

1 Senate BILL NO. 337  
 2 INTRODUCED BY Roberts

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
 5 89-702 AND 89-702.1, R.C.M. 1947, TO CLEARLY PROVIDE THAT  
 6 ALL DAMS, DIRES, AND RESERVOIRS ARE INCLUDED IN SAID  
 7 SECTIONS; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

8 Dept. of Natural Resources

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10 Section 1. Section 89-702, R.C.M. 1947, is amended to  
 11 read as follows:

12 "89-702. Dams, and dikes, and reservoirs to be  
 13 constructed in a secure manner -- proceedings upon complaint  
 14 of insecurity. (1) A person, association, or corporation may  
 15 not construct, or cause to be constructed, a dam, or dike,  
 16 or reservoir for the purpose of accumulating, storing,  
 17 appropriating, or diverting any of the waters of this state,  
 18 except in a thorough, secure, and substantial manner.

19 (2) The department of natural resources and  
 20 conservation may at any time on its own motion, and it  
 21 shall, upon complaint on oath being made to the department  
 22 by three (3) or more persons residing or having property in  
 23 such location, that their homes or property would be in  
 24 danger of destruction or damage in event of flood occurring  
 25 on account of the breaking of any dam, or dike, of any or

1 reservoir within the state, and that they have reason to  
 2 believe said dam, dike or reservoir is in an unsafe  
 3 condition, or that it is diverting or is being filled with  
 4 water to such an extent as to render it unsafe, immediately  
 5 examine, or cause to be examined, the dam, dike or  
 6 reservoir. If, upon the examination, the department finds  
 7 that the dam, dike or reservoir is unsafe, or is diverting  
 8 or is being filled with water to such an extent as to render  
 9 it unsafe, it shall notify the county attorney of the county  
 10 in which the dam, dike or reservoir is located, setting  
 11 forth its findings; and the county attorney shall  
 12 immediately take the necessary steps to abate the danger and  
 13 make the structure safe.

14 (3) If either party is dissatisfied with the findings  
 15 of the department, it may appeal to the district court of  
 16 the district wherein the dam, dike or reservoir is located,  
 17 and the court shall hear and determine the matter at the  
 18 earliest practical time, subject to the right of either  
 19 party to appeal as in other civil cases; however, the  
 20 judgment of the department shall control until the final  
 21 determination of the case."

22 Section 2. Section 89-702.1, R.C.M. 1947, is amended  
 23 to read as follows:

24 "89-702.1. Jurisdiction of department. Jurisdiction of  
 25 the department under section 89-702 applies to any dam, or

1 dike, or reservoir which does or will impound or divert  
2 water, and which:

3 (1) has or will have an impounding capacity at maximum  
4 water storage elevation of fifty (50) acre feet or more; or,

5 (2) is twenty-five (25) feet or more in height from  
6 the natural bed of the stream or watercourse measured at the  
7 downstream toe of the dam or dike, or from the lowest  
8 elevation of the outside limit of the dam or dike, if it is  
9 not across a stream channel or watercourse, to the maximum  
10 storage elevation."

11 Section 3. This act is effective upon its passage and  
12 approval.

-End-

Approved by Committee  
on Agriculture Livestock  
& Irrigation

SENATE BILL NO. 337

INTRODUCED BY ROBERTS

(BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES)

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such location, that their homes or property would be in  
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on account of the breaking of any dam, ~~or~~ dike, ~~or any~~ or  
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of the department, it may appeal to the district court of  
the district wherein the dam, dike or reservoir is located,  
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11 storage elevation."

12 ~~Section 3,--This--act--is--effective--upon--its--passage--and~~  
13 ~~approval.~~

-End-

HOUSE OF REPRESENTATIVES

March 14, 1975

HOUSE COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION AMENDMENTS TO  
SENATE BILL NO. 337.

1. Amend page 3, section 2, line 11.

Following: "elevation."

Insert: "Section 3. The provisions of this act shall not apply  
to dams, dikes, and reservoirs which are subject to  
federal power commission inspections under federal laws."

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12 SECTION 3. THE PROVISIONS OF THIS ACT SHALL NOT APPLY  
13 TO DAMS, DIKES, AND RESERVOIRS WHICH ARE SUBJECT TO FEDERAL  
14 POWER COMMISSION INSPECTIONS UNDER FEDERAL LAWS.

15 ~~Section 3.--This act is effective upon its passage--and~~  
16 ~~approval.~~

-End-