Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011

HOUSE BILL NO. 1318
(Representatives Pollert, Hofstad, Onstad)
(Senators Klein, Lyson, Wanzek)

AN ACT to create and enact chapter 61-24.8 of the North Dakota Century Code, relating to creation of special assessment districts for irrigation works by the Garrison Diversion Conservancy District; to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to membership and duties of the water-related topics overview committee; to provide for reports to the state water commission; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, 2013) Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. During the 2011-12 interim, the committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects. The committee consists of ~~nine~~thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

(Effective after November 30, 2013) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

SECTION 2. Chapter 61-24.8 of the North Dakota Century Code is created and enacted as follows:

61-24.8-01. Definitions.

As used in this chapter:

1. "Auditor" means the county auditor.
2. "Board" means the board of directors of the Garrison Diversion Conservancy District.
3. "Bond" means any revenue bond, refunding bond, improvement bond, or other evidence of indebtedness of the district issued under this chapter.
4. "Direct benefit" means water is delivered to a tract of land.
5. "Director" means a member of the board of directors.
6. "District" means the Garrison Diversion Conservancy District.
7. "Federal agency" includes the United States, the president of the United States, or any agency, instrumentality, or corporation of the United States which has been or may be designated or created by or pursuant to any act or acts or joint resolutions of the Congress of

the United States or which may be owned or controlled, directly or indirectly, by the United States.

8. "Holder of bonds" or "bondholder", or any similar term, means any person who is the registered owner of any outstanding revenue bond, improvement bond, or refunding bond.

9. "Law" means any statute of this state.

10. "Project" means any work, undertaking, enterprise, or any combination of two or more projects, which the district is authorized to construct. The term includes all irrigation improvements, betterments, extensions, and replacements of work, undertaking, or enterprises, and all appurtenances, facilities, easements, lands, rights in land, water rights, contract rights, approaches, dams, reservoirs, generating stations, trunk connections, other water mains, filtration works, pumping stations, equipment, franchises, and structures in connection with or incidental to any irrigation work, undertaking, or enterprise the district is authorized to construct.

11. "Refinancing" means funding, refunding, paying, or discharging by means of refunding bonds or the proceeds from the sale of refunding bonds, all or any part of any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, or improvement of a project.

12. "Refunding bonds" means notes, bonds, certificates, or other obligations of the district issued under this chapter, the proceeds of which are to be used to pay the principal of or interest on any outstanding bonds or other obligations.

13. "Revenues" means all fees, tolls, rates, rentals, and charges levied and collected by the district in connection with, and all other income and receipts of whatever kind or character derived by the district from, the operation of any project.

14. "State engineer" has the same meaning as provided in chapter 61-03.

15. "Warrant" means an order drawn by the proper official of the district on its treasury, the warrant to be so drawn that when signed by the district treasurer in an appropriate place it becomes a check on the depository of the district, and a warrant upon the treasury may not be delivered or mailed to the payee or the payee's agent or representative until the warrant has been signed by the district treasurer and entered on the district's books as a check drawn on a bank depository.

61-24.8-02. Financing project through improvement bonds or special assessments - Apportionment of benefits.

The board may acquire needed interest in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project with funds raised by special assessments. The board may issue improvement bonds in anticipation of the levy and collection of special assessments. If the board decides to acquire property or interests in property to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, the assessments must be apportioned to and spread in proportion to direct benefits accruing to lands or premises benefited by the project. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and collection of special assessments which any lot, piece, or parcel of land bears in proportion to the direct benefits accruing to the property that is benefited.

61-24.8-03. Resolution authorizing project and the issuance of revenue bonds.

The acquisition, construction, reconstruction, improvement, betterment, or extension of any project and the issuance of bonds in anticipation of the collection of special assessments or of the revenues of such project to provide funds to pay the associated costs may be authorized by a resolution of the

board adopted after appropriate notice by the affirmative vote of a majority of the board. Unless otherwise provided in the resolution, the resolution under this section takes effect immediately and need not be laid over, published, or posted.

61-24.8-04. Construction.

