

HOUSE BILL NO. 358

INTRODUCED BY BARDANOUE

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

IN THE HOUSE

JANUARY 21, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

FEBRUARY 11, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 12, 1987                   PRINTING REPORT.

FEBRUARY 13, 1987                   SECOND READING, DO PASS.

FEBRUARY 14, 1987                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
                                      AYES, 94; NOES, 0.

                                      TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON NATURAL RESOURCES.

MARCH 19, 1987                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1987                    SECOND READING, CONCURRED IN.

MARCH 25, 1987                    THIRD READING, CONCURRED IN.  
                                      AYES, 49; NOES, 0.

                                      RETURNED TO HOUSE.

IN THE HOUSE

MARCH 26, 1987                    RECEIVED FROM SENATE.

                                      SENT TO ENROLLING.

1 House BILL NO. 358  
 2 INTRODUCED BY Baudenave  
 3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE USE OF WATER  
 6 DEVELOPMENT FUNDS; AND AMENDING SECTIONS 85-1-102, 85-1-206,  
 7 AND 85-1-207, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 85-1-102, MCA, is amended to read:  
 11 "85-1-102. Definitions. Unless the context requires  
 12 otherwise, in this chapter the following definitions apply:

13 (1) "Administrative costs" means costs incurred by  
 14 the department;

15 (a) for the purpose of protecting the department's  
 16 properties and assets;

17 (b) to oversee the operation and maintenance of the  
 18 projects;

19 (c) to administer contracts and receivables;

20 (d) to maintain project financial records;

21 (e) to provide technical assistance for operating,  
 22 maintaining, and rehabilitating the projects; and

23 (f) to assist in securing funds for operating,  
 24 maintaining, and rehabilitating the projects.

25 ~~(1)~~(2) "Board" means the board of natural resources

1 and conservation provided for in 2-15-3302.

2 (3) "Cost of operation and maintenance" means the  
 3 costs of operation, maintenance, and routine repairs and the  
 4 costs incurred by the water users' association or the  
 5 department in the distribution of water from the project,  
 6 excluding the department's administrative costs.

7 ~~(2)~~(4) "Cost of works" means the cost of construction,  
 8 including any rehabilitation or alteration of the project;  
 9 the cost of all lands, property, rights, easements, and  
 10 franchises acquired which are deemed necessary for the  
 11 construction; the cost of all water rights acquired or  
 12 exercised by the department in connection with those works;  
 13 the cost of all machinery and equipment, financing charges,  
 14 interest prior to and during construction and for a period  
 15 not exceeding 3 years after the completion of construction;  
 16 cost of engineering and legal expenses, plans,  
 17 specifications, surveys, estimates of cost, and other  
 18 expenses necessary or incident to determining the  
 19 feasibility or practicability of any project; administrative  
 20 expense; and such other expenses as may be necessary or  
 21 incident to the financing herein authorized and the  
 22 construction of the works and the placing of the same in  
 23 operation.

24 ~~(3)~~(5) "Department" means the department of natural  
 25 resources and conservation provided for in Title 2, chapter



1 15, part 33.

2 ~~(4)~~(6) "Owner" means all individuals, irrigation  
3 districts, drainage districts, flood control districts,  
4 incorporated companies, societies, or associations having  
5 any title or interest in any properties, rights, easements,  
6 or franchises to be acquired.

7 ~~(5)~~(7) "Private person" means any individual,  
8 association, partnership, corporation, or other  
9 nongovernmental entity not eligible for loans and grants  
10 under 85-1-605 but does not include a governmental entity  
11 such as an agency, local government, or political  
12 subdivision of the state, the United States, or any agency  
13 thereof, or any other governmental entity.

14 ~~(6)~~(8) "Project" means any one of the works herein  
15 defined or any combination of such works which are  
16 physically connected or jointly managed and operated as a  
17 single unit.

