

**2017 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2270**

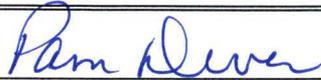
# 2017 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB2270  
2/16/2017  
Job #28446

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution: Relating to financing options for the Garrison Diversion Conservancy District and notice of assessments.**

**Minutes:**

Attch#1=Merri Mooridian

Roll taken; All committee members present.

**Chairwoman Unruh:** We will open the hearing on SB2270.

**Sen. Wanzek,** Dist. 29: I am the sponsor of this very simple bill. I was asked to sponsor this on behalf of Garrison Diversion. It is to give authority to the Garrison Diversion Conservancy Dist. And Lake Agassi Water Authority to be able to buy and lease ND public finance to finance projects that they want to endeavor into. The second part of the bill has to do with assessed irrigation districts. And to be exempt from a public hearing. Irrigation districts have to get 100% participation. So they are notified anyway. It is a lot of extra work and no one shows up at the hearing anyway. They have all been talked to and agreed to the project already. (2.60)

**Merri Mooridian,** Administrative Officer-Garrison Diversion Conservancy Dist.: I am here in support of SB 2270. (see Attch#1) (3.25-9.40). Please do pass.

**Sen. Cook:** (9.46) You say that your special assessment authority is unique and that it requires 100%. Is that in Code?

**Merri:** That is in Century Code. 61.24.8-14.

**Sen. Cook:** How about Lake Agassi?

**Merri:** That is a voluntary and not a district. They choose to participate. Lake Agassi does not have the right to levy assessments.

**Sen. Roers:** (10.39) You talked about an assessment district and 100% participation to form a district. Are you assessing the land owners for the water they may use?

**Merri: (11.00)** Yes. We have developed three districts along the McCuskey Cannel. The first one we did without the special assessment authority. It was more difficult for the farmer and for us to get bond on the project. Since then we have created two special assessments and the landowners are choosing to do special assessments so that their payment is coming through their real-estate taxes instead of a loan payment to the bank.

**Sen. Roers:** You are creating a district and 100% of the people in that district have to agree to the assessment.

**Merri:** Correct.

**Vice Chair Kreun:** Then you bring main infrastructure to that location and farmers have to pick up from there?

**Merri:** Correct.

**Vice Chair Kreun:** Originally, when this was first put together, the land owner come to Garrison Diversion to ask for this. Garrison Diversion is not going out and promoting. The user comes to Garrison Diversion. That is why it is easy to get 100%. If a quarter section does not want to use this, then they will not be assessed. Only the people that use it. (13.10)

**Chairwoman Unruh:** On page 3, line 27-29, What is the purpose of filing with county auditor?

**Merri:** If we don't have to do the public hearing, we do not, but if we end up doing a special assessment, we have to file.

**Chairwoman Unruh:** Any more in support? Any in opposition? Any agency testimony? Close the hearing on SB2270.

**Sen. Armstrong:** Madame Chair I move a do pass.

**Sen. Roers:** I second.

**Chairwoman Unruh:** Any discussion? Call the roll. YES 7 NO 0 -0-absent

**SB 2270 passed**      **Vice Chair Kreun** will carry the bill.

Date: 2/16/17  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2270

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar
- Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Sen. Armstrong Seconded By Sen. Roers

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	/		Sen. Erin Oban	/	
Vice Chair Curt Kreun	/				
Sen. Kelly Armstrong	/				
Sen. Dwight Cook	/				
Sen. Jim Roers	/				
Sen. Don Schaible	/				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Kreun

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2270: Energy and Natural Resources Committee (Sen. Unruh, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2270 was placed on the Eleventh order on the calendar.

**2017 HOUSE ENERGY AND NATURAL RESOURCES**

**SB 2270**

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau –A Room, State Capitol

SB 2270  
3/9/2017  
28947

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Kathleen Davis*

### Explanation or reason for introduction of bill/resolution:

Relating to financing options for the Garrison diversion Conservancy District and notice of assessments.

### Minutes:

Attachment #1

### Chairman Porter:

**Sen. Wanzek:** Thank you for accommodating me. SB 2270 is more about financing projects within the Garrison Diversion more specific to irrigation projects. Allowing Garrison Diversion, or Lake Agassiz authority to use public financing as a means to finance projects. There's also some sections in here that deal with the requirement of holding a public hearing, providing notice in public newspaper when you're developing a develop an assessment district, like an irrigation assessment district. I'm told within those kinds of assessed districts; they need 100% participation. What they're asking for here is if written notice is given to each landowner participating in the project, given that every landowner has to agree before going ahead with the project, what's the purpose of having a hearing then? You need 100% participation anyway. Instead of spending the time they can move the projects along faster. If every member has been given a written notice, every member has to vote, every member has to agree, then written notice should be sufficient to replace the requirement to have a public hearing, or provide public notice in a newspaper in 30 days before a hearing. This bill provides the opportunity to use public financing authority and written notice to all members involved in an assessed irrigation district to forego the public hearing and public meeting.

**Rep. Keiser:** Who's name in good faith stands behind this financing?

**Wanzek:** Garrison Diversion Conservancy District or Lake Agassiz authority. We would be allowing either or to use the public financing authority.

**Rep. Keiser:** Would these be a revenue bonds that would be generated or would do they have the ability to tax to pay for indebtedness?

**Wanzek:** I do believe more revenue bonds.

**Chairman Porter:** Section 3 of the bill is old language that we've necked it down to revenue bonds.

**Rep. Lefor:** In your testimony you stated that the landowners would have to vote. How does that process work? I would assume in writing and sent back somewhere? How do you get landowner approval?

**Wanzek:** I've never participated in one of these. The way it's explained to me they have to give written notice. I believe they hold an election process. Everyone has to give their written approval. 100% participation. One person can stop the project.

Recess on this bill and came back into session at 10 AM.

**Chairman Porter:** called the hearing back into session. Any further support on SB 2270?

**Rep. Keiser:** Ms. Mooridian, in Section 3 in this bill, it's the definition of bonds and we're expanding it. I do not see this as limiting it to revenue bonds. With this language we've opened it up to all sorts of financing options, sale, lease back, everything would now be available but does not limit you to revenue bond. If not a revenue bond, who's name in good faith stands behind this?

**Mary Mooridian,** administrative officer for Garrison Diversion Conservancy District: In Section 3, where it says any revenue bond, refunding bond, improvement bond or other evidence of indebtedness, that is current in Century Code. That we're not asking for a change in. It would be Garrison Diversion standing behind the bond, or Lake Agassiz Water Authority, whoever is issuing the bond. More than likely, Garrison Diversion. Ms. Mooridian then presented Attachment #1.

**Rep. Lefor:** the 100% versus 60% of other special assessment districts. Why are you not requesting 60%?

**13:34**

**Mooridian:** I was not part of writing the Century Code when this was first written and it was written in that it had to be 100%. Basically it is if you're taking water out of the McClusky Canal, and there's a landowner that wants to irrigate but an adjacent landowner doesn't want to, it's only the landowners that want to irrigate that are going to be assessed.

