopt all or
 14 such portions of ~~said the~~ prior proceedings, and ~~in such an~~
 15 ~~event, it shall not be necessary to~~ need not cause an
 16 additional survey or maps or examination of any of such
 17 tracts to be ~~again~~ made or to redetermine the irrigable
 18 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 acreage 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

1 filing of ~~said the~~ list, shall conform to the requirements
 2 set forth in ~~section~~ 89-1805. At ~~such the~~ hearing, the ~~said~~
 3 board shall also determine the amount and rate per acre
 4 necessary to be levied against each irrigable acre in the
 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 appear~~ 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
 14 bond issue and the amount of bonds intended to be issued
 15 shall be reduced by the amount of such payment. Any person
 16 interested who ~~shall fail~~ 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~~ board, 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.

23 (4) In case any such landowner makes objection to the
 24 proceedings of ~~said the~~ board in determining the irrigable
 25 area in his own or any other tract of land, or the amount or

1 rate per acre of the special tax and assessment to be levied
 2 against each irrigable acre in the district for the purposes
 3 of the proposed bond issue, 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
 6 court and shall, with the other proceedings of ~~said the~~
 7 board at ~~said 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 thereon 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.

16 (5) ~~Provided, however, 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 ~~shall be are~~ issued and outstanding, ~~shall may~~ have the
 22 taxable acreage of his ~~said~~ lands fixed or adjudicated in
 23 the manner provided by sections 89-1404 to through 89-1408,
 24 in such manner or to such extent as to reduce the acreage
 25 subject to the payment of ~~such the~~ bonds or interest

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

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
 6 funds. The county treasurer of the county ~~wherein where~~ the
 7 office of an irrigation district is located ~~shall be is~~ the
 8 custodian of all funds belonging to the district, and he
 9 shall pay out such funds upon the order of the board of
 10 commissioners, except ~~as to~~ payments on bonds and interest,
 11 for which, no order ~~shall be is~~ necessary. ~~Where~~ If any
 12 portion of the funds belonging to a district ~~have has~~ been
 13 collected for the purpose of establishing a reserve fund,
 14 the county treasurer shall pay such portion to the district
 15 on order of the district's board of commissioners, who ~~shall~~
 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 excess or any part thereof, ~~may,~~ upon order of the
 24 district's board of commissioners, and with the consent of
 25 the United States officer administering the contract for

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

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

8 "89-1816. Proceeds of sale. Whenever ~~pursuant to the~~
 9 ~~provisions of the preceding section~~, 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
 12 chapter, or included within any extension of such district,
 13 ~~shall be~~ is sold by the treasurer of the county wherein
 14 ~~where~~ such land is situated, in the manner provided by law
 15 for the sale of lands for delinquent 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
 18 which such lands are sold, ~~it shall be the duty of~~ the
 19 county treasurer making such sale or sales shall place to
 20 the credit of the proper funds of such irrigation district,
 21 out of the proceeds of such the sale or sales, the total tax
 22 or assessment of such the irrigation district, inclusive of
 23 the interest and penalty thereon as provided for by the
 24 general laws relating to delinquent taxes for state and
 25 county purposes, and whenever any such lands are struck off

1 at such sale to the county wherein ~~where~~ where ~~the same~~ they are
 2 ~~situate~~, situated pursuant to the provisions of section
 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 ~~said 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 therein, 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~~

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 district 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 said the county, within

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 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 county and against which the

20 certificates provided for by this chapter have been issued

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."

1 Section 37. Section 89-2003, R.C.M. 1947, is amended

2 to read as follows:

3 "89-2003. Contents of petition. Said the petition of

4 89-2002 shall set forth the amount of the outstanding bonds,

5 coupons, and other indebtedness, if such--there-be any,

6 together with the general description of the--some then,

7 showing the amount of each description--of described

8 indebtedness and the ownership, so far as known, of the some

9 indebtedness. Said the petition shall also state the assets

10 of said the district, including any irrigation systems--if

11 any systems, dams, reservoirs, canals, franchises, water

12 rights, and other property; and in case any proposition has

13 been made by the holders of said the indebtedness to settle

14 the some indebtedness, said this proposition, together with

15 any plan proposed to carry the some proposition into

16 execution, shall be included in said the petition."

17 Section 38. Section 89-2109, R.C.M. 1947, is amended

18 to read as follows:

19 "89-2109. Interpretation of act title. The object of

20 this act--being-to--secure--the-irrigation-of-lands-of-the

21 state--and-thereby title is to promote the prosperity and

22 welfare of the people--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

1 a liberal interpretation."