18 ~~(7)~~(9) "Public benefits" means those benefits that  
19 accrue from a water development project or activity to  
20 persons other than the private grant or loan recipient and  
21 that enhance the common well-being of the people of Montana.  
22 Public benefits include but are not limited to recreation,  
23 flood control, erosion reduction, agricultural flood damage  
24 reduction, water quality enhancement, sediment reduction,  
25 access to recreation opportunities, and wildlife

1 conservation.

2 ~~(8)~~(10) "Water development account" means a separate  
3 account created by 85-1-617 within the state special revenue  
4 fund of the state treasury to finance loans under the  
5 provisions of the water development program to agencies,  
6 local governments, and political subdivisions of the state,  
7 private persons, and any other eligible recipients from  
8 proceeds of bonds issued under part 6 of this chapter.

9 ~~(9)~~(11) "water development activity" means an action or  
10 program to protect and enhance water-based recreation or to  
11 protect or enhance water resources for the benefit of  
12 agriculture, flood control, or other uses, including but not  
13 limited to such purposes as the promotion of efficient use  
14 of water in agriculture, the improvement of water quality in  
15 agriculture and other nonpoint source uses, the protection  
16 and enhancement of water-based recreation, the control of  
17 erosion of streambanks and control of sedimentation of  
18 rivers and streams, and providing greater local and state  
19 control of Montana water resources. Water development  
20 activities may provide any combination of marketable and  
21 nonmarketable benefits.

22 ~~(10)~~(12) "Water development state special revenue  
23 account" means a separate account created by 85-1-604 within  
24 the state special revenue fund of the state treasury for the  
25 purposes of the water development program as set forth in

1 85-1-604.

2 ~~†11~~(13) "Water development project" means a project as  
3 defined in subsection ~~†6~~ (8), except that water development  
4 projects are not limited to projects owned or operated by  
5 the department.

6 ~~†12~~(14) "Water development debt service fund" means a  
7 separate fund created by 85-1-603 within the debt service  
8 fund type of the state treasury to be used as provided in  
9 85-1-619.

10 ~~†13~~(15) "Works" means all property, rights, easements,  
11 and franchises relating thereto and deemed necessary or  
12 convenient for their operation and all water rights acquired  
13 or exercised by the department in connection with those  
14 works and includes all means of conserving and distributing  
15 water, including, without limiting the generality of the  
16 foregoing, reservoirs, dams, diversion canals, distributing  
17 canals, waste canals, drainage canals, dikes, lateral  
18 ditches and pumping units, mains, pipelines, and waterworks  
19 systems and includes all such works for the conservation,  
20 development, storage, distribution, and utilization of  
21 water, including without limiting the generality of the  
22 foregoing, works for the purpose of irrigation, flood  
23 prevention, drainage, fish and wildlife, recreation,  
24 development of power, watering of stock, supplying of water  
25 for public, domestic, industrial, or other uses and for fire

1 protection."

2 Section 2. Section 85-1-206, MCA, is amended to read:  
3 "85-1-206. Construction of works by department. (1)  
4 Subject to the approval of the board, the department may  
5 construct works, the cost of the construction to be paid  
6 wholly by means of or with the proceeds of revenue bonds  
7 hereinafter authorized or of a grant or loan to aid in  
8 financing the construction from the United States or any  
9 instrumentality or agency thereof and other funds provided  
10 for the construction. Before constructing a project, the  
11 department shall estimate the cost of the project, the  
12 administrative expenses, the cost of ~~maintaining, repairing,~~  
13 ~~and operating-it~~ operation and maintenance, and the revenues  
14 to be derived therefrom. A project may not be constructed  
15 unless, according to the estimates, the revenues to be  
16 derived will be sufficient to pay the administrative costs,  
17 the cost of ~~maintaining, repairing, and operating-it~~  
18 operation and maintenance, and ~~to pay~~ the principal and  
19 interest of loans or revenue bonds which may be issued for  
20 the cost of the project; however, in connection with the  
21 issuance of revenue bonds, the failure of the department to  
22 make the estimates required by this section or to make them  
23 in proper form does not affect the validity or  
24 enforceability of those bonds or of the trust indenture,  
25 resolution, or other security therefor.