**Rep. Lefor:** Okay. The public hearings and notices, you say is a costly process. I would assume that's assessed to the landowners? What percent of the whole thing would be public hearings and those affiliated costs of the overall costs?

**Mooridian:** I don't have those numbers. If you're looking at a \$2 million project, it's a small percent. We find that we have to hold 2 different public hearings, put in quite a few public notices in the paper and in the three projects we've developed, 2 of them have used the special assessment. We haven't had anyone show up at the public hearings. We haven't received any comments. I have a long checklist of things that need to be done, and I actually have our bond attorney help me with that. When I was talking with him, he said there would

be a way since this is 100% participation rate, that as long as the landowners agree to not hold those hearings, that you wouldn't have to. If a landowner didn't agree, we would still hold those hearings. We are asking for the ability to not have to hold those hearings.

**Rep. Keiser:** You have at your access, the assessment process to pay for things for those participants in the program. Why do you need the authority and access the public finance? Why do you need that authority? Is it the size of the projects? The assessment has to be spread over a long period of time, what's the rationale?

**Mooridian:** We do have authority to do special assessment on the land. In the 2 projects we have developed using the special assessment authority, we've had a very hard time finding financing to do the projects. There are not very many banks in ND that want to assess a small project. Especially the small projects. Even a large irrigation project. Currently we are, our special assessment interest rate is at 4.5%. My understanding is if we have access to public funds that could go down a couple percentage points. With commodities the way they are now, that is a make or break point.

**16:50**

**Chairman Porter:** Could you get us where it is in code, that specifically states by adding public finance and other evidence of indebtedness, if one of the special assessment projects goes defunct, who is the final payer? Is it the taxpayers of ND, the assets and only the assets of the districts, whether Lake Agassiz or Garrison Diversion, or when you're signing on the dotted line, who are you signing on behalf?

**Mooridian:** For the irrigation special assessments we are special assessing the land of the irrigator. So if they go into default, we would have an assessment towards that land to go through the county. When we're actually signing the bond, it is actually Garrison Diversion Conservancy District who is financing the bond and we are in turn special assessing the irrigator's land.

**Chairman Porter:** So when you pull in public finance, you're bonding a project through the state bond bank, then the obligation of the bond still belongs to Garrison Diversion, with it underwritten by the landowners and their assets are taken if the bond is defaulted on?

**Mooridian:** That is correct

**Chairman Porter:** Can you show me where that's written?

**Mooridian:** I don't know if that's in Century Code. I have never been able to work with the public finance agency. I tried a couple years ago even though our public subdivision, we found out their Century Code was written really tight that we weren't able to. My understand is, if we have say, a \$500,000 bond, that we would be grouped into other small bonds, and the public finance agency would put that out to the bond market. It would still be our bond; we're just using them as a mechanism. I do not say that's written in Century Code.

**Chairman Porter:** We'll get someone from the bond bank to get clarify how they're written so that we are sure who the obligor is on the bonds.

**Mooridian:** there's a representative of public finance agency here and I don't know if she could answer that question.

**Chairman Porter:** any other questions?

**Rep. Devlin:** working from Rep. Lefor question. I have a problem when we take away the public hearing process. Many of these projects have the potential to have a positive or negative effect on the neighbor's land and I think people, the public in general, has a right to know when these are taking place. I know it delays the process some but I don't believe there's any way in the world that you can justify to me that less public knowledge in this case is a good thing. Editorial statement.

**Chairman Porter:** You are welcome to respond.

**Mooridian:** When we put out public notices, when we put out the public notices and have had public hearings, we have never received a comment. Actually our staff has been the only people at the public hearings.

**Rep. Devlin:** I might argue. When I was in the weekly business and covering these things, some of that happened because people know what was going on. They knew what was taking place and they were satisfied with the process, so they didn't have to go comment at the public hearing.

**Chairman Porter:** further questions?

**21:46**

**Kylee Merkel, ND Public Financing:** Yes Mary had visited with us historically about lending through the public finance authority. In Century Code we were restricted so that we couldn't. This is just added the wording so we can borrow to them. We have 2 programs they could utilize. (1) the state revolving fund which is a federal program. We have verified with our region 8 of EPA, this is an eligible project to borrow to them for the irrigation. It is a below market interest rate. So our rate as of January 1 is a 2% effective rate. So that will lower the cost of borrowing to those irrigators. Our other program (2) is capital financing program. That one, we issue bonds on the market and pass the market rate down to our underlying borrowers which would be Garrison Diversion. They could pass that on to their irrigators. Our understanding is that we would make the bond between us and Garrison Diversion. Then Garrison Diversion would turn around and use that money to make loans to the irrigators. So if there was a default on Garrison Diversion, not getting paid, Garrison Diversion is still responsible to pay the public finance authority. We do have, the state revolving fund has been used historically with the Bank of ND. The Bank of ND was our underlying borrower. They would borrow from the state revolving fund, and they would turn around and borrow to irrigators. That was in place historically. We are still able to do it; it's hasn't been used. I think the last one we did was in 2010.

**Chairman Porter:** So inside of the process, they have to show you, the agent or bond bank, the assets for seizure if they would happen to default on it? And then they're also showing

you the taxing authority and the lien on the land is until inside of that assessment district until that bond is paid in full?

**Merkel:** Correct. Our understanding was that Garrison Diversion, they actually, how they borrow to their irrigators, is they require payment for the actual bond payment and also require them to build up a reserve simultaneously in case there were a nonpayment from the irrigator. Also when we issue bonds and they issue a bond to us, we do have someone from the attorney general's office, an appointed specialist, that reviews all the documents.

**Chairman Porter:** So there's nowhere inside of your authority to hold the state of ND as the mechanism of final payment or default payment if one of these bonds were to be defaulted upon?

**Merkel:** Under the state revolving fund there is not a moral obligation any longer of the state of ND. Our bonds we issued in 2008 and back did have a moral obligation under the state revolving fund. We did not issue bonds between 2008-2011. Starting with 2011 going forward they do not have the moral obligation piece on them. The capital financing program, that one we take out a letter of credit from the Bank of ND if there were a default, public finance authority would draw on that letter of credit to make the payment.

**Chairman Porter:** Is that letter of credit available to the Garrison Diversion District?

**Merkel:** The letter of credit is available to public finance authority. That program operates a little differently where we issue the bonds on the public market and then we turn around and use those proceeds to borrow to our underlying borrowers. If our underlying borrower did not make payment, we could draw on the letter of credit. So it would be that public finance authority has to request on the letter of credit. Garrison Diversion wouldn't be able to request that credit.

**Chairman Porter:** How do you mitigate that to the taxpayers?

**Merkel:** I'm not sure how to properly answer that. We haven't historically had a default. I haven't had to see it used since I've been there. I could get an answer for you and get back to the committee.