Powers under this chapter are in addition and supplemental to and not in substitution for, and the limitations imposed by this chapter do not affect the powers conferred by, any other law. Bonds may be issued under this chapter without regard to any other laws of this state, except as provided in section 61-24-29. The project may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this chapter for those purposes, notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like project or for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, debt, or other limitations or other provisions contained in any other law, including any requirement for any restriction or limitation on the incurring of indebtedness or the issuance of bonds. If this chapter is inconsistent with any other law of this state, the provisions of this chapter are controlling with reference to the issuance of bonds.

61-24.8-05. Power of district to defray expense of improvements by special assessments.

Upon complying with this chapter, the district may defray the expense of any or all of the improvements by special assessments, including the construction of all or part of an irrigation water supply works or any improvement, extension, or replacement of such works, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, canals, ditches, aqueducts, reservoirs, water mains, and outlets, and all other appurtenances, contrivances, and structures used or useful for a central supply works. In planning an improvement project, the board may include in the plans any and all items of work and materials, which in its judgment are necessary or reasonably incidental to the completion of an improvement project of that type.

61-24.8-06. Condemnation of land and rights of way for special improvements - Taking of possession - Trial - Appeal - Vacation of judgment.

When property required to make any improvement authorized by this chapter is to be taken by condemnation proceedings, the court, upon request by resolution of the board of the district making the improvement, shall call a special term of court for the trial of the proceedings and may summon a jury for the trial. The proceedings must be instituted and prosecuted in accordance with chapter 32-15, except that when the interest sought to be acquired is a right of way for the laying of any main, pipe, ditch, canal, aqueduct, or flume for conducting water, whether within or without the district, the district may make an offer to purchase the right of way and may deposit the amount of the offer with the clerk of the district court of the county in which the right of way is located, and may then take possession of the right of way. The offer must be made by resolution of the board of the district, and a copy of the resolution must be attached to the complaint filed with the clerk of court in accordance with section 32-15-18. The clerk shall immediately notify the owners of the land on which the right of way is located of the deposit by causing a notice to be appended to the summons when served and published in the proceedings as provided in the North Dakota Rules of Civil Procedure stating the amount deposited or agreed in the resolution to be deposited. The owner may then appeal to the court by filing an answer to the complaint in the manner provided in the North Dakota Rules of Civil Procedure and may have a jury trial, unless a jury is waived, to determine the damages. However, upon due proof of the service of the notice and summons and upon deposit of the aggregate sum agreed in the resolution, the court without further notice may make and enter an order as authorized by section 16 of article I of the Constitution of North Dakota. If under laws of the United States proceedings for the acquisition of any right of way are required to be instituted in or removed to a federal court, the proceedings may be taken in that court in the same manner and with the same effect as provided in this section and the clerk of the district court of the county in which the right of way is located shall perform any and all of the duties set forth in this section if the clerk is directed to do so by the federal court. The proceedings must be determined as speedily as practicable. An appeal from a judgment in the condemnation proceedings must be taken

within sixty days after the entry of the judgment and appeal must be given preference by the supreme court over all other civil cases except election contests. No final judgment in the condemnation proceedings awarding damages to property used by the district for irrigation or other purposes may be vacated or set aside if the district pays to the defendant, or into court for the defendant, the amount awarded in cash. The district may levy special assessments within the district to pay all or part of the judgment. To provide funds for the payment of the judgment or for the deposit of the amount offered for purchase of a right of way, the district may issue bonds on the fund of the improvement district as provided in section 61-24.8-09 in anticipation of the levy and collection of special assessments or revenues to be appropriated to the fund in accordance with this chapter. The bonds may be issued upon or after the commencement of the condemnation proceedings. Upon the failure of the district to make payment in accordance with this section, the judgment in the condemnation proceedings may be vacated.

61-24.8-07. Improvement districts to be created.

For an improvement project under section 61-24.8-05 and defraying the cost of the project by special assessments, the district may create improvement districts, and may extend any such district when necessary. The special improvement district must be created by resolution. The special improvement district must be directly designated by a name appropriate to the type of improvement for which it is created and by a number distinguishing it from other improvement districts. For examinations or surveys, the board or its employees, after written notice to each landowner, may enter upon any land on which the proposed project is located or any other lands necessary to gain access.