1 (2) Should the bid of the lowest responsible bidder on  
 2 any capital improvement associated with public works exceed  
 3 the department estimates of the cost of the improvements by  
 4 more than 5%, the department shall obtain approval from the  
 5 water user association, whenever an association is involved,  
 6 before the bid is accepted; however, capital improvements of  
 7 an emergency nature necessary to protect life or property or  
 8 to supply immediate needs for water do not require such  
 9 approval.

10 (3) A purpose of this chapter is to meet, so far as  
 11 possible, a statewide need for the conservation and use of  
 12 water through the construction and operation of projects  
 13 designed for those purposes. The projects to be finally  
 14 constructed shall qualify as parts of the statewide program  
 15 and shall be approved by the board upon the showing of their  
 16 prospective ability to meet, through the sale of water or  
 17 other services, the cost of operation, and maintenance, and  
 18 repair and the amortization of the cost of principal and  
 19 interest of loans and revenue bonds issued to finance the  
 20 construction. The failure of the board to determine the  
 21 prospective ability of a project does not affect the  
 22 validity or enforceability of the bonds or of the trust  
 23 indenture, resolution, or other security therefor."

24 Section 3. Section 85-1-207, MCA, is amended to read:

25 "85-1-207. Determination of costs of works. The

1 department, in determining how the cost of works, ~~may make~~  
 2 ~~nonreimbursable allowances for costs of~~ must be met, shall  
 3 consider the value of public benefits, including but not  
 4 ~~limited to irrigation, recreation, flood prevention, fish~~  
 5 ~~and wildlife, and stream stabilization~~ and the repayment  
 6 capacity of the water users. A state grant may be provided  
 7 by the department to compensate for the value of public  
 8 benefits, to minimize the liabilities of the state of  
 9 Montana, and to pay the difference between the water users'  
 10 repayment capacity and the cost of works."

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 358

INTRODUCED BY BARDANOUE

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE USE OF WATER DEVELOPMENT FUNDS, AND AMENDING SECTIONS 85-1-102, 85-1-206, AND 85-1-207, MCA, TO CLARIFY EXISTING LAW REGARDING STATE-OWNED WATER PROJECTS TO SPECIFY THAT ADMINISTRATIVE COSTS ARE DISTINCT FROM OPERATION AND MAINTENANCE COSTS, THAT PROJECT WATER USERS ARE ONLY BILLED FOR REIMBURSEMENT OF OPERATION AND MAINTENANCE COSTS, AND THAT THE DEPARTMENT MAY UTILIZE STATE GRANTS AS REIMBURSEMENT FOR PUBLIC BENEFITS TO BE DERIVED FROM THE PROJECT; TO ALLOW THESE GRANTS TO BE FACTORED INTO THE REQUIRED ESTIMATE OF PROJECT COSTS MADE PRIOR TO CONSTRUCTION; TO ALLOW THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONSIDER WATER USERS' ABILITY TO REPAY PROJECT CONSTRUCTION AND REHABILITATION COSTS; AND AMENDING SECTIONS 85-1-102, 85-1-206, AND 85-1-207, MCA."

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

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the department:

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(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(4) "Cost of works" means the cost of construction, including any rehabilitation or alteration of the project; the cost of all lands, property, rights, easements, and franchises acquired which are deemed necessary for the construction; the cost of all water rights acquired or exercised by the department in connection with those works; the cost of all machinery and equipment, financing charges,

1 interest prior to and during construction and for a period  
 2 not exceeding 3 years after the completion of construction;  
 3 cost of engineering and legal expenses, plans,  
 4 specifications, surveys, estimates of cost, and other  
 5 expenses necessary or incident to determining the  
 6 feasibility or practicability of any project; administrative  
 7 expense; and such other expenses as may be necessary or  
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 9 construction of the works and the placing of the same in  
 10 operation.