**27:00**

**Rep. Keiser:** As I read this, and the title says certainly relating to financing options for the Garrison Diversion project, but as we go through the current law, this is a section of the code that affects all lending, is that correct?

**Merkel:** My understanding is that all it is adding to the Code, is our ability to lend to Garrison Diversion.

**Rep. Keiser:** That's not my question, that's your understanding. For example, Section 1 deals with political subdivisions and it goes through and describes them. Local government created by statute or by constitution. So we created it and it goes through and lists the other qualifying agencies and we are now adding Garrison Diversion to these. That brings me to

the next point, on Section 3, I know this was designed for them, but will this affect all the other agencies because of this amendment to Section 3, which allows the addition of, including indebtedness on the banks or other public or private lending sources. That includes sell lease back, very exotic, workable, they have their place, but there are issues with those things. Doesn't this open it up for everybody not just Garrison Diversion?

**Merkel:** I would have to do some research and get back to you. That wasn't our intention but certain may be an unintended consequence.

**Rep. Keiser:** This is a major change, this includes universities. How strongly do you feel about including indebtedness owed the banks or the public or private lending? Why do we want that? Why would we want that for Garrison Diversion?

**Merkel:** We are simply wanting to lend to Garrison Diversion. If that is an unintended consequence, or unintended verbiage, we will certainly take a look at it. I would to do some research on that.

**29:50**

**Chairman Porter:** It is narrowly written in Section 3 that is specific to Garrison's section in the century code, not everyone but by adding them into Section 1, we want to make sure it doesn't open it up with the definitions going back and forth. Inside of the authority, in these major works and big projects, they're doing pumping stations, filtration stations, they're doing a lot of infrastructure that remains owned by Garrison Diversion. Are those bonds and those finances then their still their own obligation and they have to prove a payment source back to the end user in order to complete that kind of works, or are they treated separately?

**Merkel:** Those would not be pledged assets. As far as how Garrison Diversion handles making loans to their irrigators, I am not familiar with that process.

**Chairman Porter:** When you do a bonding project, I the customer have to prove to you, the ability to pay it back over the course of the bond. Do I get a 100% or 80% of the money, or what percentage do I get inside of my bond to do the project?

**Merkel:** We do require 120% coverage on a revenue bond meaning that whatever their payments are for their bond, they have to general 120% revenues for that. That's part of our financial review process when approving these loans. We would be approving a loan to Garrison Diversion, so we would be looking at their finances, not the irrigators.

**Chairman Porter:** Is there a way inside of this Garrison Diversion can become insolvent and it comes back to the obligation of the State in a roundabout way because we created them as a political subdivision?

**Merkel:** We would probably have to have conversations with Garrison Diversion and check the Century Code on that.

**Rep. Keiser:** What is the collateral or asset for a default with the financing being proposed here?

**Merkel:** On a revenue bond, the collateral

**Rep. Keiser:** it's just a revenue bond

**Merkel:** Correct.

**Rep. Keiser:** that's all you're going to issue regardless of what the law says?

**Merkel:** that's our intention with it.

**33:15**

**Mr. Mike Dwyer,** ND water users, and ND Irrigation Association. Irrigation projects are beneficial to the entire state, protects revenues and economic growth, jobs, etc. They're expensive to the point where we need to have some mechanism to finance these projects. The water commission can cost share in the water supply works up to 50%. The rest is borne by the landowners. The reason we proposed to the legislature that we need 100% approval, whatever costs the water commission will provide, 50% of the water supply works, but all the rest of the costs, the 50% of the pumping stations, and anything else, plus the irrigation pivots have to be provided by the land owner. They have to sign an agreement for special assessments. The remaining costs are provided by special assessments. If there's a bankruptcy law, special assessments and property taxes are first in line, ahead of mortgages, ahead of all unsecured creditors. It's a pretty guaranteed assured financing that doesn't and can't come back to the state. If the landowner doesn't pay the special assessments, then you get the land. You sell the land and the special assessments come off first. So that's why we set it up this way so that. That's one of the reasons we set it up so 100% of the landowners had to approve, because they're on the hook for this. We needed this authority because we feel we feel irrigation is a tremendous benefit for agriculture economy and all of the economy of ND. We needed a financing mechanism. The reason I think Rep. Keiser question in Section 3 is that that is specifically limited to irrigation financing authority. In the very first project we did, there was a private bank that provided some of the financing to do the project. The state of ND also provides an ag (? Inaudible) irrigation program. So through the Bank of ND and through the water commission, there is a program for some support, up to \$20,000 of interest buy down for the irrigation pivots themselves. Other than that, the landowners, the irrigators, have to pay 100% of the costs and in irrigation projects, because of irrigation being sent or pivot systems, sprinkler pivots, there's generally no impact to neighboring lines and that's why we haven't had participation in the public hearings. The irrigator association supports these improvements.

**Rep. Keiser:** I understand historically the public hearings haven't apparently had much of a role in the decision making. For this organization, how long does it take for a public hearing? Does it create a problem to have a public hearing?

**Dwyer:** Going through the assessment process, there's a couple hearings required. I've talked before about drainage projects where we provide public notice and we don't send written notice to the landowners. In this case we have to send written notice to each landowner involved in the special assessment. It's probably a year long process.

**Chairman Porter:** further support? Opposition? Closed the hearing.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau –A Room, State Capitol

SB 2270

3/16/2017

29336

Subcommittee

Conference Committee

Committee Clerk Signature

*Kathleen Davis*

### Explanation or reason for introduction of bill/resolution:

Relating to financing options for the Garrison diversion Conservancy District and notice of assessments.

### Minutes:

Attachment #1

**Chairman Porter:** We have SB 2270 before us. Rep. Devlin had concerns in our discussions about the Notices and publications they were taking out and you all have amendment 02001.

**Rep. Devlin:** Presented an amendment as Attachment #1. My issue was these types of projects are of great interest and usually have a great effect on the neighbors and other landowners in the area.

**Rep. Marschall:** (inaudible – mic not on) ... not underlined is in current law and that's

**Chairman Porter:** that is correct. Rep. Marschall, what we're doing is keeping the existing hearing and notification process for these types of projects intact. Existing law stays in tacked.

**Rep. Marschall:** (no mic, hard to hear) on Page 3, #2, the public hearing, all that underlined information

**Chairman Porter:** goes away. Rep. Devlin are you comfortable with the language?

**Rep. Devlin:** yes, it's fine. I still wanted them to have the public notice. It says when they provide written notice they don't have to have a public hearing or not publication required. I didn't think the assessment list mattered to the neighbors. If they want to mail that out I didn't have a problem with taking that out of the local newspaper. I had a project with the project itself, not how much each person is paying.

**Chairman Porter:** Questions? What it's doing is putting back the existing process, giving them a little flexibility in section 6 and 7 of the bill to allow them to do an either or. And then

to allow them to NOT have to publish the assessments, but publish a notice that they're out there. And that the hearing has been canceled. Questions?