61-24.8-08. Size and form of improvement districts - Regulations governing.

Any improvement district created by the district may embrace two or more separate property areas. Each improvement district must be of such size and form as to include all properties, which in the judgment of the board, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for the district, or by any portion of the project. A single district may be created for an improvement of the type specified in section 61-24.8-07, notwithstanding any lack of uniformity among the types, items, or quantities of work and materials to be used at particular locations throughout the improvement district. The jurisdiction of the district to make, finance, and assess the cost of any improvement project may not be impaired by any lack of commonness, unity, or singleness of the location, purpose, or character of the improvement, or by the fact that any one or more of the properties included in the improvement district is subsequently determined not to be benefited by the improvement, or by a particular portion of the improvement project, and is not assessed for that purpose. The board may omit from an improvement district property within the improvement district limits. The board may by resolution enlarge an improvement district in which an improvement is proposed, under construction, or in existence upon receipt of a petition signed by the owners of all of the area to be added to the district.

61-24.8-09. Engineer's report required - Contents.

After a special improvement district has been created, the board, if the board determines it necessary to make any of the improvement set out in section 61-24.8-05 in the manner provided in this chapter, shall direct the engineer for the district, or some other competent engineer, to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement. The engineer shall prepare profiles, plans, and specifications of the proposed project and estimates of the total cost. The estimate of costs prepared by the engineer must include acquisition of right of way and other costs specified in section 61-24.8-19 and must be in sufficient detail to allow the board to determine the probable share of the total costs that will be assessed against each of the affected landowners in the proposed assessment district.

61-24.8-10. Approval of plans, specifications, and estimates.

After receiving the engineer's report required by section 61-24.8-09, the board may direct the engineer to prepare detailed plans and specifications for construction of the improvement. The plans and specifications must be approved by a resolution of the board.

61-24.8-11. District engineer to retain copy of plans, specifications, and estimates - Sale of copies.

The engineer acting for the district shall retain a copy of the plans, specifications, and estimates that have been prepared for any improvement. The engineer shall furnish copies at the request of any person at a reasonable cost.

61-24.8-12. Plans, specifications, and estimates filed in office of district.

The plans, specifications, and estimates prepared as directed under section 61-24.8-10 are the property of the district, must be filed in the district office, and must remain on file subject to inspection by any interested person.

61-24.8-13. Hearing - Notice - Contents.

Upon the filing of the engineer's report provided for in section 61-24.8-09, and after satisfying the requirements of section 61-24.8-10, the board shall fix a date and place for public hearing on the proposed project. The place of hearing must be in the vicinity of the proposed project and must be convenient and accessible for the majority of the landowners subject to assessment for the project or whose property is subject to condemnation for the proposed project. The board may appoint a hearing officer or a committee of the board to conduct the hearing. The board shall cause a complete list of the benefits and assessments to be made, setting forth each lot, piece, or parcel of land assessed, the amount each is benefited by the improvement, and the amount assessed against each. At least fourteen days before the hearing, the board shall file with the county auditor of each county in which the project is or will be located the list showing the percentage assessment and approximate assessment in dollars against each parcel of land benefited by the proposed project. Notices of the hearing must contain the time and place where the board will conduct the hearing. The notice of hearing must specify when and where votes concerning the proposed project may be filed and contain an assessment list showing the percentage assessment and approximate assessment in dollars against each parcel of land benefited by the proposed project. The board shall cause the notice of hearing to be published once a week for two consecutive weeks 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. The date set for the hearing may not be fewer than fourteen days after the first publication of the notice. A record of the hearing must be made by the board, including a list of affected landowners present in person or by agent, and the record must be preserved in the minutes of the meeting. Affected landowners to be assessed must be informed at the hearing of the probable total cost of the project and their individual share of the cost and the portion of their property, if any, to be condemned for the project.

61-24.8-14. Voting on proposed projects.

