

SENATE BILL NO. 327

INTRODUCED BY YELLOWTAIL, MANUEL, THOFT,  
BISHOP, IVERSON, PINSONEAULT, GRADY, ABRAMS

IN THE SENATE

FEBRUARY 12, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FEBRUARY 20, 1987           COMMITTEE RECOMMEND BILL DO NOT  
PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 21, 1987           ON MOTION, RECONSIDER ACTION ON ADVERSE  
COMMITTEE REPORT. BILL PRINTED AND  
PLACED ON SECOND READING.

FEBRUARY 23, 1987           PRINTING REPORT.

                              SECOND READING, DO PASS AS AMENDED.

FEBRUARY 24, 1987           ENGROSSING REPORT.

FEBRUARY 25, 1987           THIRD READING, PASSED.  
AYES, 50; NOES, 0.

                              TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 3, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

MARCH 11, 1987           COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 14, 1987           SECOND READING, CONCURRED IN.

MARCH 16, 1987           THIRD READING, CONCURRED IN.  
AYES, 97; NOES, 0.

                              RETURNED TO SENATE.

IN THE SENATE

MARCH 17, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1 *Senate* BILL NO. *327*  
 2 INTRODUCED BY *Yellowtail Manuel*  
 3 *Bishop* *James* *Frank* *Stanley* *Roberts*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IRRIGATION  
 5 DISTRICTS TO ISSUE REVENUE BONDS TO FUND IRRIGATION  
 6 PROJECTS; AMENDING SECTIONS 85-7-1603, 85-7-1612, AND  
 7 85-7-2001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 8

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

10 NEW SECTION. Section 1. Short title. [Sections 1  
11 through 20] may be cited as the "Irrigation District Revenue  
12 Bond Act".

13 NEW SECTION. Section 2. Definitions. As used in  
14 [sections 1 through 20], unless the context requires  
15 otherwise, the following definitions apply:

16 (1) "Irrigation district" means a district created  
17 pursuant to Title 85, chapter 7, part 1.

18 (2) "Issuer" means the board of commissioners of an  
19 irrigation district or a board of control created pursuant  
20 to Title 85, chapter 7, part 16.

21 (3) "Revenues" means any fees, charges, rates, rents,  
22 or lease payments.

23 (4) "Undertaking" means any one or a combination of  
24 the following:

25 (a) water sources, water rights, irrigation canals,

1 irrigation systems, including pumping facilities or gravity  
2 measure systems, reservoirs, reservoir sites, or works for  
3 the generation and distribution of electricity;

4 (b) any real or personal property or water rights  
5 related to or necessary to provide, operate, and maintain an  
6 undertaking listed in subsection (4)(a).

7 NEW SECTION. Section 3. Interpretation. (1) The  
8 powers conferred in [sections 1 through 20] are in addition  
9 to the powers conferred by any other general, special, or  
10 local law.

11 (2) An undertaking may be acquired, constructed, or  
12 improved, and bonds may be issued under [sections 1 through  
13 20] for such purposes, notwithstanding that any general,  
14 special, or local law may provide for the acquisition,  
15 construction, or improvement of a like undertaking or the  
16 issuance of bonds for like purposes and without regard to  
17 the requirements, restrictions, limitations, or other  
18 provisions contained in any other law, including but not  
19 limited to any requirement for the approval by the voters of  
20 an irrigation district.

21 (3) If the provisions of [sections 1 through 20] are  
22 inconsistent with the provisions of any other law, the  
23 provisions of [sections 1 through 20] control.

24 NEW SECTION. Section 4. Authority to acquire,  
25 construct, maintain, operate, and lease various



1 undertakings. An irrigation district may:

2 (1) construct, acquire by gift, purchase, or the  
3 exercise of the right of eminent domain, or improve any  
4 undertaking, within or outside the irrigation district and  
5 acquire by gift, purchase, or the exercise of the right of  
6 eminent domain land or rights in land or water rights in  
7 connection with the undertaking;

8 (2) operate and maintain or enter into a contract for  
9 the operation and maintenance of any undertaking and furnish  
10 or enter into a contract for the furnishing of services,  
11 facilities, and commodities of the undertaking for its own  
12 use and for the use of public and private consumers within  
13 or outside the territorial boundaries of the irrigation  
14 district; and

15 (3) lease any undertaking to a private or governmental  
16 entity.

17 NEW SECTION. Section 5. Joint undertakings.  
18 Irrigation districts, through their respective boards of  
19 commissioners, may enter into contracts to jointly plan,  
20 acquire, construct, operate, maintain, and finance any  
21 undertaking in accordance with Title 85, chapter 7, part 16.  
22 The contract must specify, if an undertaking is financed  
23 under [sections 1 through 20]:

24 (1) that the contract cannot be terminated prior to  
25 the redemption or cancellation of any bonds issued under it;

1 and

2 (2) the manner of disposing of the undertaking upon  
3 termination of the contract.

4 NEW SECTION. Section 6. Authority to issue revenue  
5 bonds. An irrigation district may:

6 (1) issue its bonds to finance in whole or in part the  
7 acquisition, construction, or improvement of any  
8 undertaking; and

9 (2) pledge to the punctual payment of bonds issued  
10 under [sections 1 through 20] and interest thereon an amount  
11 of the revenue of the undertaking (including subsequent  
12 improvements or extensions) or of any part of the revenue of  
13 such undertaking sufficient to pay the bonds and interest as  
14 they become due, with such amount consisting of all or any  
15 part of such revenue, and maintain reasonable reserves  
16 therefor.

17 NEW SECTION. Section 7. Determination of cost. An  
18 issuer, in determining costs for purposes of [section 6],  
19 may include:

20 (1) all costs and estimated costs of the issuance of  
21 the bonds;

22 (2) all engineering, inspection, fiscal, and legal  
23 expenses; and

24 (3) interest that it estimates will accrue during the  
25 construction period and for 6 months thereafter on money

1 borrowed or that it estimates will be borrowed.

2 NEW SECTION. Section 8. Nature of revenue bonds. (1)

3 No holder of any bonds issued under [sections 1 through 20]

4 may compel the levy of any tax or assessment on property

5 within the irrigation district to pay the bonds or interest

6 thereon.

7 (2) Each bond issued under [sections 1 through 20]

8 must recite in substance that:

9 (a) the bond, including interest thereon, is payable

10 from the revenue pledged to the payment thereof or any other

11 security pledged therefor, including a lien on the

12 undertaking; and

13 (b) the bond does not constitute a debt of the

14 irrigation district within the meaning of any constitutional

15 or statutory limitation or provision.

16 NEW SECTION. Section 9. Undertakings to be

17 self-supporting. (1) An issuer issuing bonds pursuant to

18 [sections 1 through 20] shall collect reasonable fees for

19 the services, facilities, and commodities of the undertaking

20 and shall revise the fees from time to time so that the

21 undertaking remains self-supporting.