**Rep. Devlin: So moved.**

**Rep. Keiser: second**

**Chairman Porter:** We have a motion from Rep. Devlin, second from Rep. Keiser, for amendment for 2001. Discussion? Seeing none all if favor say ayes, opposed? Motion carried. We have an amended bill.

**Rep. Devlin:** I'm willing to move a Do Pass on SB 2270 as amended.

**Rep. Keiser: second**

**Chairman Porter:** I have a motion from Rep. Devlin, second from Rep. Keiser for a Do Pass as Amended. Discussion? Roll call vote:  
Yes 12 No 0 Absent 2 Motion carried. Rep. Devlin is carrier.

3/16/17 D\*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

Page 1, line 2, remove "61-24.8-13,"

Page 2, remove lines 23 through 31

Page 3, remove lines 1 through 29

Page 4, line 2, replace "or" with "and"

Page 4, line 21, remove "No publication is required if"

Page 4, remove line 22

Page 4, line 23, remove "to each affected landowner."

Page 5, line 22, replace "or" with "and"

Page 5, line 29, after "assessments" insert "and publishes notice that the hearing is unnecessary due to the receipt of written consent in the official county newspaper of each county in which the benefited lands are located and in local newspapers of general circulation in the area of the affected lands"

Renumber accordingly

Date: 3-16-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2270

House Energy & Natural Resources Committee

Subcommittee

Amendment LC# or Description: 17.0937.02001

Recommendation

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions     Reconsider     \_\_\_\_\_

Motion Made By Rep Devlin    Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Seibel		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Mock		

*Voice  
Vote  
motion  
carries*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

02001

Date: 3-16-17

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2270

House Energy & Natural Resources Committee

Subcommittee

Amendment LC# or Description: 111

Recommendation

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions     Reconsider     \_\_\_\_\_

Motion Made By Rep Devlin    Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby		
Rep. Devlin	✓		Rep. Seibel	AB	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Mock	AB	

Total (Yes) 12    No 0

Absent 2

Floor Assignment Rep Devlin

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2270: Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2270 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "61-24.8-13,"

Page 2, remove lines 23 through 31

Page 3, remove lines 1 through 29

Page 4, line 2, replace "or" with "and"

Page 4, line 21, remove "No publication is required if"

Page 4, remove line 22

Page 4, line 23, remove "to each affected landowner."

Page 5, line 22, replace "or" with "and"

Page 5, line 29, after "assessments" insert "and publishes notice that the hearing is unnecessary due to the receipt of written consent in the official county newspaper of each county in which the benefited lands are located and in local newspapers of general circulation in the area of the affected lands"

Renumber accordingly

**2017 CONFERENCE COMMITTEE**

**SB 2270**

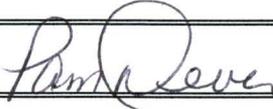
# 2017 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2270  
4/5/2017  
Job #29950

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

#### Minutes:

Attch#1=Sen. Kreun;

Present: **Sen. Kreun, Chair; Sen. Roers; Sen. Schaible  
Rep. Devlin; Rep. Lefor; Rep. Bosch**

**Sen. Kreun:** I will ask Representative Devlin to tell us what the House wants.

**Representative Devlin:** The changes we made in committee were to make sure everyone has a chance to attend a public hearing or meeting to share their feelings. We don't feel it is right to exclude those around the land in question regarding irrigation. Our intent is to have public notice in newspapers and also letters. We added some cleanup language at the end.

**Sen. Kreun:** I handed out some information regarding the timeline for Garrison Diversion District projects and reference in Code. We did not want to overlap what is already in Code. Only the people who agree to the project pay. People are contacted way before and notice and letter go out. The Garrison Diversion does not initiate the contact. Surrounding property owners are contacted. If only two land owners agree, then they pay. The more people that agree, the cheaper each portion is. Going through this process, way the law reads, and with all the phone calls and information given to them, and nobody shows up to the public hearings because they have already gone through the process. They know House much the project should cost. They have given their authority to go through with the project. The main component that we look at is on page 4, lines 9,10, 11, and 12. It basically says that the board finds that 100% of the total votes filled are for the proposed project, then the vote constitutes affirmation, and the project and the board should issue an order establishing the proposed project may proceed. The people involved don't show up because they have already signed off on it. That is why we are eliminating that one public hearing. If we want to add something to that fact, I am not opposed. It is costly to do that and time consuming and nobody shows up. That is the history. Eliminate that and make it easier and less costly. The other part is in statute already. It is not like a city or county project or a water district project., where the governmental body initiates the project and sets up an assessment district. The person who wants the irrigation starts the contact. Garrison Diversion goes around to adjacent landowner and ask if they want to do this. If you want to participate, we will figure out the cost. If you don't want to participate, you will not be charged or assessed for anything. That is what we tried to do originally. Six years ago we started but left this part in there and

it may not be necessary. I did talk to Clair Ness in LC today. She is not 100% sure we should take out that complete portion, section 4. That does coincide with the statute that I handed out. (seeAttch#1) She would rather leave them in.

**Rep. Devlin:** Having spent many years as a county commissioner and a newspaper person, as well, I found there is always someone interested. Maybe not the person right next door, but someone down the road. Maybe someone wanted to rent land. We wanted to preserve that that the public would have a right to have a hearing on that. Not too much to ask. That is where we are at on the House side.

**Sen. Kreun:** Would there be opportunity to put a notice and if they have questions they could ask. Find the best form of media. Need to find the best wording.

**Rep. Devlin:** Not sure how you would word that, either. We wanted them to weight in. I understand they could be there but at that point, is it relevant. If they are not part of the original process.

**Sen. Kreun:** What would they weigh in on?

**Rep. Devlin:** They would weigh in on whether it has any positive or negative effect on them at some point.

**Sen. Kreun:** That has to be done prior to that. You would think that the individuals would have the ability to vote out this project, is that what you are saying? Even when there is no benefit or cost to them?

**Rep. Devlin:** There may be other people who may want to influence the people who are voting. They may see some long term implications, that may not get heard if there is no public hearing.

**Sen. Schaible:** We have had this process going on and have hearings, but no one shows up with these concerns. If we have a practice that is costing money and having hearings, why continue. How do we justify keep going that is not producing the results we want?

**Rep. Lefor:** Listening to the discussion, I am not quite sure if any Garrison people are here to give us a rundown of the hearings. I don't know of any case histories to address Rep. Devlin's concerns.