At the hearing, the affected landowners must be informed when and where votes concerning the proposed project may be filed. Affected landowners to be assessed have thirty days after the date of the hearing to file their votes with the secretary of the district. Once the deadline for filing votes has been reached, no more votes may be filed and no person may withdraw a vote. Any withdrawal of a vote concerning the proposed project before that time must be in writing. When the votes have been filed and the deadline for filing votes has passed, the board shall immediately determine whether the project is approved. If the board finds that one hundred percent of the total votes filed are for the proposed project, then the vote constitutes an affirmation of the project and the board shall issue an order establishing the proposed project and may proceed, after complying with the requirements of sections 61-24.8-17 and 61-24.8-18, to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in section 61-24.8-41. The

board may enter any agreement with any federal or state agency under the terms of which the contract for the project is to be let by the federal agency, the state agency, or a combination thereof. In projects where there is an agreement that a party other than the board will let the contract, the board may dispense with all of the requirements of section 61-24.8-41. Upon making an order establishing or denying establishment of a project, the board shall publish notice of the order in a newspaper 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. Any right of appeal begins to run on the date of publication of the notice.

61-24.8-15. Voting right or powers of landowners.

In order that there may be a fair relationship between the amount of liability for assessments and the power of objecting to the establishment of a proposed project, the voting rights of affected landowners on the question of establishing the project are as provided in this section. The landowner of land affected by the project has one vote for each dollar of assessment to which the land is subject or one vote for each dollar of the assessed valuation of land for which fee title interest will be lost as a result of the project. There may be only one vote for each dollar of assessment, regardless of the number of owners of a tract of land. If more than one owner of a tract of land exists, the votes must be prorated among them in accordance with each owner's property interest. A written power of attorney authorizes an agent to protest a project on behalf of any affected landowner or landowners.

61-24.8-16. Assessment of cost of project.

When the board proposes to make any special assessment under this chapter, the board or its agent, before the hearing required under section 61-24.8-13, shall inspect any and all lots and parcels of land that may be subject to assessment and shall determine from the inspection the particular lots and parcels of lands which, in the opinion of the board, will be directly benefited by the construction of the work for which the assessment is made and shall assess the proportion of the total cost of acquiring right of way and constructing and maintaining such improvement in accordance with direct benefits received but not exceeding such benefits against any lot, piece, or parcel of land that is directly benefited by the improvement. Property belonging to the United States is exempt from assessment unless the United States has provided for the payment of any assessment that may be levied against its property for benefits received. There must be attached to the list of assessments a certificate signed by the chairman and certified by the secretary that it is a true and correct assessment of the benefit described to the best of their judgment and stating the several items of expense included in the assessment.

61-24.8-17. Assessment list to be published - Notice of hearing - Alteration of assessments - Confirmation of assessment list - Filing.

After entering an order establishing the project, the board shall cause the assessment list to be published once each week for two successive weeks 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. The publication must include a notice of the time and place the board will meet to hear objections to any assessment by any interested party or an agent or attorney for that party. The date set for the hearing must be not less than fourteen days after the first publication of the notice. At the hearing, the board may make such alterations in the assessments as in its opinion may be just and necessary to correct any error in the assessment but must make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which the assessments are made or the part of the cost to be paid by special assessment. An assessment may not exceed the benefit as determined by the board to the parcel of land assessed. The board then shall confirm the assessment list and the secretary shall attach to the list a certificate that it is correct as confirmed by the board. The list must be filed in the office of the district secretary.

61-24.8-18. Appeal to state engineer.

Within ten days after the hearing under section 61-24.8-17, affected landowners subject to assessment, who believe that the assessment has not been fairly or equitably made, or that the project is not properly located or designed, may petition the state engineer to review the assessments and examine the location and design of the proposed project. Upon receipt of a petition, the state engineer shall examine the lands assessed and the location and design of the proposed project. If it appears to the state engineer that the assessments have not been made equitably, the state engineer may proceed to correct the assessments. The state engineer's correction and adjustment of assessments is final. If it appears to the state engineer that the project has been improperly located or designed, the state engineer may order a relocation and redesign, which must be followed in the construction of the proposed project. Any landowner claiming to receive no direct benefit from the project may appeal to the state engineer the question of whether there is any direct benefit. The appeal must be filed with the state engineer within ten days after the hearing on assessments in section 61-24.8-17. The state engineer may not determine the specific amount of benefit upon an appeal by an individual landowner and may determine only if there is any direct benefit to the landowner. The determination of the state engineer upon the appeal is final.

61-24.8-19. When assessments may be made.

After the requirements of this chapter have been satisfied and a contract and bond for any work for which a special assessment is to be levied have been approved by the board, the board may direct special assessments to be levied for the payment of appropriate costs and the secretary shall certify to the board the items of total cost to be paid by special assessments so far as they have been ascertained. The certificate must include the estimated construction cost under the terms of any contract; a reasonable allowance for cost of extra work that may be authorized under the plans and specifications; acquisition of right of way; engineering, fiscal agents, and attorney's fees for any services in connection with the authorization and financing of the improvement; cost of publication of required notices; printing of improvement bonds; cost necessarily paid for damages caused by such improvement; interest during the construction period; and all expenses incurred in making the improvement and levy of assessments. A contract or contracts may not be awarded which exceed, by twenty percent or more, the estimated cost of the project as presented to and approved by the affected landowners.

61-24.8-20. Correction of errors and mistakes in special assessments - Requirements governing.

If mathematical errors or other mistakes occur in making any assessment resulting in a deficiency in that assessment, the board shall cause additional assessments to be made in a manner substantially complying with chapter 40-26 as it relates to special assessments.

61-24.8-21. Lien of special assessment.

A special assessment imposed by the district, with accrued interest and penalties, is a lien upon the property on which the assessment is levied from the time the assessment list is approved by the board until the assessment is fully paid. The liens have precedence over all other liens except general tax liens and may not be divested by any judicial sale. Mistake in the description of the property covered by the special assessment lien or in the name of the owner of such property does not defeat the lien if the assessed property can be identified by the description in the assessment list. This chapter must be considered notice to all subsequent encumbrances of the priority of special assessments imposed under this chapter.

61-24.8-22. Irrigation improvements in districts - Paid by service charges.

The district constructing an irrigation improvement under the special assessment method may resolve in the resolution required by section 61-24.8-07 that a portion of the cost of the improvement must be raised by service charges for the use of the improvement and of the utility of which it forms a part. If the district so resolves, it may determine in its resolutions, and other proceedings relating to the

levying of special assessments and the issuing of bonds to pay the cost of such improvement that a specified portion or all of such special assessments may be reduced each year by the amount of revenues on deposit in the fund required by section 61-24.8-36. All of the applicable provisions of this chapter relating to special assessments are applicable to such improvements except as to the portion of the cost of improvements resolved or ordained to be paid by service charges. The board of the district shall provide for the establishment, imposition, and collection of service charges for the services furnished by the improvement and the utility of which it forms a part, and in that connection it has all the rights and powers respecting such service charges as it would have with respect to like matters if the improvement were made in accordance with sections 61-24-22 through 61-24-32. The net revenues derived from the imposition and collection of the service charges or any portion of the service charges as are determined by the board in the resolutions and ordinances must be paid into the appropriate improvement district funds created under section 61-24.8-36. The revenues when collected must be used and applied in the same manner as moneys paid into such funds from the collection of special assessments. The board in issuing bonds to finance any such improvement in its resolutions may establish an assessment reserve in the fund of the improvement district, to which it may appropriate net revenues of the utility or system from time to time received in excess of amounts required, with special assessments then on hand, to meet the principal and interest next due on the bonds. Before November first of any year, the district may by resolution determine the proportion which the amount then on hand in the assessment reserve, and irrevocably appropriated to the payment of the bond, bears to the aggregate amount of the installment of the special assessments levied for the improvement which is payable in the following year, including interest. The district may direct the auditor to reduce, by not more than a proportionate amount, the total of that installment and interest which would otherwise be placed upon the tax list of the improvement district for the current year against each lot and tract of land assessed or taxed for improvement. If the installment of the special assessment on any property has been prepaid, the board may direct the district to refund, out of the assessment reserve, to the owner of the property at the time of the refund as indicated in the records of the recorder of the county a sum not exceeding a similar proportion of the principal amount of such installment excluding interest.

61-24.8-23. Abbreviations, letters, or figures.

In all proceedings for the levy and collection of special assessments, abbreviations, letters, and figures may be used to denote all or parts of additions, lots, lands, blocks, sections, townships, ranges, years, days of the month, and amounts of money.