22 (2) The fees prescribed must produce revenue at least

23 sufficient to:

24 (a) pay when due all bonds and interest thereon for

25 which the revenue is pledged, including reserves; and

1 (b) provide for all expenses of operation and

2 maintenance of the undertaking, including reserves.

3 NEW SECTION. Section 10. Use of revenue from

4 undertaking. (1) An issuer of bonds pursuant to [sections 1

5 through 20] for the acquisition, construction, or

6 improvement of any undertaking may apply the revenue of the

7 undertaking for the following purposes:

8 (a) to pay when due all bonds and interest thereon for

9 which the revenue is pledged, including reserves;

10 (b) to provide for all expenses of operation and

11 maintenance of the undertaking, including reserves;

12 (c) to pay and discharge notes, bonds, or other

13 obligations and interest thereon not issued under [sections

14 1 through 20] for which the revenue of the undertaking is

15 pledged;

16 (d) to pay and discharge notes, bonds, or other

17 obligations and interest thereon that do not constitute a

18 lien or encumbrance on the revenue of the undertaking and

19 which were issued for the purpose of financing the

20 acquisition, construction, or improvement of the

21 undertaking; and

22 (e) to provide a reserve for improvements to the

23 undertaking.

24 (2) Unless adequate provision has been made for the

25 purposes listed in subsection (1), no irrigation district

1 may transfer the revenue of the undertaking to its general  
2 fund.

3 NEW SECTION. Section 11. Authorization for  
4 undertaking and issuance of bonds. (1) The acquisition,  
5 construction, or improvement of any undertaking may be  
6 authorized under [sections 1 through 20].

7 (2) Bonds may be authorized to be issued under  
8 [sections 1 through 20] by resolution of the governing body  
9 of the issuer without an election.

10 NEW SECTION. Section 12. Covenants in resolution  
11 authorizing issuance of bonds. A resolution authorizing the  
12 issuance of bonds under [sections 1 through 20] may contain  
13 covenants relating to:

14 (1) the purposes for which the proceeds of sale of the  
15 bonds may be applied and the use and disposition of the  
16 proceeds;

17 (2) the use and disposition of the revenue of the  
18 undertaking for which the bonds are to be issued, including  
19 the creation and maintenance of reserves;

20 (3) the issuance of other or additional bonds payable  
21 from the revenue of the undertaking;

22 (4) the operation and maintenance of the undertaking;

23 (5) the insurance to be carried on the undertaking and  
24 the use and disposition of insurance money;

25 (6) books of account and the inspection and audit of

1 the books; and

2 (7) the terms and conditions upon which the holders of  
3 the bonds or any portion of them or any trustee is entitled  
4 to the appointment of a receiver by the district court,  
5 which court shall have jurisdiction in such proceedings and  
6 which receiver may:

7 (a) enter and take possession of the undertaking;

8 (b) operate and maintain the undertaking;

9 (c) prescribe fees, subject to the approval of the  
10 public service commission if such approval is required; and

11 (d) collect, receive, and apply all revenues in the  
12 same manner as the issuer itself might do.

13 NEW SECTION. Section 13. Remedies. The provisions of  
14 the resolution authorizing the bonds are enforceable by any  
15 bondholder in any court of competent jurisdiction by  
16 mandamus or other appropriate proceeding.

17 NEW SECTION. Section 14. Presumptions of validity of  
18 bonds. (1) Bonds bearing the signatures of officers in  
19 office on the date of the signing of the bonds are valid  
20 obligations, notwithstanding that before the delivery of the  
21 bonds and payment for the bonds, any of the persons whose  
22 signatures appear on the bonds have ceased to be officers.

23 (2) The validity of the bonds is not dependent on the  
24 validity or regularity of any proceedings relating to the  
25 acquisition, construction, or improvement of the undertaking

1 for which the bonds are issued.

2 (3) The resolution authorizing the bonds may provide  
3 that the bonds must contain a recital that they are issued  
4 pursuant to [sections 1 through 20], which recital must be  
5 conclusive evidence of their validity and of the regularity  
6 of the issuance.

7 NEW SECTION. Section 15. Liens arising from bonds.  
8 The resolution authorizing the bonds must specify and define  
9 the revenues or portion of the undertaking's revenues that  
10 is appropriated and pledged for the security and payment of  
11 the bond principal and interest and the relative security of  
12 liens on the revenues in favor of bonds of one or more  
13 series or issues, whether issued concurrently or at  
14 different times.

15 NEW SECTION. Section 16. Security interest in  
16 undertaking. The issuer may, pursuant to a mortgage or trust  
17 indenture, grant a security interest in the undertaking  
18 itself.

19 NEW SECTION. Section 17. Details relating to revenue  
20 bonds. Bonds authorized to be issued under [sections 1  
21 through 20] shall bear interest at a rate not exceeding the  
22 limitation of 17-5-102, payable semiannually, and may be in  
23 one or more series; bear such date or dates; mature at such  
24 time or times, not exceeding 40 years from their respective  
25 dates of issuance; be payable in such place or places; carry

1 such registration privileges; be subject to such terms of  
2 redemption; be executed in such manner; contain such terms,  
3 covenants, and conditions; and be in such form, either  
4 coupon or registered, as the resolution or subsequent  
5 resolutions may provide.

6 NEW SECTION. Section 18. Sale of bonds. (1) Bonds  
7 authorized to be issued may be sold at a price less than  
8 face value if the issuer determines that the sale is in the  
9 best interests of the irrigation district.

10 (2) (a) The bonds may be sold at private sale to the  
11 United States or the state of Montana or an agency,  
12 instrumentality, or corporation thereof.

13 (b) If not sold to the United States or the state of  
14 Montana or an agency, instrumentality, or corporation  
15 thereof, the bonds must be sold at public sale after notice  
16 as provided in [section 19].

17 NEW SECTION. Section 19. Notice of sale of bonds. (1)  
18 Except as provided in subsection (2), the notice of sale of  
19 bonds required by [section 18] must be published once at  
20 least 5 days prior to such sale:

21 (a) in a newspaper of general circulation in the  
22 county in which the office of the issuer is located; and

23 (b) in a financial newspaper in New York, Chicago, or  
24 San Francisco.

25 (2) If the bond issue is in an amount of less than

1 \$150,000, the bond issue must be advertised at least 5 days  
2 prior to sale in a newspaper of general circulation  
3 throughout the state of Montana.

4 NEW SECTION. Section 20. Interim receipts or  
5 certificates. Pending the preparation of the definitive  
6 bonds, interim receipts or certificates, in a form and with  
7 provisions determined by the governing body, may be issued  
8 to the purchaser or purchasers of bonds sold pursuant to  
9 [sections 1 through 20]. The bonds and interim receipts or  
10 certificates are fully negotiable, as provided by Title 30,  
11 chapter 8.