**Sen. Kreun:** The Garrison people are in the building but not here. We need to have them here. How would you want someone who is not involved, not adjacent and not have any impact on that property, why do we need to get them to a meeting? The whole idea of having public hearings is because people who are paying for the project, always have financial responsibility in the project. Most of the work is already been done in the irrigation district. It has gone through the process and permits already. Here is what we have available and if you want to participate come and let us know. The more people who participate, the less cost it will be to the users. We did this on purpose so there would not be a particular conflict all the time. If your property is adjacent and you don't want the pipe to go across, we will go around it. If we can get an easement to go across, we will do that. You still don't have to pay

anything. They have had good success with this already. Trying to make it easier and less costly. The costs go on to the user. If you want a notice of some sort that this project is taking place, that is ok. It advertises for the project and lets people know it is taking place. That makes sense. No objection to that. Maybe Claire could come down and explain. Maybe diversion folks could come in. I visited with diversion people and they suggested maybe a follow-up letter to the adjacent property owners asking them again if they want to participate in this project. A media announcement would not hurt.

**Rep. Bosch:** Maybe a best and final letter to show how many people are participating. Maybe someone else would want to get involved.

**Sen. Kreun:** That is easy to do.

**Rep. Devlin:** We welcome language from the Senate.

**Sen. Kreun:** Bring something and we can merge this together. Adjourned.

# 2017 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2270  
4/6/2017  
Job #29980

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

#### Minutes:

Conf#2; Attch#1=Sen.Kreun; Attch#2=Rep.  
Devlin amend.

#### **Present: Sen. Kreun(chair), Sen. Roers, Sen. Schaible Rep. Devlin(chair), Rep. Lefor, Rep. Bosch**

**Sen. Kreun:** I gave you the Code sheet last meeting. I hope you read it. Now I will give you a visual to look at. (see Attch #1) My goal is for many years to utilize all of the water out of Lake Sakakawea through the McClusky Canal. With this, the Garrison Diversion, in 2011 session, we worked to start the process with the irrigation in that area. We wanted it as easy as possible for farmers to use it. He explained the map. (2.13) All of the soil testing, etc. has been completed and it has given us all the square green spots where the irrigation is potential. We have about 5,000 or 6,000 acres under irrigation. We are working on two more potential customers out there. We have 65,070 acres available. We have a lot of work to do to more this forward. We would also like to use some water for the Red River Valley supply and the Central Water supply. We feel this has been a good project. I will pass out Representative Devlin's amendments. (see Attch#2)

**Rep. Devlin:** Our intent was that the people outside of the area, that are getting the special assessments and getting the notices from Garrison Diversion, have some interest in what is happening here. We don't want to slow down this process. (4.50) I met with Mr. Dekrey yesterday and Mary is here today, I wanted a time period that is long enough that if people are living out of state, they can get the information. 21 days is fine, they said. We asked to a bill relating to a bill relating to-amend for the public notice. As far as emergency clause, that came up from the Senate. That is ok.

**Sen. Kreun:** Because of the timing and the way the banking is taking place now, we needed this. I ask Mary to come forward.

**Mary Mooridian,** Administrative Officer, Garrison Diversion: In this bill we have in there the ability to work with the public finance agency on our special irrigation districts. At the State Water Commission meeting, last week, they approved a \$325,000 cost share for our mile marker 15 project. We are in the middle of developing that. If this bill has the emergency clause in it, we could work with the public finance agency sooner on this project. Otherwise

we would have to wait until August 1<sup>st</sup> and we hope to be delivering water by then already. I was quoted 5.1% by a bank. That is pretty steep for an irrigation project. If we are able to work with the public finance agency through the SRF funding, we get a 1.5% interest rate, 5% admin fee, and .5% for bond. It would really help cash flow. (9.17)

**Sen. Kreun:** Any other questions?

**Sen. Schaible:** I move that the House recede from their amendments and we further amend HB2270 with the .02003 version.

**Rep. Lefor:** I second.

**Sen. Kreun:** Any discussion? If not, call the roll.    YES    6        NO    0        -0- absent

**Motion carried.**                      Adjourned.

April 6, 2017

OK  
4/6/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

That the House recede from its amendments as printed on page 849 of the Senate Journal and page 1016 of the House Journal and that Senate Bill No. 2270 be amended as follows:

Page 1, line 4, after "assessments" insert "; and to declare an emergency"

Page 3, line 23, replace "provides" with ":

a. Provides"

Page 3, line 29, after "located" insert "; and

b. Publishes notice of the project in newspapers of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located at least twenty-one days before the deadline for filing votes on the project"

Page 5, after line 31, insert:

"**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 4-5-17 4/6 Vote  
 Roll Call Vote #: \_\_\_\_\_

**2017 SENATE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2270 as (re) engrossed

**Senate Energy Natural Resources Committee**

- Action Taken**
- SENATE accede to House Amendments
  - SENATE accede to House Amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows .02003
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Schaible Seconded by: Rep. Lefor

Senators	Y	N	Y	N	Representatives	Y	N	Y	N
Sen. Curt Kreun, (chair)	/	/	/		Rep. Bill Devlin (chair)	/	/	/	
Sen. Jim Roers	/	/	/		Rep. Mike Lefor	/	/	/	
Sen. Donald Schaible	/	/	/		Rep. Glenn Bosch	/	/	/	
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 6 No: 0 Absent: -0-

Senate Carrier Sen. Kreun House Carrier Rep. Devlin

LC Number 17.0937.02003. of amendment

LC Number .04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 17.0937.02003  
Senate Carrier: Kreun  
House Carrier: Devlin

**REPORT OF CONFERENCE COMMITTEE**

**SB 2270:** Your conference committee (Sens. Kreun, Roers, Schaible and Reps. Devlin, Lefor, Bosch) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 849, adopt amendments as follows, and place SB 2270 on the Seventh order:

That the House recede from its amendments as printed on page 849 of the Senate Journal and page 1016 of the House Journal and that Senate Bill No. 2270 be amended as follows:

Page 1, line 4, after "assessments" insert "; and to declare an emergency"

Page 3, line 23, replace "provides" with ":

a. Provides"

Page 3, line 29, after "located" insert "; and

b. Publishes notice of the project in newspapers of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located at least twenty-one days before the deadline for filing votes on the project"

Page 5, after line 31, insert:

**"SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

SB 2270 was placed on the Seventh order of business on the calendar.

2017 TESTIMONY

SB 2270

Testimony by Merri Mooridian, Administrative Officer  
**Garrison Diversion Conservancy District**

to the

**Energy and Natural Resources Committee**

Bismarck, North Dakota  
February 16, 2017

SB 2270

2-16-17

Attach #1  
PS!

Chairman Unruh and members of the committee, thank you for this opportunity to testify in support of Senate Bill 2270. My name is Merri Mooridian; I am the Administrative Officer for the Garrison Diversion Conservancy District (Garrison Diversion).

Garrison Diversion was formed in 1955 and charged with using the water behind the Garrison Dam for the "prosperity and general welfare of all the people of North Dakota." Our mission to provide a reliable, high quality and affordable water supply to benefit the people of North Dakota has defined the work of our organization, which consists of 28 member counties with a director from each member county elected during the general election to serve on our board of directors. Garrison Diversion has several focus areas including irrigation, the Red River Valley Water Supply Project, municipal, rural and industrial water supply, recreation, and operations and maintenance of the Garrison Diversion Unit facilities.