61-24.8-24. Record of improvements - Record as evidence.

The district office shall keep a complete record of all the proceedings taken in the matter of making any improvements under this chapter. The record must include all reports and confirmations, all petitions, orders, notices and proofs of publication, and resolutions of the board. The record, a certified transcript of the record, or the original papers, proofs of publications, orders, or resolutions on file in the office must be admitted in evidence in any court or place in this state without further proof as evidence of the facts in those documents.

61-24.8-25. Defects and irregularities in improvement proceedings.

Defects and irregularities in any proceedings had or to be had under this chapter relating to district improvements by the special assessment method, if the proceedings are for a lawful purpose and are unaffected by fraud and do not violate any constitutional limitation or restriction, do not invalidate the proceedings. No action may be commenced or maintained and no defense or counterclaim in any action may be recognized in the courts of this state founded on any such defects or irregularities in the proceedings unless commenced within thirty days of the adoption of the resolution of the board awarding the sale of bonds to finance the improvement.

61-24.8-26. Payment of special assessments - Interest.

All special assessments levied under this chapter may be paid without interest within ten days after they have been approved by the board and thereafter bear interest at an annual rate not exceeding one

and one-half percentage points above the average net annual interest rate on any bonds for the payment of which they are pledged on the total amount remaining unpaid.

61-24.8-27. Lien between vendor and vendee of special assessments.

As between a vendor and vendee of real property, unless the purchase contract otherwise provides, the installment of all special assessments for local improvements which are required to be certified and returned to the county auditor in each year become a lien upon the real property upon which they are assessed from and after the first day of December in that year.

61-24.8-28. Irrigation special assessments extended over a period of not more than thirty years.

Special assessments for the payment of the cost of constructing any irrigation works are payable in equal annual amounts, or in such annual amounts as will permit the annual increase in payment of principal to approximate the annual decrease in the interest on amounts remaining unpaid, extending over a period of not exceeding thirty years as the board may fix by resolution.

61-24.8-29. Payments in full of assessments - Payments to county treasurer or district treasurer - Receipts.

The owner of any property against which an assessment has been made under this chapter for the cost of any improvement may pay in full or in part the amount remaining unpaid and the unpaid accumulated interest. The payment in full discharges the lien of the assessment upon that property. The payment may be made to the county treasurer upon all installments of the assessments which have been certified to the county auditor, and may be made to the district treasurer upon all portions of the assessment which have not been certified. Any person desiring to pay any portion of the assessment to the district treasurer shall obtain from the district treasurer a certificate of the amount due upon the assessment which has not been certified to the county auditor and shall present the certificate to the district treasurer. The district treasurer shall receive and collect that amount and issue a receipt to the person paying the assessment. The district treasurer shall note upon the treasurer's records the payment of the assessment.

61-24.8-30. Certification of assessments to county auditor.

When the board, by resolution, has caused special assessments to be levied to cover the cost of constructing a project the board shall determine the rate of interest unpaid special assessments are to bear, which rate may not exceed one and one-half percent above the bond rate. Interest on unpaid special assessments commences on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which must be due and payable not more than thirty years after the date of the bonds to be paid. The secretary of the district shall certify to the county auditor of the county in which the improvement district is situated, or if the improvement district embraces more than one county to the county auditor of each county in which improvement district lands subject to such special assessments are situated, the total amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district also shall file with the county auditor of each county in which district lands lie a statement showing the cost of the project and the part of the project to be financed by special assessments. Funds needed to pay the cost of maintaining a project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments, the board shall prorate the cost of construction. The district treasurer annually shall certify to the county auditor all uncertified installments of assessments which are to be extended upon the tax lists of the improvement district for the current year, in the manner provided in this section. The annual certification must continue until the amount of moneys on deposit in the fund established under section 61-24.8-36 is sufficient to cover outstanding principal of and interest on any obligations issued to fund the projects, and in addition, to repay the district for any payments made by the district to fund deficiencies in the fund established under section 61-24.8-36.

61-24.8-31. District treasurer to insert amount of improvements in county real estate book or other forms - Regulations governing.