12 Section 21. Section 85-7-1603, MCA, is amended to  
13 read:

14 "85-7-1603. Withdrawal from joint operation. Any  
15 district having entered into a written contract, as provided  
16 by this part, may withdraw from such contract upon  
17 submitting to the board of control, in writing, a 90-day  
18 notice of withdrawal, except that if revenue bonds have been  
19 issued by the board of control under [sections 1 through  
20 20], the district may not withdraw from such contract until  
21 such bonds are canceled or redeemed."

22 Section 22. Section 85-7-1612, MCA, is amended to  
23 read:

24 "85-7-1612. Board of control -- powers and duties. (1)  
25 The board of control established ~~under-and~~ by virtue-of this

1 part ~~shall--be~~ is the operating agent of the contracting  
2 districts for the operation and maintenance of irrigation  
3 and/or drainage works and the delivery of water therefrom.

4 (2) The board shall make and execute all necessary  
5 contracts; employ and appoint such agents, officers, and  
6 employees as may be required; and prescribe their duties.

7 (3) The board ~~shall-have-the-authority--and--power--to~~  
8 may institute and maintain any and all actions and  
9 proceedings and suits at law or in equity, necessary or  
10 proper in order to fully carry out the provisions of this  
11 chapter or to enforce, maintain, protect, or preserve any  
12 and all rights, privileges, and immunities created by this  
13 part or acquired in pursuance thereof. In all courts, suits,  
14 or proceedings, the board may sue, appear, and defend in  
15 person or by its attorneys and in the name of such board of  
16 control.

17 (4) The board may adopt rules and bylaws governing the  
18 calling and holding of meetings of the board; the manner of  
19 transacting business thereat; and the publishing or posting  
20 of the orders, resolutions, and proceedings of the board. ~~It~~  
21 ~~shall-be-the-duty-of-the~~ The board to shall pass or adopt  
22 bylaws and rules for the apportionment and distribution of  
23 water to the lands of the contracting districts and for the  
24 protection and preservation of the works and other property  
25 of the districts. All orders and resolutions shall be passed



1 or adopted by a majority of the members of the board of  
2 control by a "yea" and "nay" vote, to be entered upon the  
3 records of the board.

4 (5) The board of control ~~shall have power generally to~~  
5 ~~do and~~ may perform all other acts ~~as shall be~~ necessary or  
6 appropriate to fully carry out the purposes of this part.

7 (6) The board of control may plan, acquire, construct,  
8 operate, maintain, lease, and finance an undertaking through  
9 the issuance of revenue bonds, as provided in [sections 1  
10 through 20]."

11 Section 23. Section 85-7-2001, MCA, is amended to  
12 read:

13 "85-7-2001. Limitations on debt-incurring power. (1)  
14 The board of commissioners or other officers of the district  
15 may not incur any debt or liability, either by issuing bonds  
16 or otherwise, except as provided in this chapter. No  
17 irrigation district may become indebted, in any manner or  
18 for any purpose in any one year, in an amount exceeding  
19 18.75% of the assessed valuation of the district, except as  
20 provided in subsection (2).

21 (2) (a) For the purpose of organization; for any of  
22 the immediate purposes of this chapter; to make or purchase  
23 surveys, plans, and specifications; for stream gauging and  
24 gathering data; or to make any repairs occasioned by any  
25 calamity or other unforeseen contingency, the board of

1 commissioners may, in any one year, incur the indebtedness  
2 of as many dollars as there are acres in the district and  
3 may cause warrants of the district to issue therefor.

4 (b) For the purpose of organization, for any of the  
5 immediate purposes of this chapter, or to meet the expenses  
6 occasioned by any calamity or other unforeseen contingency,  
7 the board of commissioners may, in any one year, incur (in  
8 addition to the 18.75% limitation of subsection (1)) an  
9 additional indebtedness not exceeding 12.5% of the assessed  
10 valuation of the district and may cause warrants of the  
11 district to issue therefor.

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

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

18 (3) Any debt or liability incurred in excess of the  
19 limitations provided by the irrigation district laws is  
20 void.

21 (4) The limitation of subsection (1) does not apply to  
22 state or federal bonds used for a project authorized by the  
23 legislature."

24 NEW SECTION. Section 24. Codification instruction.  
25 Sections 1 through 20 are intended to be codified as an

LC 1316/01

1 integral part of Title 85, chapter 7, and the provisions of  
2 Title 85, chapter 7, apply to sections 1 through 20.  
3 NEW SECTION. Section 25. Effective date. This act is  
4 effective on passage and approval.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB326, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing a cost-of-living increase in service and disability retirement allowances and survivorship allowances for certain retired members of the Public Employees' Retirement System (PERS) or their beneficiaries; and providing an effective date.

ASSUMPTIONS:

1. As of July 1, 1986, there were 8,406 persons receiving monthly retirement benefits from PERS.
2. The average monthly benefit was \$361 per retiree; \$346 disabled retiree; \$426 per survivor.
3. Based on the 1986 actuarial valuation, the system's actuary has calculated the present value of the benefit enhancement to be \$16,924,000. The additional percentage of salary required to fund this liability over 40 years is .134% of each active member's salary.
4. If the contribution increase is not provided in this legislation, the amortization period of the unfunded liabilities of the PERS would be increased 2.19 years.
5. This bill represents a 5.5% benefit increase.
6. Current contribution rate is 12.417% of salaries.
7. Salaries are based on November, 1986, PERS payroll with no increase projected over next biennium.

FISCAL IMPACT:

The present value cost of the enhancement is \$16,924,000.

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Revenue-PERS Contribution*	\$53,538,111	\$53,538,111	\$ 0	\$53,538,111	\$53,538,111	\$ 0
Expenditures-Retirement Benefits**	36,482,172	38,488,692	2,006,520	36,482,172	38,488,692	2,006,520
Net - Trust Fund	\$17,055,939	\$15,049,419	(\$2,006,520)	\$17,055,939	\$15,049,419	(\$2,006,520)

\* Interest earnings are not projected (revenue) during next biennium.

\*\*Figures shown are for pre-July 1, 1986, retirees, only. No figures for FY87 and FY88 retirees are shown because they are not impacted by the legislation.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

None--as bill is currently written. If bill is amended to provide for increased employer contribution rate, it will cause local government employers to increase expenditures by \$2,670,210 per year each year of the next biennium.

 DATE 2/23/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

DATE \_\_\_\_\_  
 JACK HAFHEY, PRIMARY SPONSOR

Fiscal Note for SB326, as introduced.

513 326

Fiscal Note Request, SB326, as introduced.

Form BD-15

Page 2

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

As written, the bill will increase the unfunded liabilities of the retirement system; an additional 2.19 years would be required to amortize the resulting unfunded liabilities of the system. The unfunded liability will remain less than 40 years which is the standard for solvency in public retirement systems. If the bill is amended to increase the employer contribution rates in order to pay for this benefit increase, employer contribution rates must increase by .134% for a total required rate of 6.551%.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

If a contribution rate increase is amended into the bill, this bill should be coordinated with HB229 which also impacts employer contribution rates in the event that both bills should be approved.

SB 326

SB 0327/02  
COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION  
RECOMMEND DO NOT PASS  
ON MOTION, PRINTED AND  
PLACED ON SECOND READING

SENATE BILL NO. 327

INTRODUCED BY YELLOWTAIL, MANUEL, THOFT,  
BISHOP, IVERSON, PINSONEAULT, GRADY, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IRRIGATION DISTRICTS TO ISSUE REVENUE BONDS TO FUND IRRIGATION PROJECTS AND SMALL POWER PRODUCTION FACILITIES; AMENDING SECTIONS 85-7-1603, 85-7-1612, AND 85-7-2001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 20] may be cited as the "Irrigation District Revenue Bond Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 20], unless the context requires otherwise, the following definitions apply:

(1) "Irrigation district" means a district created pursuant to Title 85, chapter 7, part 1.

(2) "Issuer" means the board of commissioners of an irrigation district or a board of control created pursuant to Title 85, chapter 7, part 16.

(3) "Revenues" means any fees, charges, rates, rents, or lease payments.

(4) "Undertaking" means any one or a combination of

the following:

(a) water sources, water rights, irrigation canals, irrigation systems, including pumping facilities or gravity measure systems, reservoirs, reservoir sites, or--works--for the--generation--and--distribution--of--electricity OR SMALL POWER PRODUCTION FACILITIES CERTIFIED BY THE FEDERAL ENERGY REGULATORY COMMISSION AND ASSOCIATED WITH FEDERAL RECLAMATION PROJECTS;

(b) any real or personal property or water rights related to or necessary to provide, operate, and maintain an undertaking listed in subsection (4)(a).

NEW SECTION. Section 3. Interpretation. (1) The powers conferred in [sections 1 through 20] are in addition to the powers conferred by any other general, special, or local law.

(2) An undertaking may be acquired, constructed, or improved, and bonds may be issued under [sections 1 through 20] for such purposes, notwithstanding that--any--general, special, or local law may provide for the acquisition, construction, or improvement of a like undertaking or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law, including but not limited to any requirement for the approval by the voters of an irrigation district THE PROVISIONS OF TITLE 85, CHAPTER



1 7.

2 (3) If the provisions of [sections 1 through 20] are  
3 inconsistent with the provisions of ~~any other law~~ TITLE 85,  
4 CHAPTER 7, the provisions of [sections 1 through 20]  
5 control.

6 NEW SECTION. Section 4. Authority to acquire,  
7 construct, maintain, operate, and lease various  
8 undertakings. (1) An irrigation district may:

9 (A) construct, acquire by gift, purchase, or the  
10 exercise of the right of eminent domain, SUBJECT TO THE  
11 PROVISIONS OF TITLE 70, CHAPTER 30, or improve any  
12 undertaking, within or outside the irrigation district and  
13 acquire by gift, purchase, or the exercise of the right of  
14 eminent domain land or rights in land or water rights in  
15 connection with the undertaking;

16 (B) operate and maintain or enter into a contract  
17 for the operation and maintenance of any undertaking and  
18 furnish or enter into a contract for the furnishing of  
19 services, facilities, and commodities of the undertaking for  
20 its own use and for the use of public and private consumers  
21 within or outside the territorial boundaries of the  
22 irrigation district; and

23 (C) lease any undertaking to a private or  
24 governmental entity.

25 (2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PERMIT

1 AN IRRIGATION DISTRICT TO CONDEMN ANY PROPERTY OWNED OR  
2 CONTROLLED BY A RURAL ELECTRIC COOPERATIVE OR A UTILITY,  
3 WHETHER PUBLICLY OR PRIVATELY OWNED. AN IRRIGATION DISTRICT  
4 IS EXPRESSLY PROHIBITED FROM CONDEMNING SUCH PROPERTY.

5 NEW SECTION. Section 5. Joint undertakings.  
6 Irrigation districts, through their respective boards of  
7 commissioners, may enter into contracts to jointly plan,  
8 acquire, construct, operate, maintain, and finance any  
9 undertaking in accordance with Title 85, chapter 7, part 16.  
10 The contract must specify, if an undertaking is financed  
11 under [sections 1 through 20]:

12 (1) that the contract cannot be terminated prior to  
13 the redemption or cancellation of any bonds issued under it;  
14 and

15 (2) the manner of disposing of the undertaking upon  
16 termination of the contract.

17 NEW SECTION. Section 6. Authority to issue revenue  
18 bonds. An irrigation district may:

19 (1) issue its bonds to finance in whole or in part the  
20 acquisition, construction, or improvement of any  
21 undertaking; and

22 (2) pledge to the punctual payment of bonds issued  
23 under [sections 1 through 20] and interest thereon an amount  
24 of the revenue of the undertaking (including subsequent  
25 improvements or extensions) or of any part of the revenue of

1 such undertaking sufficient to pay the bonds and interest as  
 2 they become due, with such amount consisting of all or any  
 3 part of such revenue, and maintain reasonable reserves  
 4 therefor.

5 NEW SECTION. Section 7. Determination of cost. An  
 6 issuer, in determining costs for purposes of [section 6],  
 7 may include:

8 (1) all costs and estimated costs of the issuance of  
 9 the bonds;

10 (2) all engineering, inspection, fiscal, and legal  
 11 expenses; and

12 (3) interest that it estimates will accrue during the  
 13 construction period and for 6 months thereafter on money  
 14 borrowed or that it estimates will be borrowed.

15 NEW SECTION. Section 8. Nature of revenue bonds. (1)  
 16 No holder of any bonds issued under [sections 1 through 20]  
 17 may compel the levy of any tax or assessment on property  
 18 within the irrigation district to pay the bonds or interest  
 19 thereon.

20 (2) Each bond issued under [sections 1 through 20]  
 21 must recite in substance that:

22 (a) the bond, including interest thereon, is payable  
 23 from the revenue pledged to the payment thereof or any other  
 24 security pledged therefor, including a lien on the  
 25 undertaking; and

1 (b) the bond does not constitute a debt of the  
 2 irrigation district within the meaning of any constitutional  
 3 or statutory limitation or provision.

4 NEW SECTION. Section 9. Undertakings to be  
 5 self-supporting. (1) An issuer issuing bonds pursuant to  
 6 [sections 1 through 20] shall collect reasonable fees for  
 7 the services, facilities, and commodities of the undertaking  
 8 and shall revise the fees from time to time so that the  
 9 undertaking remains self-supporting.