The McClusky Canal, part of the Garrison Diversion Unit facilities, has 51,700 irrigable acres authorized through federal legislation, the Dakota Water Resources Act of 2000, along its 59-mile length, though the majority of this acreage is undeveloped.

SB 2270  
2-16-17  
Atch # 1  
pg 2

Since 2011, Garrison Diversion has developed three irrigation projects along the McClusky Canal, with two more projects in the works.

Mentioned as one of Garrison Diversion's focuses, the Red River Valley Water Supply Project is a solution to the water supply needs in central and eastern North Dakota. The Red River Valley Water Supply Project is being designed to bring a supplemental water supply from the Missouri River to central and eastern North Dakota via a combination of a buried pipeline and the Sheyenne and Red Rivers. Users in central and eastern North Dakota will benefit from a much needed, reliable water supply to provide for domestic and industrial needs.

The Lake Agassiz Water Authority was formed by the ND Legislature in 2003, to unite efforts on planning for future water supply needs in the Red River Valley and serve as a collective voice of local water users in the Red River Valley Water Supply Project.

We request the ability for Garrison Diversion and the Lake Agassiz Water Authority to work with the Public Finance Agency, providing access to public funds for the development of irrigation projects and for the Red River Valley Water Supply Project.

In addition to allowing the two organizations the ability to work with the Public Finance Agency, we are also asking you to consider amendments to the Garrison Diversion Irrigation Special Assessment as found in Century Code 61-24.8-13, 61-24.8-14, 61-24.8-16 and 61-24.8-17.

SB 2270  
2-16-17  
Add # 1  
PS 3

Irrigation has always been a primary focus of Garrison Diversion, and through several initiatives, Garrison Diversion has committed to the investment of irrigation development and enhancement in North Dakota. Over the last several years, Garrison Diversion played an important role in the expansion of irrigation opportunities along the McClusky Canal, located in central North Dakota. Today, nearly 5,000 acres are irrigated through McClusky Canal irrigation projects, with several additional projects in the planning stages. The ability to access public funds allows farmers and ranchers to maximize financing capabilities and helps irrigation projects to be more financially feasible. Public financing dollars would only be used for the central irrigation supply works or "off-farm" irrigation costs.

Garrison Diversion's Irrigation Special Assessment Authority is unique in that it requires a 100% vote to participate, so no person is unwillingly forced into a district they do not want to be a part of. In other irrigation districts, 60% of landowners can force the other 40% to participate. We are not requesting a change to the 100% participant rate.

Currently, public hearings and public notices are required for the Irrigation Special Assessment, which is a lengthy, costly and cumbersome process. Garrison Diversion is requesting the option to eliminate the public hearing and public notices currently required, and let farmers and ranchers petition into the Irrigation Special Assessment district, given that the Garrison Diversion board provides written notice of the assessments to each affected landowner, and in return, the board receives written consent of the assessments from the affected landowner.

SB 2270

2-16-17

AH #1

pg 4

Allowing the access to public funds, as well as removing the requirement, but leaving the option of public hearings and public notices, enables the development of irrigation projects to be more cost-effective for farmers and ranchers.

We ask that you support SB2270 creating the ability for Garrison Diversion and the Lake Agassiz Water Authority to work with the Public Finance Agency and amending the Garrison Diversion Conservancy District's Irrigation Special Assessment.

Thank you for allowing my testimony today as we support SB2270.

Testimony by Merri Mooridian, Administrative Officer  
**Garrison Diversion Conservancy District**

1  
3-9-17  
SB 2270  
MOORIDIAN

to the

**House Energy and Natural Resources Committee**

Bismarck, North Dakota  
March 9, 2017

Chairman Porter and members of the committee, thank you for this opportunity to testify in support of Senate Bill 2270. My name is Merri Mooridian; I am the Administrative Officer for the Garrison Diversion Conservancy District (Garrison Diversion).

Garrison Diversion was formed in 1955 and charged with using the water behind the Garrison Dam for the "prosperity and general welfare of all the people of North Dakota." The mission to provide a reliable, high quality and affordable water supply to benefit the people of North Dakota has defined the work of Garrison Diversion. The delivery of municipal and rural water supplies is at the forefront of our efforts, and Garrison Diversion is the state lead in the development of the Red River Valley Water Supply Project.

The McClusky Canal, part of the Garrison Diversion Unit facilities, has 51,700 irrigable acres authorized through federal legislation, the Dakota Water Resources Act of 2000, along its 59-mile length, though the majority of this acreage is undeveloped. Since 2011, Garrison Diversion has developed three irrigation projects along the McClusky Canal, with two more projects in the works.

Mentioned as one of Garrison Diversion's focuses, the Red River Valley Water Supply Project is a solution to the water supply needs in central and eastern North Dakota. The Red River Valley Water Supply Project is being designed to bring a supplemental water supply from the Missouri River to central and eastern North Dakota via a combination of a buried pipeline and the Sheyenne and Red Rivers. Users in central and eastern North Dakota will benefit from a much needed, reliable water supply to provide for domestic and industrial needs.

The Lake Agassiz Water Authority was formed by the ND Legislature in 2003, to unite efforts on planning for future water supply needs in the Red River Valley and serve as a collective voice of local water users in the Red River Valley Water Supply Project.

We request the ability for Garrison Diversion and the Lake Agassiz Water Authority to work with the Public Finance Agency, providing access to public funds for the development of irrigation projects and for the Red River Valley Water Supply Project.

In addition to allowing the two organizations the ability to work with the Public Finance Agency, we are also asking you to consider amendments to the Garrison Diversion Irrigation Special Assessment as found in Century Code 61-24.8-13, 61-24.8-14, 61-24.8-16 and 61-24.8-17.

Irrigation has always been a primary focus of Garrison Diversion, and through several initiatives, Garrison Diversion has committed to the investment of irrigation development and enhancement in North Dakota. Over the last several years, Garrison

Diversion played an important role in the expansion of irrigation opportunities along the McClusky Canal, located in central North Dakota. Today, nearly 5,000 acres are irrigated through McClusky Canal irrigation projects, with several additional projects in the planning stages. The ability to access public funds allows farmers and ranchers to maximize financing capabilities and helps irrigation projects to be more financially feasible. Public financing dollars would only be used for the central irrigation supply works or "off-farm" irrigation costs.

Garrison Diversion's Irrigation Special Assessment Authority is unique in that it requires a 100% vote to participate, so no person is unwillingly forced into a district they do not want to be a part of. In other irrigation districts, 60% of landowners can force the other 40% to participate. We are not requesting a change to the 100% participant rate.

Currently, public hearings and public notices are required for the Irrigation Special Assessment, which is a lengthy, costly and cumbersome process. Garrison Diversion is requesting the option to eliminate the public hearing and public notices currently required, and let farmers and ranchers petition into the Irrigation Special Assessment district, given that the Garrison Diversion board provides written notice of the assessments to each affected landowner, and in return, the board receives written consent of the assessments from the affected landowner.