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
6 commissioners of any irrigation district, before the making
7 of any contract with the United States hereunder, shall
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 examined, and approved and affirmed, 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 and circulation of
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

1 separate adult signers on the several filed petitions ~~filed~~
2 who own lands within ~~said the~~ proposed drainage district.
3 All petitions for the organization of ~~said the~~ district
4 filed prior to the hearing on ~~said the~~ petition shall be
5 considered by the court, 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
8 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 district, 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
22 division, there shall be elected three commissioners, one
23 commissioner being elected from each division of which he
24 must be an actual landowner ~~and resident of the county or~~
25 ~~counties;~~ one of such the commissioners, to be determined by

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 year, who shall hold office for a term of ~~three~~
 9 ~~3~~ years and until his successor is elected and qualified;
 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.M. 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,
 21 ~~it shall be--competent--for~~ the court to may order the
 22 assessment for construction of new work, 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 work, or for the payment of

1 the principal and interest of such notes or bonds of ~~said~~
 2 ~~the~~ district, as the court ~~shall grant~~ grants authority to
 3 issue, for the construction of new work. The court shall
 4 also, by such order, fix a date on which the first
 5 installment of the assessments for construction shall become
 6 due, not more than ~~five--(5)~~ years after the date of the
 7 order, and each of ~~said the~~ installments shall draw interest
 8 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. ~~Omissions--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
 16 more tracts of land or easements in a drainage district, or
 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 or~~ 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 voidable; but the
 25 commissioners of ~~said the~~ drainage district shall

1 thereafter, as soon as they discover the omission, or as
 2 soon as they have notice thereof, either agree with the
 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
 6 the omitted lands and corporations, and award such damages
 7 as ~~shall be~~ are just, and report the facts, together with
 8 such assessments and awards, to the court."

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

11 "89-2701. Continuation of existing districts. All
 12 drain districts of the state of Montana, organized prior to
 13 ~~the enactment of sections 89-2201 to 89-2502 and sections~~
 14 ~~89-2801 to 89-2820, inclusive~~ March 1, 1921, and continued
 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~~
 18 drainage district laws, and the commissioners of such drain
 19 districts shall have all the power and authority conferred
 20 by ~~said sections~~ the drainage district laws upon the
 21 commissioners of drainage districts ~~organized under such~~
 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

1 relative to the filing of ~~demurrers~~, answers and replies
 2 ~~which now exist~~ relative to other causes of action affecting
 3 the title to real property shall apply in actions to exclude
 4 lands from a drainage district, and all issues arising may
 5 be tried by the court without a jury."

6 Section 46. Section 89-2810, R.C.M. 1947, is amended
 7 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~~
 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
 14 and benefited are found in ~~said the~~ district, the annexed
 15 lands shall be assessed a like sum of benefits and damages
 16 as ~~said the similar~~ lands in the ~~said~~ district to which they
 17 are sought to be annexed, 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
 23 to read as follows:

24 "89-2926. Waste and contamination of ~~ground-water~~
 25 groundwater prohibited ~~exception duties of department.~~ (1)

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
 4 plugged or capped. It shall also require all flowing wells
 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
 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,
 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;

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

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

4 ~~(4)~~(d) the disposal of ~~ground-water~~ groundwater used
 5 in connection with ~~production--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 ~~(2)~~ The department at any time may hold a hearing on
 10 its own motion, or upon petition signed by a representative
 11 body of users of ~~ground-water~~ groundwater in any area or
 12 subarea, 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 ~~filed~~ ~~{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 Montana."

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~~

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

5 "I ~~....~~(name) solemnly swear (or affirm) that I am an
 6 elector of the district and have not voted today." False
 7 subscription to the oath or affirmation is ~~perjury and~~
 8 ~~punishable as such~~ false swearing and is punishable as
 9 provided in 94-7-203."

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

12 "89-3449. Other agencies not affected. The provisions
 13 of this act ~~shall not be construed to do not in any manner~~
 14 abrogate or limit in any manner the rights, powers, duties,
 15 and functions of the department, ~~conservation--commissioner~~
 16 conservation districts, department of health and
 17 environmental sciences, or the fish and game commissioner; 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.

1 Section 52. Repealer. Sections 89-128, 89-1901, and
 2 89-2818, R.C.M. 1947, are repealed.

-End-