10 (2) The fees prescribed must produce revenue at least  
 11 sufficient to:

12 (a) pay when due all bonds and interest thereon for  
 13 which the revenue is pledged, including reserves; and

14 (b) provide for all expenses of operation and  
 15 maintenance of the undertaking, including reserves.

16 NEW SECTION. Section 10. Use of revenue from  
 17 undertaking. (1) An issuer of bonds pursuant to [sections 1  
 18 through 20] for the acquisition, construction, or  
 19 improvement of any undertaking may apply the revenue of the  
 20 undertaking for the following purposes:

21 (a) to pay when due all bonds and interest thereon for  
 22 which the revenue is pledged, including reserves;

23 (b) to provide for all expenses of operation and  
 24 maintenance of the undertaking, including reserves;

25 (c) to pay and discharge notes, bonds, or other

1 obligations and interest thereon not issued under [sections  
2 1 through 20] for which the revenue of the undertaking is  
3 pledged;

4 (d) to pay and discharge notes, bonds, or other  
5 obligations and interest thereon that do not constitute a  
6 lien or encumbrance on the revenue of the undertaking and  
7 which were issued for the purpose of financing the  
8 acquisition, construction, or improvement of the  
9 undertaking; and

10 (e) to provide a reserve for improvements to the  
11 undertaking.

12 (2) Unless adequate provision has been made for the  
13 purposes listed in subsection (1), no irrigation district  
14 may transfer the revenue of the undertaking to its general  
15 fund.

16 NEW SECTION. Section 11. Authorization for  
17 undertaking and issuance of bonds. (1) The acquisition,  
18 construction, or improvement of any undertaking may be  
19 authorized under [sections 1 through 20].

20 (2) Bonds may be authorized to be issued under  
21 [sections 1 through 20] by resolution of the governing body  
22 of the issuer without an election.

23 NEW SECTION. Section 12. Covenants in resolution  
24 authorizing issuance of bonds. A resolution authorizing the  
25 issuance of bonds under [sections 1 through 20] may contain

1 covenants relating to:

2 (1) the purposes for which the proceeds of sale of the  
3 bonds may be applied and the use and disposition of the  
4 proceeds;

5 (2) the use and disposition of the revenue of the  
6 undertaking for which the bonds are to be issued, including  
7 the creation and maintenance of reserves;

8 (3) the issuance of other or additional bonds payable  
9 from the revenue of the undertaking;

10 (4) the operation and maintenance of the undertaking;

11 (5) the insurance to be carried on the undertaking and  
12 the use and disposition of insurance money;

13 (6) books of account and the inspection and audit of  
14 the books; and

15 (7) the terms and conditions upon which the holders of  
16 the bonds or any portion of them or any trustee is entitled  
17 to the appointment of a receiver by the district court,  
18 which court shall have jurisdiction in such proceedings and  
19 which receiver may:

20 (a) enter and take possession of the undertaking;

21 (b) operate and maintain the undertaking;

22 (c) prescribe fees, subject to the approval of the  
23 public service commission if such approval is required; and

24 (d) collect, receive, and apply all revenues in the  
25 same manner as the issuer itself might do.



1 NEW SECTION. Section 13. Remedies. The provisions of  
2 the resolution authorizing the bonds are enforceable by any  
3 bondholder in any court of competent jurisdiction by  
4 mandamus or other appropriate proceeding.

5 NEW SECTION. Section 14. Presumptions of validity of  
6 bonds. (1) Bonds bearing the signatures of officers in  
7 office on the date of the signing of the bonds are valid  
8 obligations, notwithstanding that before the delivery of the  
9 bonds and payment for the bonds, any of the persons whose  
10 signatures appear on the bonds have ceased to be officers.

11 (2) The validity of the bonds is not dependent on the  
12 validity or regularity of any proceedings relating to the  
13 acquisition, construction, or improvement of the undertaking  
14 for which the bonds are issued.

15 (3) The resolution authorizing the bonds may provide  
16 that the bonds must contain a recital that they are issued  
17 pursuant to [sections 1 through 20], which recital must be  
18 conclusive evidence of their validity and of the regularity  
19 of the issuance.

20 NEW SECTION. Section 15. Liens arising from bonds.  
21 The resolution authorizing the bonds must specify and define  
22 the revenues or portion of the undertaking's revenues that  
23 is appropriated and pledged for the security and payment of  
24 the bond principal and interest and the relative security of  
25 liens on the revenues in favor of bonds of one or more

1 series or issues, whether issued concurrently or at  
2 different times.

3 NEW SECTION. Section 16. Security interest in  
4 undertaking. The issuer may, pursuant to a mortgage or,  
5 trust indenture, OR SECURITY AGREEMENT, grant a security  
6 interest in the REAL AND PERSONAL PROPERTY CONSTITUTING THE  
7 undertaking itself.

8 NEW SECTION. Section 17. Details relating to revenue  
9 bonds. Bonds authorized to be issued under [sections 1  
10 through 20] shall bear interest at a rate not exceeding the  
11 limitation of 17-5-102, payable semiannually, and may be in  
12 one or more series; bear such date or dates; mature at such  
13 time or times, not exceeding 40 years from their respective  
14 dates of issuance; be payable in such place or places; carry  
15 such registration privileges; be subject to such terms of  
16 redemption; be executed in such manner; contain such terms,  
17 covenants, and conditions; and be in such form, either  
18 coupon or registered, as the resolution or subsequent  
19 resolutions may provide.

20 NEW SECTION. Section 18. Sale of bonds. (1) Bonds  
21 authorized to be issued may be sold at a price less than  
22 face value if the issuer determines that the sale is in the  
23 best interests of the irrigation district.

24 (2) (a) The bonds may be sold at private sale to the  
25 United States or the state of Montana or an agency,

1 instrumentality, or corporation thereof.

2 (b) If not sold to the United States or the state of  
3 Montana or an agency, instrumentality, or corporation  
4 thereof, the bonds must be sold at public sale after notice  
5 as provided in [section 19].

6 NEW SECTION. Section 19. Notice of sale of bonds. (1)  
7 Except as provided in subsection (2), the notice of sale of  
8 bonds required by [section 18] must be published once at  
9 least 5 days prior to such sale:

10 (a) in a newspaper of general circulation in the  
11 county in which the office of the issuer is located; and

12 (b) in a financial newspaper in New York, Chicago, or  
13 San Francisco.

14 (2) If the bond issue is in an amount of less than  
15 \$150,000, the bond issue must be advertised at least 5 days  
16 prior to sale in a newspaper of general circulation  
17 throughout the state of Montana.

18 NEW SECTION. Section 20. Interim receipts or  
19 certificates. Pending the preparation of the definitive  
20 bonds, interim receipts or certificates, in a form and with  
21 provisions determined by the governing body, may be issued  
22 to the purchaser or purchasers of bonds sold pursuant to  
23 [sections 1 through 20]. The bonds and interim receipts or  
24 certificates are fully negotiable, as provided by Title 30,  
25 chapter 8.