Allowing the access to public funds, as well as removing the requirement, but leaving the option of public hearings and public notices, enables the development of irrigation projects to be more cost-effective for farmers and ranchers.

We ask that you support SB2270 creating the ability for Garrison Diversion and the Lake Agassiz Water Authority to work with the Public Finance Agency and amending the Garrison Diversion Conservancy District's Irrigation Special Assessment.

Thank you for allowing my testimony today as we support SB2270.

**From:** Merkel, Kylee D.  
**Sent:** Thursday, March 09, 2017 2:25 PM  
**To:** Porter, Todd K.; Keiser, George J.  
**Cc:** Ament, DeAnn M.  
**Subject:** Responses to SB 2270

Dear Chairman Porter, Representative Keiser and members of the committee:

Below are responses to your questions at this morning's hearing.

1. Chairman Porter wanted clarification on whether bonds between Public Finance Authority and Garrison Diversion Conservancy District had the potential to be liabilities of North Dakota taxpayers.

NDCC 6-09.4-06 "Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority."

There are two programs that GDCD could utilize. The State Revolving Fund (SRF) program is a pooled financing program. Due to the financial strength of the SRF program, bonds issued after 2008 do not carry the moral obligation of the state and would not be a liability of the State. To date, bonds issued under the Capital Financing Program (CFP) have carried the moral obligation of the state. With this moral obligation if the reserve funds should be used, the Industrial Commission may request the legislative assembly appropriate funds to restore the reserve fund to the required debt service reserve amount.

2. Representative Keiser asked if the Amendment to NDCC 61-24.8-01 would allow for all political subdivisions to use indebtedness methods mentioned: including indebtedness owed to banks, or other public or private lending sources.

NDCC 61-24-8-01 is Garrison Diversion Conservancy District's section of code. The amendment would allow only Garrison Diversion Conservancy District to finance indebtedness using the methods mentioned in the amendment.

Don't hesitate to contact DeAnn Ament, Executive Director or myself, if you have any questions.

**Kylee Merkel, CPA**  
**Business Manager**  
**ND Public Finance Authority**  
**PO Box 5509**  
**Bismarck, ND 58506-5509**  
**701.328-7120**  
[kyleemerkel@nd.gov](mailto:kyleemerkel@nd.gov)  
[www.nd.gov/pfa](http://www.nd.gov/pfa)

17.0937.02001  
Title.

Prepared by the Legislative Council staff for  
Representative Devlin  
March 10, 2017

1  
3-16-17  
SB 2270  
Devlin

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

Page 1, line 2, remove "61-24.8-13,"

Page 2, remove lines 23 through 31

Page 3, remove lines 1 through 29

Page 4, line 2, replace "or" with "and"

Page 4, line 21, remove "No publication is required if"

Page 4, remove line 22

Page 4, line 23, remove "to each affected landowner."

Page 5, line 22, replace "or" with "and"

Page 5, line 29, after "assessments" insert "and publishes notice that the hearing is unnecessary due to the receipt of written consent in the official county newspaper of each county in which the benefited lands are located and in local newspapers of general circulation in the area of the affected lands"

Renumber accordingly

conf. ce

SB 2270  
4-5-17  
A# #1  
psl

## TIMELINE FOR A GARRISON DIVERSION CONSERVANCY DISTRICT IRRIGATION PROJECT REQUIRING CREATION OF AN IMPROVEMENT DISTRICT

This memorandum summarizes the Senate and House amendments to Senate Bill No. 2270.

Current Century Code Requirement	NDCC Section	Senate Amendment	House Amendment
An irrigation project is suggested to the board for consideration.			
The board may approve the project by resolution. If the project will require an assessment, the board shall take additional steps, which are set out below.	61-24.8-03		
The board may create an improvement district by resolution to pay for the project. If the board creates the improvement district, the following steps are required.	61-24.8-05		
<p>The board shall direct an engineer to prepare a report on the nature, purpose, and feasibility of the proposed improvement. The report must allow the board to determine the probable share of costs that will be assessed against each affected landowner in the proposed assessment district.</p>	61-24.8-09		
<p><i>A completely affirmative vote by all affected landowners is required for an assessment under this chapter. Although not required by law, we understand the board sends letters to landowners who may be affected by the project to determine whether the landowners wish to be included in it. If a landowner does not wish to be included, the project will need to be reconfigured so it does not affect the landowner's land. Otherwise, the project will not be approved later in the process, and these initial steps will have been unnecessary. As a practical result, "affected landowners" are those who have agreed to the project.</i></p>			
<p>After the report is received, the board may direct the engineer to prepare detailed plans for the project, and the plans must be provided to any member of the public who requests them. The plans must be approved by the board in order for the project to proceed.</p>	61-24.8-10 through 61-24.8-12		
<p>The board shall inspect any parcels of land that may be subject to assessment for the project and determine which parcels will benefit directly from the project. The board shall provide written notice to each landowner before gaining access to the landowner's land.</p>	61-24.8-07 and 61-24.8-16		

SB2270  
4-5-17  
AH #1  
pg 2

Current Century Code Requirement	NDCC Section	Senate Amendment	House Amendment
<p>The board shall file with the appropriate county auditor the list of the percentage and dollar amounts of the assessment against each parcel of land benefited by the project.</p>	<p>61-24.8-13</p>	<p>This step is not required if the board provides written notice to each affected landowner of the probable total cost of the project, the landowner's share of the cost, and the portion of the landowner's land, if any, which would be condemned for the project. The notice also must tell the landowner when and where to vote on the project.</p>	<p>The assessment list must be filed with the appropriate auditor.</p>
<p>The board shall publish notice of an upcoming hearing on the project which must include the assessment percentage and amounts, as well as when and where affected landowners may vote on the project.</p>	<p>61-24.8-13</p>	<p>A public hearing is not required if the board provides written notice to each affected landowner of the probable total cost of the project, the landowner's share of the cost, and the portion of the landowner's land, if any, which would be condemned for the project. The notice also must tell the landowner when and where to vote on the project.</p>	<p>A public hearing would be required for each project.</p>
<p>At the hearing, the affected landowners must be informed of the total project cost as well as their individual shares of the cost and the portion of their property, if any, that will be condemned for the project. Affected landowners have 30 days after the hearing to file their votes on the project.</p>	<p>61-24.8-13 and 61-24.8-14</p>	<p>A public hearing is not required if the board provides written notice to each affected landowner of the probable total cost of the project, the landowner's share of the cost, and the portion of the landowner's land, if any, which would be condemned for the project. The notice also must tell the landowner when and where to vote on the project. Affected landowners have 30 days after the date of the hearing or the date of mailing of the notice to file their votes on the project.</p>	<p>A public hearing would be required for each project. There is a reference to "the written notice" informing affected landowners of when and where they may vote on a project. However, the requirement for a written notice is not set out separately. Affected landowners have 30 days after the date of the hearing or the date of mailing of the notice to file their votes on the project.</p>
<p>A project is approved only if 100 percent of all votes are in favor of it proceeding. If the project is approved, the board issues an order for the project and initiates the project. The board shall publish the notice in local and county newspapers. The publication triggers the right to appeal.</p>	<p>61-24.8-14</p>	<p>Publication of the order in the newspaper is not required if the board provides written notice of the order to each affected landowner. The right to appeal is triggered by the publication or mailing of the notice.</p>	<p>The Senate language making publication unnecessary if written notice is mailed to the affected landowners is removed. The Senate language saying the right of appeal is triggered by the publication "or mailing" of the notice is retained.</p>
<p>The board shall publish in local and county newspapers the assessment list and notice of a meeting where objections to the assessments may be heard.</p>	<p>61-24.8-17</p>	<p>Publication is not required if the board mails the assessment list and time and place of the hearing to each affected landowner. The hearing may not occur less than 14 days after the mailing <u>or</u> first publication of the notice.</p>	<p>Publication is not required if the board mails the assessment list and time and place of the hearing to each affected landowner. However, the hearing may not occur less than 14 days after the mailing <u>and</u> first publication of the notice. This indicates publication must occur.</p>