11 ~~(3)~~(5) "Department" means the department of natural  
 12 resources and conservation provided for in Title 2, chapter  
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 15 districts, drainage districts, flood control districts,  
 16 incorporated companies, societies, or associations having  
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 18 or franchises to be acquired.

19 ~~(5)~~(7) "Private person" means any individual,  
 20 association, partnership, corporation, or other  
 21 nongovernmental entity not eligible for loans and grants  
 22 under 85-1-605 but does not include a governmental entity  
 23 such as an agency, local government, or political  
 24 subdivision of the state, the United States, or any agency  
 25 thereof, or any other governmental entity.

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 10 account" means a separate account created by 85-1-604 within  
 11 the state special revenue fund of the state treasury for the  
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 13 85-1-604.

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 12 for public, domestic, industrial, or other uses and for fire  
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14 Section 2. Section 85-1-206, MCA, is amended to read:  
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 16 Subject to the approval of the board, the department may  
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 19 hereinafter authorized or of a grant or loan to aid in  
 20 financing the construction from the United States or any  
 21 instrumentality or agency thereof and other funds provided  
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 23 department shall estimate the cost of the project, the  
 24 ~~administrative expenses,~~ the cost of ~~maintaining,~~ ~~repairing,~~  
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1 to be derived therefrom. A project may not be constructed  
 2 unless, according to the estimates, the revenues to be  
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1 constructed shall qualify as parts of the statewide program  
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11 Section 3. Section 85-1-207, MCA, is amended to read:  
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 13 department, in determining how the cost of works, ~~may make~~  
 14 nonreimbursable--allowances--for-costs-of must be met, shall  
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 19 by the department to compensate for the value of public  
 20 benefits, to minimize the liabilities of the state of  
 21 Montana, and to pay the difference between the water users'  
 22 repayment capacity and the cost of works."

23 NEW SECTION. SECTION 4. EXTENSION OF AUTHORITY. ANY  
 24 EXISTING AUTHORITY OF THE BOARD OF NATURAL RESOURCES AND  
 25 CONSERVATION TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS

HB 0358/02

1 OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS ACT.

-End-

HOUSE BILL NO. 358

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BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE USE OF WATER DEVELOPMENT FUNDS; AND AMENDING SECTIONS 85-1-102, 85-1-206, AND 85-1-207, MCA;" CLARIFY EXISTING LAW REGARDING STATE-OWNED WATER PROJECTS TO SPECIFY THAT ADMINISTRATIVE COSTS ARE DISTINCT FROM OPERATION AND MAINTENANCE COSTS, THAT PROJECT WATER USERS ARE ONLY BILLED FOR REIMBURSEMENT OF OPERATION AND MAINTENANCE COSTS, AND THAT THE DEPARTMENT MAY UTILIZE STATE GRANTS AS REIMBURSEMENT FOR PUBLIC BENEFITS TO BE DERIVED FROM THE PROJECT; TO ALLOW THESE GRANTS TO BE FACTORED INTO THE REQUIRED ESTIMATE OF PROJECT COSTS MADE PRIOR TO CONSTRUCTION; TO ALLOW THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONSIDER WATER USERS' ABILITY TO REPAY PROJECT CONSTRUCTION AND REHABILITATION COSTS; AND AMENDING SECTIONS 85-1-102, 85-1-206, AND 85-1-207, MCA."