1 Section 21. Section 85-7-1603, MCA, is amended to  
2 read:

3 "85-7-1603. Withdrawal from joint operation. Any  
4 district having entered into a written contract, as provided  
5 by this part, may withdraw from such contract upon  
6 submitting to the board of control, in writing, a 90-day  
7 notice of withdrawal, except that if revenue bonds have been  
8 issued by the board of control under [sections 1 through  
9 20], the district may not withdraw from such contract until  
10 such bonds are canceled or redeemed."

11 Section 22. Section 85-7-1612, MCA, is amended to  
12 read:

13 "85-7-1612. Board of control -- powers and duties. (1)  
14 The board of control established ~~under-and~~ by virtue of this  
15 part ~~shall-be~~ is the operating agent of the contracting  
16 districts for the operation and maintenance of irrigation  
17 and/or drainage works and the delivery of water therefrom.

18 (2) The board shall make and execute all necessary  
19 contracts; employ and appoint such agents, officers, and  
20 employees as may be required; and prescribe their duties.

21 (3) The board ~~shall--have-the-authority-and-power-to~~  
22 may institute and maintain any and all actions and  
23 proceedings and suits at law or in equity, necessary or  
24 proper in order to fully carry out the provisions of this  
25 chapter or to enforce, maintain, protect, or preserve any

1 and all rights, privileges, and immunities created by this  
 2 part or acquired in pursuance thereof. In all courts, suits,  
 3 or proceedings, the board may sue, appear, and defend in  
 4 person or by its attorneys and in the name of such board of  
 5 control.

6 (4) The board may adopt rules and bylaws governing the  
 7 calling and holding of meetings of the board; the manner of  
 8 transacting business thereat; and the publishing or posting  
 9 of the orders, resolutions, and proceedings of the board. ~~It~~  
 10 ~~shall--be--the--duty-of-the~~ The board to shall pass or adopt  
 11 bylaws and rules for the apportionment and distribution of  
 12 water to the lands of the contracting districts and for the  
 13 protection and preservation of the works and other property  
 14 of the districts. All orders and resolutions shall be passed  
 15 or adopted by a majority of the members of the board of  
 16 control by a "yea" and "nay" vote, to be entered upon the  
 17 records of the board.

18 (5) The board of control ~~shall-have-power-generally-to~~  
 19 ~~do--and~~ may perform all other acts ~~as-shall-be~~ necessary or  
 20 appropriate to fully carry out the purposes of this part.

21 (6) The board of control may plan, acquire, construct,  
 22 operate, maintain, lease, and finance an undertaking through  
 23 the issuance of revenue bonds, as provided in [sections 1  
 24 through 20]."

25 Section 23. Section 85-7-2001, MCA, is amended to

1 read:

2 "85-7-2001. Limitations on debt-incurring power. (1)  
 3 The board of commissioners or other officers of the district  
 4 may not incur any debt or liability, either by issuing bonds  
 5 or otherwise, except as provided in this chapter. No  
 6 irrigation district may become indebted, in any manner or  
 7 for any purpose in any one year, in an amount exceeding  
 8 18.75% of the assessed valuation of the district, except as  
 9 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 18.75% limitation of subsection (1)) an  
 23 additional indebtedness not exceeding 12.5% 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 (4) The limitation of subsection (1) does not apply to  
11 state or federal bonds used for a project authorized by the  
12 legislature."

13 NEW SECTION. Section 24. Codification instruction.  
14 Sections 1 through 20 are intended to be codified as an  
15 integral part of Title 85, chapter 7, and the provisions of  
16 Title 85, chapter 7, apply to sections 1 through 20.

17 NEW SECTION. Section 25. Effective date. This act is  
18 effective on passage and approval.

-End-

SENATE BILL NO. 327

INTRODUCED BY YELLOWTAIL, MANUEL, THOFT,  
BISHOP, IVERSON, PINSONEAULT, GRADY, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IRRIGATION DISTRICTS TO ISSUE REVENUE BONDS TO FUND IRRIGATION PROJECTS AND SMALL POWER PRODUCTION FACILITIES; AMENDING SECTIONS 85-7-1603, 85-7-1612, AND 85-7-2001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 20] may be cited as the "Irrigation District Revenue Bond Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 20], unless the context requires otherwise, the following definitions apply:

- (1) "Irrigation district" means a district created pursuant to Title 85, chapter 7, part 1.
- (2) "Issuer" means the board of commissioners of an irrigation district or a board of control created pursuant to Title 85, chapter 7, part 16.
- (3) "Revenues" means any fees, charges, rates, rents, or lease payments.
- (4) "Undertaking" means any one or a combination of

the following:

(a) water sources, water rights, irrigation canals, irrigation systems, including pumping facilities or gravity measure systems, reservoirs, reservoir sites, or ~~works for the generation and distribution of electricity~~ OR SMALL POWER PRODUCTION FACILITIES THAT ARE:

(I) CERTIFIED AS SUCH BY THE FEDERAL ENERGY REGULATORY COMMISSION; AND

(II) ARE ASSOCIATED WITH FEDERAL RECLAMATION PROJECTS;

(b) any real or personal property or water rights related to or necessary to provide, operate, and maintain an undertaking listed in subsection (4)(a).

NEW SECTION. Section 3. Interpretation. (1) The powers conferred in [sections 1 through 20] are in addition to the powers conferred by any other general, special, or local law.

(2) An undertaking may be acquired, constructed, or improved, and bonds may be issued under [sections 1 through 20] for such purposes, notwithstanding that ~~any general, special, or local law may provide for the acquisition, construction, or improvement of a like undertaking or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law, including but not limited to any requirement for the approval by the voters of~~



1 ~~an irrigation district~~ THE PROVISIONS OF TITLE 85, CHAPTER  
2 7.

3 (3) If the provisions of [sections 1 through 20] are  
4 inconsistent with the provisions of ~~any other law~~ TITLE 85,  
5 CHAPTER 7, the provisions of [sections 1 through 20]  
6 control.

7 NEW SECTION. Section 4. Authority to acquire,  
8 construct, maintain, operate, and lease various  
9 undertakings. (1) An irrigation district may:

10 ~~(1)(A)~~ (1)(A) construct, acquire by gift, purchase, or the  
11 ~~exercise of the right of eminent domain, subject to the~~  
12 ~~provisions of Title 70, Chapter 30~~ LEASE, or improve any  
13 undertaking, within or outside the irrigation district and  
14 acquire by gift, purchase, ~~or the exercise of the right of~~  
15 ~~eminent domain~~ OR LEASE land or rights in land or water  
16 rights in connection with the undertaking;

17 ~~(2)(B)~~ (2)(B) operate and maintain or enter into a contract  
18 for the operation and maintenance of any undertaking and  
19 furnish or enter into a contract for the furnishing of  
20 services, facilities, and commodities of the undertaking for  
21 its own use and for the use of public and private consumers  
22 within or outside the territorial boundaries of the  
23 irrigation district, ~~and.~~ HOWEVER, AN IRRIGATION DISTRICT  
24 MAY NOT FURNISH OR ENTER INTO A CONTRACT FOR THE FURNISHING  
25 OF ELECTRICAL ENERGY OR CAPACITY EXCEPT TO A QUALIFIED

1 PURCHASER UNDER THE PUBLIC UTILITY REGULATORY POLICY ACT OF  
2 1978.

3 ~~(3)(C)~~ (3)(C) lease any undertaking to a private or  
4 governmental entity.

5 (2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PERMIT  
6 AN IRRIGATION DISTRICT TO CONDEMN ANY PROPERTY OWNED OR  
7 CONTROLLED BY A RURAL ELECTRIC COOPERATIVE OR A UTILITY,  
8 WHETHER PUBLICLY OR PRIVATELY OWNED. AN IRRIGATION DISTRICT  
9 IS EXPRESSLY PROHIBITED FROM CONDEMNING SUCH PROPERTY.

10 NEW SECTION. Section 5. Joint undertakings.  
11 Irrigation districts, through their respective boards of  
12 commissioners, may enter into contracts to jointly plan,  
13 acquire, construct, operate, maintain, and finance any  
14 undertaking in accordance with Title 85, chapter 7, part 16.  
15 The contract must specify, if an undertaking is financed  
16 under [sections 1 through 20]:

17 (1) that the contract cannot be terminated prior to  
18 the redemption or cancellation of any bonds issued under it;  
19 and

20 (2) the manner of disposing of the undertaking upon  
21 termination of the contract.

22 NEW SECTION. Section 6. Authority to issue revenue  
23 bonds. An irrigation district may:

24 (1) issue its bonds to finance in whole or in part the  
25 acquisition, construction, or improvement of any

1 undertaking; and

2 (2) pledge to the punctual payment of bonds issued  
3 under [sections 1 through 20] and interest thereon an amount  
4 of the revenue of the undertaking (including subsequent  
5 improvements or extensions) or of any part of the revenue of  
6 such undertaking sufficient to pay the bonds and interest as  
7 they become due, with such amount consisting of all or any  
8 part of such revenue, and maintain reasonable reserves  
9 therefor.

10 NEW SECTION. Section 7. Determination of cost. An  
11 issuer, in determining costs for purposes of [section 6],  
12 may include:

13 (1) all costs and estimated costs of the issuance of  
14 the bonds;

15 (2) all engineering, inspection, fiscal, and legal  
16 expenses; and

17 (3) interest that it estimates will accrue during the  
18 construction period and for 6 months thereafter on money  
19 borrowed or that it estimates will be borrowed.

20 NEW SECTION. Section 8. Nature of revenue bonds. (1)  
21 No holder of any bonds issued under [sections 1 through 20]  
22 may compel the levy of any tax or assessment on property  
23 within the irrigation district to pay the bonds or interest  
24 thereon.

25 (2) Each bond issued under [sections 1 through 20]

1 must recite in substance that:

2 (a) the bond, including interest thereon, is payable  
3 from the revenue pledged to the payment thereof or any other  
4 security pledged therefor, including a lien on the  
5 undertaking; and

6 (b) the bond does not constitute a debt of the  
7 irrigation district within the meaning of any constitutional  
8 or statutory limitation or provision.

9 NEW SECTION. Section 9. Undertakings to be  
10 self-supporting. (1) An issuer issuing bonds pursuant to  
11 [sections 1 through 20] shall collect reasonable fees for  
12 the services, facilities, and commodities of the undertaking  
13 and shall revise the fees from time to time so that the  
14 undertaking remains self-supporting.

15 (2) The fees prescribed must produce revenue at least  
16 sufficient to:

17 (a) pay when due all bonds and interest thereon for  
18 which the revenue is pledged, including reserves; and

19 (b) provide for all expenses of operation and  
20 maintenance of the undertaking, including reserves.

21 NEW SECTION. Section 10. Use of revenue from  
22 undertaking. (1) An issuer of bonds pursuant to [sections 1  
23 through 20] for the acquisition, construction, or  
24 improvement of any undertaking may apply the revenue of the  
25 undertaking for the following purposes:

1 (a) to pay when due all bonds and interest thereon for  
2 which the revenue is pledged, including reserves;

3 (b) to provide for all expenses of operation and  
4 maintenance of the undertaking, including reserves;

5 (c) to pay and discharge notes, bonds, or other  
6 obligations and interest thereon not issued under [sections  
7 1 through 20] for which the revenue of the undertaking is  
8 pledged;

9 (d) to pay and discharge notes, bonds, or other  
10 obligations and interest thereon that do not constitute a  
11 lien or encumbrance on the revenue of the undertaking and  
12 which were issued for the purpose of financing the  
13 acquisition, construction, or improvement of the  
14 undertaking; and

15 (e) to provide a reserve for improvements to the  
16 undertaking.

17 (2) Unless adequate provision has been made for the  
18 purposes listed in subsection (1), no irrigation district  
19 may transfer the revenue of the undertaking to its general  
20 fund.

21 NEW SECTION. Section 11. Authorization for  
22 undertaking and issuance of bonds. (1) The acquisition,  
23 construction, or improvement of any undertaking may be  
24 authorized under [sections 1 through 20].

25 (2) Bonds may be authorized to be issued under

1 [sections 1 through 20] by resolution of the governing body  
2 of the issuer without an election.

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4 authorizing issuance of bonds. A resolution authorizing the  
5 issuance of bonds under [sections 1 through 20] may contain  
6 covenants relating to:

7 (1) the purposes for which the proceeds of sale of the  
8 bonds may be applied and the use and disposition of the  
9 proceeds;

10 (2) the use and disposition of the revenue of the  
11 undertaking for which the bonds are to be issued, including  
12 the creation and maintenance of reserves;

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14 from the revenue of the undertaking;

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17 the use and disposition of insurance money;

18 (6) books of account and the inspection and audit of  
19 the books; and

20 (7) the terms and conditions upon which the holders of  
21 the bonds or any portion of them or any trustee is entitled  
22 to the appointment of a receiver by the district court,  
23 which court shall have jurisdiction in such proceedings and  
24 which receiver may:

25 (a) enter and take possession of the undertaking;



1 (b) operate and maintain the undertaking;

2 (c) prescribe fees, subject to the approval of the  
3 public service commission if such approval is required; and

4 (d) collect, receive, and apply all revenues in the  
5 same manner as the issuer itself might do.