SB 2270

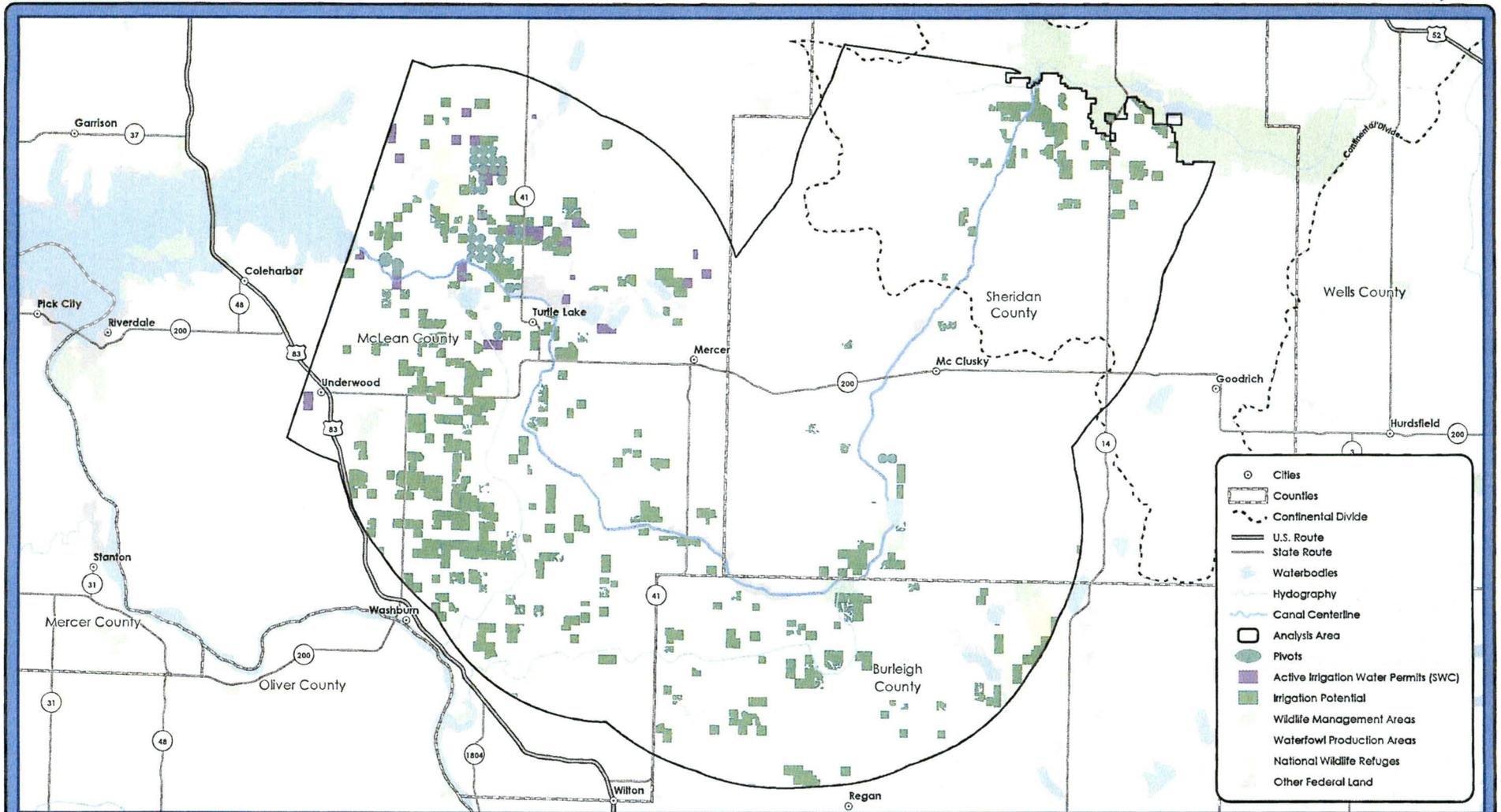
45-17  
AH + 1  
pg 3

Current Century Code Requirement	NDCC Section	Senate Amendment	House Amendment
The board shall hold a meeting to hear objections to the assessment list and may modify the list.	61-24.8-17	The hearing is not required if the board receives written consent to the assessments from each affected landowner.	The hearing is not required if the board receives written consent to the assessments from each affected landowner and publishes notice in local and county newspapers that the hearing is unnecessary due to the receipt of written consent from affected landowners.
If an affected landowner still objects to the assessment list, the landowner may appeal to the State Engineer.	61-24.8-18		

SB 2270

4-6-17

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AH #1  
PS1



Any reliance upon this map is at user's own risk. AES does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use.

Figure 2-6: Total Irrigation Potential

Irrigation Master Plan  
Garrison Diversion Conservancy District | McLean, Burleigh, and Sheridan Counties, ND



Date: 4/6/2016 | Coordinate System: North Dakota State Plane South

C:\Data\Projects\RRVWSP\F0200-2013-60P\100 Geomatic Services\Report Figure 2-06 Total Irrigation Potential.mxd | Edited by: DVI

The analysis area on the map is 10 miles on both sides of the McClusky Canal; the green squares are the irrigable acres which total 65,070 acres.

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Prepared by the Legislative Council staff for  
Representative Devlin  
April 6, 2017

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pg 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

That the House recede from its amendments as printed on page 849 of the Senate Journal and page 1016 of the House Journal and that Senate Bill No. 2270 be amended as follows:

Page 1, line 4, after "assessments" insert "; and to declare an emergency"

Page 3, line 23, replace "provides" with ":

a. Provides"

Page 3, line 29, after "located" insert " and

b. Publishes notice of the project in newspapers of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located at least twenty-one days before the deadline for filing votes on the project"

Page 5, after line 31, insert:

"**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly