

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE SAFETY OF IRRIGATION
5 STRUCTURES AND FACILITIES; REVISING LIMITS OF LIABILITY FOR OWNERS OR OPERATORS OF
6 IRRIGATION STRUCTURES AND FACILITIES; LIMITING GOVERNMENTAL LIABILITY; AND AMENDING
7 SECTIONS 85-7-2211 AND 85-7-2212, MCA."

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

10
11 **Section 1.** Section 85-7-2211, MCA, is amended to read:

12 **"85-7-2211. Irrigation ditches -- duties relating to safety.** An irrigation district or private person or
13 entity owning or operating irrigation diversions, aqueducts, canals, ditches, drains, flumes, headgates, siphons,
14 or other water conveyance structures or infrastructure ~~must~~ shall keep ~~irrigation ditches~~ these structures and
15 infrastructure in good general repair and condition, ~~but for.~~ For the purpose of protecting persons and property
16 from injury or damage, the irrigation district, private person, or entity has no duty to:

- 17 (1) erect fences or other security measures;
- 18 (2) install grates or other protective devices where ~~a ditch~~ conveyed water goes underground or under
19 a bridge or other object; or
- 20 (3) prevent access to ~~ditches~~ water conveyance structures or facilities by persons or animals."

21
22 **Section 2.** Section 85-7-2212, MCA, is amended to read:

23 **"85-7-2212. Irrigation ditches -- ~~nonliabilities~~ limits of liability.** An irrigation district or private
24 person or entity owning or operating irrigation diversions, aqueducts, canals, ditches, drains, flumes,
25 headgates, siphons, or other water conveyance structures or infrastructure is not liable for:

- 26 (1) personal injury or property damage resulting from floodwaters caused by rainfall or other weather
27 conditions or acts of nature;
- 28 (2) personal injury or property damage occurring on another's land and caused by water seepage that

1 existed or began before the injured person first arrived on or obtained an interest in the land or before the
2 damaged property was first placed on the land, if the seepage does not carry toxic chemicals onto the land;
3 (3) injury to a person or property while, without authorization of the district or private person or entity,
4 the person or property is on land or water controlled by the district or private person or entity, unless the
5 irrigation district or private person or entity engaged in willful or wanton misconduct; or
6 (4) death of a person or animal from ~~a-drowning~~ or other causes, unless the irrigation district or
7 private person or entity was grossly negligent or engaged in willful or wanton misconduct."

8
9 NEW SECTION. Section 3. Two-thirds vote required. Because [section 2] limits governmental
10 liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each
11 house of the legislature for passage.

12 - END -