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7 the resolution authorizing the bonds are enforceable by any  
8 bondholder in any court of competent jurisdiction by  
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11 bonds. (1) Bonds bearing the signatures of officers in  
12 office on the date of the signing of the bonds are valid  
13 obligations, notwithstanding that before the delivery of the  
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15 signatures appear on the bonds have ceased to be officers.

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17 validity or regularity of any proceedings relating to the  
18 acquisition, construction, or improvement of the undertaking  
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19 dates of issuance; be payable in such place or places; carry  
20 such registration privileges; be subject to such terms of  
21 redemption; be executed in such manner; contain such terms,  
22 covenants, and conditions; and be in such form, either  
23 coupon or registered, as the resolution or subsequent  
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2 face value if the issuer determines that the sale is in the  
3 best interests of the irrigation district.

4 (2) (a) The bonds may be sold at private sale to the  
5 United States or the state of Montana or an agency,  
6 instrumentality, or corporation thereof.

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10 as provided in [section 19].

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12 Except as provided in subsection (2), the notice of sale of  
13 bonds required by [section 18] must be published once at  
14 least 5 days prior to such sale:

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16 county in which the office of the issuer is located; and

17 (b) in a financial newspaper in New York, Chicago, or  
18 San Francisco.

19 (2) If the bond issue is in an amount of less than  
20 \$150,000, the bond issue must be advertised at least 5 days  
21 prior to sale in a newspaper of general circulation  
22 throughout the state of Montana.

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24 certificates. Pending the preparation of the definitive  
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1 provisions determined by the governing body, may be issued  
2 to the purchaser or purchasers of bonds sold pursuant to  
3 [sections 1 through 20]. The bonds and interim receipts or  
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11 submitting to the board of control, in writing, a 90-day  
12 notice of withdrawal, except that if revenue bonds have been  
13 issued by the board of control under [sections 1 through  
14 20], the district may not withdraw from such contract until  
15 such bonds are canceled or redeemed."

16 Section 22. Section 85-7-1612, MCA, is amended to  
17 read:

18 "85-7-1612. Board of control -- powers and duties. (1)  
19 The board of control established under ~~and~~ by virtue of this  
20 part ~~shall--be~~ is the operating agent of the contracting  
21 districts for the operation and maintenance of irrigation  
22 and/or drainage works and the delivery of water therefrom.

23 (2) The board shall make and execute all necessary  
24 contracts; employ and appoint such agents, officers, and  
25 employees as may be required; and prescribe their duties.

1           (3) The board ~~shall have the authority and power to~~  
 2 may institute and maintain any and all actions and  
 3 proceedings and suits at law or in equity, necessary or  
 4 proper in order to fully carry out the provisions of this  
 5 chapter or to enforce, maintain, protect, or preserve any  
 6 and all rights, privileges, and immunities created by this  
 7 part or acquired in pursuance thereof. In all courts, suits,  
 8 or proceedings, the board may sue, appear, and defend in  
 9 person or by its attorneys and in the name of such board of  
 10 control.

11           (4) The board may adopt rules and bylaws governing the  
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 16 bylaws and rules for the apportionment and distribution of  
 17 water to the lands of the contracting districts and for the  
 18 protection and preservation of the works and other property  
 19 of the districts. All orders and resolutions shall be passed  
 20 or adopted by a majority of the members of the board of  
 21 control by a "yea" and "nay" vote, to be entered upon the  
 22 records of the board.

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1           (6) The board of control may plan, acquire, construct,  
 2 operate, maintain, lease, and finance an undertaking through  
 3 the issuance of revenue bonds, as provided in [sections 1  
 4 through 20]."

5           Section 23. Section 85-7-2001, MCA, is amended to  
 6 read:

7           "85-7-2001. Limitations on debt-incurring power. (1)  
 8 The board of commissioners or other officers of the district  
 9 may not incur any debt or liability, either by issuing bonds  
 10 or otherwise, except as provided in this chapter. No  
 11 irrigation district may become indebted, in any manner or  
 12 for any purpose in any one year, in an amount exceeding  
 13 18.75% of the assessed valuation of the district, except as  
 14 provided in subsection (2).

15           (2) (a) For the purpose of organization; for any of  
 16 the immediate purposes of this chapter; to make or purchase  
 17 surveys, plans, and specifications; for stream gauging and  
 18 gathering data; or to make any repairs occasioned by any  
 19 calamity or other unforeseen contingency, the board of  
 20 commissioners may, in any one year, incur the indebtedness  
 21 of as many dollars as there are acres in the district and  
 22 may cause warrants of the district to issue therefor.

23           (b) For the purpose of organization, for any of the  
 24 immediate purposes of this chapter, or to meet the expenses  
 25 occasioned by any calamity or other unforeseen contingency,

1 the board of commissioners may, in any one year, incur (in  
2 addition to the 18.75% limitation of subsection (1)) an  
3 additional indebtedness not exceeding 12.5% of the assessed  
4 valuation of the district and may cause warrants of the  
5 district to issue therefor.

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

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

12 (3) Any debt or liability incurred in excess of the  
13 limitations provided by the irrigation district laws is  
14 void.

15 (4) The limitation of subsection (1) does not apply to  
16 state or federal bonds used for a project authorized by the  
17 legislature."

18 NEW SECTION. Section 24. Codification instruction.  
19 Sections 1 through 20 are intended to be codified as an  
20 integral part of Title 85, chapter 7, and the provisions of  
21 Title 85, chapter 7, apply to sections 1 through 20.

22 NEW SECTION. Section 25. Effective date. This act is  
23 effective on passage and approval.

-End-

SENATE BILL NO. 327

INTRODUCED BY YELLOWTAIL, MANUEL, THOFT,  
BISHOP, IVERSON, PINSONEAULT, GRADY, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IRRIGATION  
DISTRICTS TO ISSUE REVENUE BONDS TO FUND IRRIGATION PROJECTS  
AND SMALL POWER PRODUCTION FACILITIES; AMENDING SECTIONS  
85-7-1603, 85-7-1612, AND 85-7-2001, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1  
through 20] may be cited as the "Irrigation District Revenue  
Bond Act".

NEW SECTION. Section 2. Definitions. As used in  
[sections 1 through 20], unless the context requires  
otherwise, the following definitions apply:

(1) "Irrigation district" means a district created  
pursuant to Title 85, chapter 7, part 1.

(2) "Issuer" means the board of commissioners of an  
irrigation district or a board of control created pursuant  
to Title 85, chapter 7, part 16.

(3) "Revenues" means any fees, charges, rates, rents,  
or lease payments.

(4) "Undertaking" means any one or a combination of

THERE ARE NO CHANGES ON SB 327 AND  
WILL NOT BE REPRINTED. PLEASE  
REFER TO THIRD READING (BLUE) BILL  
FOR COMPLETE TEXT.

REFERENCE BILL

SB 327