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1 interest prior to and during construction and for a period  
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 23 department shall estimate the cost of the project, the  
 24 ~~administrative expenses,~~ the cost of ~~maintaining,~~ ~~repairing,~~  
 25 ~~and operating it~~ operation and maintenance, and the revenues

1 to be derived therefrom. A project may not be constructed  
 2 unless, according to the estimates, the revenues to be  
 3 derived will be sufficient to pay the administrative costs,  
 4 the cost of maintaining, repairing, and operating the  
 5 operation and maintenance, and to pay the principal and  
 6 interest of loans or revenue bonds which may be issued for  
 7 the cost of the project; however, in connection with the  
 8 issuance of revenue bonds, the failure of the department to  
 9 make the estimates required by this section or to make them  
 10 in proper form does not affect the validity or  
 11 enforceability of those bonds or of the trust indenture,  
 12 resolution, or other security therefor.

13 (2) Should the bid of the lowest responsible bidder on  
 14 any capital improvement associated with public works exceed  
 15 the department estimates of the cost of the improvements by  
 16 more than 5%, the department shall obtain approval from the  
 17 water user association, whenever an association is involved,  
 18 before the bid is accepted; however, capital improvements of  
 19 an emergency nature necessary to protect life or property or  
 20 to supply immediate needs for water do not require such  
 21 approval.

22 (3) A purpose of this chapter is to meet, so far as  
 23 possible, a statewide need for the conservation and use of  
 24 water through the construction and operation of projects  
 25 designed for those purposes. The projects to be finally

1 constructed shall qualify as parts of the statewide program  
 2 and shall be approved by the board upon the showing of their  
 3 prospective ability to meet, through the sale of water or  
 4 other services, the cost of operation, and maintenance, and  
 5 repair and the ~~amortization of the cost of~~ principal and  
 6 interest of loans and revenue bonds issued to finance the  
 7 construction. The failure of the board to determine the  
 8 prospective ability of a project does not affect the  
 9 validity or enforceability of the bonds or of the trust  
 10 indenture, resolution, or other security therefor."

11 Section 3. Section 85-1-207, MCA, is amended to read:  
 12 "85-1-207. Determination of costs of works. The  
 13 department, in determining how the cost of works, ~~may make~~  
 14 ~~nonreimbursable allowances for costs of~~ must be met, shall  
 15 consider the value of public benefits, including but not  
 16 limited to irrigation, recreation, flood prevention, fish  
 17 and wildlife, and stream stabilization and the repayment  
 18 capacity of the water users. A state grant may be provided  
 19 by the department to compensate for the value of public  
 20 benefits, to minimize the liabilities of the state of  
 21 Montana, and to pay the difference between the water users'  
 22 repayment capacity and the cost of works."

23 NEW SECTION. SECTION 4. EXTENSION OF AUTHORITY. ANY  
 24 EXISTING AUTHORITY OF THE BOARD OF NATURAL RESOURCES AND  
 25 CONSERVATION TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS

HB 0358/02

1 OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS ACT.

-End-

HOUSE BILL NO. 358

INTRODUCED BY BARDANOUVE

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVIS~~E~~~~H~~~~B~~~~-~~~~8~~~~5~~~~-~~~~1~~~~-~~~~1~~~~0~~~~2~~~~7~~~~;~~~~-~~~~8~~~~5~~~~-~~~~1~~~~-~~~~2~~~~0~~~~6~~~~;~~  
~~DEVELOPMENT FUNDS;~~ ~~AND AMENDING SECTIONS 85-1-102, 85-1-206,~~  
~~AND ---85-1-207, ---MCA."~~ CLARIFY EXISTING LAW REGARDING  
STATE-OWNED WATER PROJECTS TO SPECIFY THAT ADMINISTRATIVE  
COSTS ARE DISTINCT FROM OPERATION AND MAINTENANCE COSTS,  
THAT PROJECT WATER USERS ARE ONLY BILLED FOR REIMBURSEMENT  
OF OPERATION AND MAINTENANCE COSTS, AND THAT THE DEPARTMENT  
MAY UTILIZE STATE GRANTS AS REIMBURSEMENT FOR PUBLIC  
BENEFITS TO BE DERIVED FROM THE PROJECT; TO ALLOW THESE  
GRANTS TO BE FACTORED INTO THE REQUIRED ESTIMATE OF PROJECT  
COSTS MADE PRIOR TO CONSTRUCTION; TO ALLOW THE DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION TO CONSIDER WATER USERS'  
ABILITY TO REPAY PROJECT CONSTRUCTION AND REHABILITATION  
COSTS; AND AMENDING SECTIONS 85-1-102, 85-1-206, AND  
85-1-207, MCA."

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

Section 1. Section 85-1-102, MCA, is amended to read:

"85-1-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Administrative costs" means costs incurred by

the department:

(a) for the purpose of protecting the department's properties and assets;

(b) to oversee the operation and maintenance of the projects;

(c) to administer contracts and receivables;

(d) to maintain project financial records;

(e) to provide technical assistance for operating, maintaining, and rehabilitating the projects; and

(f) to assist in securing funds for operating, maintaining, and rehabilitating the projects.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Cost of operation and maintenance" means the costs of operation, maintenance, and routine repairs and the costs incurred by the water users' association or the department in the distribution of water from the project, excluding the department's administrative costs.

(4) "Cost of works" means the cost of construction, including any rehabilitation or alteration of the project; the cost of all lands, property, rights, easements, and franchises acquired which are deemed necessary for the construction; the cost of all water rights acquired or exercised by the department in connection with those works; the cost of all machinery and equipment, financing charges,





1 interest prior to and during construction and for a period  
 2 not exceeding 3 years after the completion of construction;  
 3 cost of engineering and legal expenses, plans,  
 4 specifications, surveys, estimates of cost, and other  
 5 expenses necessary or incident to determining the  
 6 feasibility or practicability of any project; administrative  
 7 expense; and such other expenses as may be necessary or  
 8 incident to the financing herein authorized and the  
 9 construction of the works and the placing of the same in  
 10 operation.

11 ~~(3)~~(5) "Department" means the department of natural  
 12 resources and conservation provided for in Title 2, chapter  
 13 15, part 33.

14 ~~(4)~~(6) "Owner" means all individuals, irrigation  
 15 districts, drainage districts, flood control districts,  
 16 incorporated companies, societies, or associations having  
 17 any title or interest in any properties, rights, easements,  
 18 or franchises to be acquired.

19 ~~(5)~~(7) "Private person" means any individual,  
 20 association, partnership, corporation, or other  
 21 nongovernmental entity not eligible for loans and grants  
 22 under 85-1-605 but does not include a governmental entity  
 23 such as an agency, local government, or political  
 24 subdivision of the state, the United States, or any agency  
 25 thereof, or any other governmental entity.

1 ~~(6)~~(8) "Project" means any one of the works herein  
 2 defined or any combination of such works which are  
 3 physically connected or jointly managed and operated as a  
 4 single unit.

5 ~~(7)~~(9) "Public benefits" means those benefits that  
 6 accrue from a water development project or activity to  
 7 persons other than the private grant or loan recipient and  
 8 that enhance the common well-being of the people of Montana.  
 9 Public benefits include but are not limited to recreation,  
 10 flood control, erosion reduction, agricultural flood damage  
 11 reduction, water quality enhancement, sediment reduction,  
 12 access to recreation opportunities, and wildlife  
 13 conservation.

14 ~~(8)~~(10) "Water development account" means a separate  
 15 account created by 85-1-617 within the state special revenue  
 16 fund of the state treasury to finance loans under the  
 17 provisions of the water development program to agencies,  
 18 local governments, and political subdivisions of the state,  
 19 private persons, and any other eligible recipients from  
 20 proceeds of bonds issued under part 6 of this chapter.