The district treasurer shall notify the county auditor not later than August twentieth in each year of any special assessments that were made in the improvement district in addition to those reported in the previous year. The county auditor shall make and deliver to the district treasurer on or before September twentieth each year a copy of the real estate assessment book or other forms for the current year covering all additions in which any special assessments have existed and where any will appear for the current year as advised by the district treasurer. The district treasurer shall insert in the proper columns under the appropriate headings the amount of each of the installments of the assessments on the lots or subdivisions of lots or tracts of land which are to be extended upon the tax lists of the improvement district for the current year. The district treasurer shall show the total amount of special assessments certified to the county auditor for the current year. If a division of property has been made since the original assessment, the district treasurer shall make or cause to be made the proper division of the special assessments on the lots or tracts of land in the same manner as general taxes are divided and assessed as furnished by the county auditor. The district treasurer shall certify the special assessments to the county auditor by November first of each year.

61-24.8-32. Extension of special assessments on tax lists - Collection - Payment over to district.

The county auditor shall extend the special assessments upon the improvement tax lists of the district for the current year and the assessments with interest and penalties must be collected as general taxes are collected and paid over to the district treasurer and shall be placed by the district treasurer in the respective funds for which they were collected.

61-24.8-33. Special assessment record book kept by county auditor - Assessments certified for more than one year.

The county auditor shall keep a special assessment record. When the improvement district causes the installments of special assessments for a period of more than one year to be certified, the county auditor shall cause the certified special assessments to be recorded for the respective years and in the amounts shown in the certificate of the district treasurer. The certificate of the district treasurer must include a list of all lots and tracts of land upon which such assessments are levied, designating the purpose of the assessment, the fund to which it belongs, and the installment of such assessment for each year against each lot or tract, including interest.

61-24.8-34. County treasurer to certify and receipt for amount of special assessments collected - Contents of certificate - Procedure for abatement.

Special assessments of any kind certified to the county auditor by the district treasurer must be paid to the county treasurer and included in the receipt required by section 57-20-08. If the county treasurer receives less than the full amount of taxes and special assessments due at any time on any lot or tract of real estate, the county treasurer shall allocate the amount of such payment between taxes and special assessments in proportion to the respective amounts of taxes and special assessments which are then due. When prorating any tax payment received before October fifteenth, the term "due", as it pertains to real estate taxes, includes only the first installment of real estate taxes. Special assessments are not subject to abatement or refund by proceedings under chapter 57-32 but may be reviewed and corrected only in the manner and upon the conditions provided in chapter 40-26. The county treasurer, at the time set by law for the payment to the district treasurer of all the taxes and special assessments collected during the preceding month, shall certify the amounts of special assessments collected. The certificate must state specifically the lot or known subdivision as it appears on the tax books of the county treasurer; the block, addition, amount collected, and amount credited to each lot or known subdivision; and the year for which the sum was collected. The certificate must be furnished to the district treasurer.

61-24.8-35. Interest and penalties added to special assessments - County treasurer to collect and pay over.

The county treasurer shall add to all special assessments the same interest and penalties that are added in the case of general taxes and at the same time. The county treasurer shall collect the interest and penalties with the special assessments and shall pay all such interest and penalties collected over to the district treasurer.

61-24.8-36. Special improvement moneys to be kept separate - Designation and numbering of funds - Diversion of moneys prohibited.

All special assessments and taxes levied and other revenues pledged under the provisions of this chapter to pay the cost of an improvement constitute a fund for the payment of that cost, including all principal of and interest on bonds and other obligations issued by the district to finance the improvement, and may be diverted to no other purpose. The district treasurer shall hold all moneys received for any such fund as a special fund to be applied to payment for the improvement. Each fund must be designated by the name and number of the improvement district in or for which the special assessments, taxes, and revenues are collected. When all principal and interest on bonds and other obligations of the fund have been fully paid, all moneys remaining in a fund may be transferred into the general fund of the district. Any deficiency in any fund created for the payment of district bonds payable in whole or in part out of collections of special assessment taxes must be the general obligation of the district.

61-24.8-37. Bonds - When payable - Amounts - Interest.

At any time after entering a contract for a project to be financed in whole or in part by special assessments, the district may issue temporary and definitive bonds on the project fund created for that purpose in the manner and subject to the limitations prescribed in section 40-24-19. If the bonds are issued to finance an irrigation project, the net revenues derived from the imposition of service charges to be imposed and collected with respect to the project as provided in section 61-24.8-22 may be pledged to payment of those bonds. Bonds issued under this section must be in amounts as in the judgment of the board will be necessary for the project. The bonds must bear interest at a rate or rates and be sold at a price resulting in an average net interest cost not exceeding twelve percent per annum if sold at private sale. There is no interest rate ceiling on bond issues sold at public sale or to the state or any of its agencies or instrumentalities. The bonds must state upon their face the purpose for which they are issued and the project fund from which they are payable and must be signed by the manual or facsimile signature of the chairman of the district board and countersigned by the manual or facsimile signature of the secretary of the district. The bonds must be payable in such amounts as the board determines, extending over a period of not more than thirty years.

61-24.8-38. Bonds may be used in making payments on contract - Bonds payable out of fund on which drawn - May be used to pay special assessments.

Improvement bonds may be sold for cash at not less than ninety-eight percent of par and accrued interest, and the proceeds, less accrued interest, must be credited to the construction account of the fund and must be used exclusively to pay those contracts and construction costs. Any balance remaining in any construction account after completion of any project must be transferred to the sinking fund account of the assessment fund. The treasurer of the district shall pay special assessment bonds as they mature and are presented for payment out of the fund on which they are drawn and shall cancel the bonds when paid.

61-24.8-39. Refunding special assessment bonds - Purposes for which such bonds may be issued - Payment of bonds.

Any district having outstanding special assessment bonds, payable in whole or in part out of collections from special assessments, which are past-due or which are redeemable, either at the option of the district or with the consent of the bondholders, may issue refunding special assessment bonds if there is not sufficient money in the project fund against which such bonds are drawn to pay the same.

The issuance of refunding bonds must be authorized by resolution of the board. The resolution must describe the bonds to be refunded and their amount and maturity. Refunding bonds may be issued to extend the maturities of bonds payable in whole or in part by special assessments or to reduce the interest on the bonds. Refunding bonds must bear such date, be in such date, be in such denominations, and mature serially within such time, not exceeding thirty years from date of issuance, as the board determines. The treasurer of the district shall pay special assessment bonds as they mature and are presented for payment out of the fund against which they are drawn and shall cancel the bonds when paid.

61-24.8-40. Foreclosure of tax lien on property when general and special assessment taxes are delinquent.

Special assessments imposed under this chapter become due and delinquent and are subject to penalties for nonpayment at the same date and rates as first installments of real estate taxes at the same time and in the same manner as provided in title 57. If there is no delinquent general property tax against a tract or parcel of land and it is foreclosed for special assessments alone, the notice of foreclosure of tax lien must state that the foreclosure is for special assessments and a tax deed in such case must be issued in the usual course of procedure.

61-24.8-41. Contracts for construction or maintenance of project.

If the cost of construction or maintenance of a project does not exceed the amount provided for construction of a public improvement under section 48-01.2-02, the work may be done on a day work basis or a contract may be let without being advertised. If the costs of the construction or maintenance exceed the amount provided for construction of a public improvement under section 48-01.2-02, the board must let a contract in accordance with chapter 48-01.2.

SECTION 3. REPORT TO STATE WATER COMMISSION. The Garrison Diversion Conservancy District shall report periodically to the state water commission on the development and status of irrigation projects constructed under this Act.

SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2013, and after that date is ineffective except for projects for which all steps up to and including approval as described in section 61-24.8-14 are completed before August 1, 2013.

_____ Speaker of the House

_____ President of the Senate

_____ Chief Clerk of the House

_____ Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1318.

House Vote:	Yeas 89	Nays 3	Absent 2
Senate Vote:	Yeas 45	Nays 2	Absent 0

_____
Chief Clerk of the House

Received by the Governor at _____M. on _____, 2011.

Approved at _____M. on _____, 2011.

_____
Governor

Filed in this office this _____day of _____, 2011,

at _____ o'clock _____M.

_____
Secretary of State