21 ~~(9)~~(11) "Water development activity" means an action or  
 22 program to protect and enhance water-based recreation or to  
 23 protect or enhance water resources for the benefit of  
 24 agriculture, flood control, or other uses, including but not  
 25 limited to such purposes as the promotion of efficient use

1 of water in agriculture, the improvement of water quality in  
 2 agriculture and other nonpoint source uses, the protection  
 3 and enhancement of water-based recreation, the control of  
 4 erosion of streambanks and control of sedimentation of  
 5 rivers and streams, and providing greater local and state  
 6 control of Montana water resources. Water development  
 7 activities may provide any combination of marketable and  
 8 nonmarketable benefits.

9 ~~{10}~~(12) "Water development state special revenue  
 10 account" means a separate account created by 85-1-604 within  
 11 the state special revenue fund of the state treasury for the  
 12 purposes of the water development program as set forth in  
 13 85-1-604.

14 ~~{11}~~(13) "Water development project" means a project as  
 15 defined in subsection ~~{6}~~ (8), except that water development  
 16 projects are not limited to projects owned or operated by  
 17 the department.

18 ~~{12}~~(14) "Water development debt service fund" means a  
 19 separate fund created by 85-1-603 within the debt service  
 20 fund type of the state treasury to be used as provided in  
 21 85-1-619.

22 ~~{13}~~(15) "Works" means all property, rights, easements,  
 23 and franchises relating thereto and deemed necessary or  
 24 convenient for their operation and all water rights acquired  
 25 or exercised by the department in connection with those

1 works and includes all means of conserving and distributing  
 2 water, including, without limiting the generality of the  
 3 foregoing, reservoirs, dams, diversion canals, distributing  
 4 canals, waste canals, drainage canals, dikes, lateral  
 5 ditches and pumping units, mains, pipelines, and waterworks  
 6 systems and includes all such works for the conservation,  
 7 development, storage, distribution, and utilization of  
 8 water, including without limiting the generality of the  
 9 foregoing, works for the purpose of irrigation, flood  
 10 prevention, drainage, fish and wildlife, recreation,  
 11 development of power, watering of stock, supplying of water  
 12 for public, domestic, industrial, or other uses and for fire  
 13 protection."

14 Section 2. Section 85-1-206, MCA, is amended to read:  
 15 "85-1-206. Construction of works by department. (1)  
 16 Subject to the approval of the board, the department may  
 17 construct works, the cost of the construction to be paid  
 18 wholly by means of or with the proceeds of revenue bonds  
 19 hereinafter authorized or of a grant or loan to aid in  
 20 financing the construction from the United States or any  
 21 instrumentality or agency thereof and other funds provided  
 22 for the construction. Before constructing a project, the  
 23 department shall estimate the cost of the project, the  
 24 ~~administrative expenses,~~ the cost of ~~maintaining,~~ repairing,  
 25 ~~and operating-it~~ operation and maintenance, and the revenues

1 to be derived therefrom. A project may not be constructed  
 2 unless, according to the estimates, the revenues to be  
 3 derived will be sufficient to pay the administrative costs,  
 4 the cost of maintaining,--repairing,--and--operating--it  
 5 operation and maintenance, and to--pay the principal and  
 6 interest of loans or revenue bonds which may be issued for  
 7 the cost of the project; however, in connection with the  
 8 issuance of revenue bonds, the failure of the department to  
 9 make the estimates required by this section or to make them  
 10 in proper form does not affect the validity or  
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 14 any capital improvement associated with public works exceed  
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 24 water through the construction and operation of projects  
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 2 and shall be approved by the board upon the showing of their  
 3 prospective ability to meet, through the sale of water or  
 4 other services, the cost of operation, and maintenance,--and  
 5 repair and the amortization--of-the-cost-of principal and  
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 16 limited--to--irrigation,--recreation,--flood-prevention,--fish  
 17 and-wildlife,--and-stream--stabilization and the repayment  
 18 capacity of the water users. A state grant may be provided  
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 20 benefits, to minimize the liabilities of the state of  
 21 Montana, and to pay the difference between the water users'  
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HB 0358/02

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-End-