Industrial Commission
of North Dakota

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GOVERNOR

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ATTORNEY GENERAL

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AGRICULTURE COMMISSIONER

North Dakota Public Finance Authority

Senate Bill 2014
House Appropriations Committee
Government Operations Division
Testimony of DeAnn Ament
North Dakota Public Finance Authority/North Dakota Building Authority
March 8, 2021

For the record, my name is DeAnn Ament. I am the Executive Director of the Public Finance Authority ("PFA" or "Authority"). I am also appearing today in my new capacity as an Authorized Officer for the North Dakota Building Authority. I will first talk about the PFA. The statutory authority for the PFA is found in N.D.C.C. 6-09.4.

PURPOSE

The PFA was established to make low-cost loans to North Dakota political subdivisions at favorable interest rates. Loans are made to political subdivisions by the PFA through the purchase of municipal securities issued by the political subdivisions in accordance with state and federal law. Loans are primarily made with the proceeds of bonds issued by the PFA under the programs described below. In certain instances, a direct loan may be made to a political subdivision from the PFA's operating fund or from the federal grants or loan repayments held under the State Revolving Loan Fund Program.

Mission

To develop rural and urban North Dakota by providing political subdivisions and other qualifying organizations access to flexible and competitive financing options for their local qualifying projects.

The Authority administers the Capital Financing Program (CFP), the financial portion of the State Revolving Loan Fund (SRF) and the Industrial Development Bond Program. Detailed activity of all programs is contained in our annual report which is attached.

The most active program at this time is the SRF. This program is funded through grants to the Department of Environmental Quality (DEQ) from the Environmental Protection Agency and are referred to as capitalization or cap grants. This funding began in 1990 and the program was set up as a Revolving Loan Fund. Along with the grants, bonds sold in the capital market have been issued to provide the required state match as well as leverage the program. These funds are utilized to provide low-interest loans for water and sewer related projects.

This past calendar year there were loan approvals of $14,428,000 and funded draws of $34,834,590 for the Clean Water SRF. A few of the Clean Water projects financed recently included $5,000,000 for hydrogen sulfide control improvements in Bismarck, $2,370,000 for

Dickinson's wastewater collection improvements, $1,425,000 for wastewater utility improvements in Grand Forks and $635,000 for sewer main and manhole rehabilitation and spot repair in Wing. The Drinking Water SRF had approvals of $48,059,000 and funded loan draws of $45,460,472. Projects financed under the Drinking Water program include $800,000 for Cooperstown to replace eight blocks of asbestos cement pipe water main, $23,950,000 to Fargo to improve the raw water supply treatment, $3,095,000 to replace the water tower in Cavalier, and $5,000,000 for Bismarck to replace cast iron water mains and lead service lines.

The SRF programs continue to require many changes for documenting, funding and reporting purposes. These additional requirements challenge the current staff of 2.50 FTE to reprioritize the workload to meet requirements in a timely manner. Congress continues to require a portion of the capitalization grants be used for additional subsidization (loan forgiveness). Additionally, the amount of time to spend the SRF grants has been reduced to three years. To expedite the expenditure of loan forgiveness funds, a Planning Assistance Reimbursement (PAR) pilot program was established by the DEQ and PFA in 2020. These grants will help potential borrowers explore their options for their water and sewer systems. In 2020, the SRF began exploring options for loan tracking software as the current system of spreadsheets and databases has become onerous to track almost 600 unique projects and associated loans. The new PAR program and loan tracking software project in addition to administering American Iron and Steel, Davis-Bacon wages, additional subsidization and green project reserve have increased the workload and will continue to do so into the foreseeable future.

Goals for the 2021-2023 biennium, include timely approval of 70% of the loans in 45 days or less and expediating loan forgiveness and lead service line replacement projects to meet federal grant requirements. The recently filled .5 FTE account budget specialist III position will help the PFA meet these goals and allow the team to strategize for future bonding and programmatic improvements and requirements.

During 2020 there were no Capital Financing Program bonds issued. In 2011, the Industrial Commission authorized the PFA to utilize the Capital Financing Program to provide loans for political subdivisions impacted by weather related events. In short order, the PFA was able to establish loan parameters, construct a loan application and offer disaster assistance to political subdivisions until federal and state money was available and/or to assist in cash flowing local match requirements. The PFA assisted 40 political subdivisions with loan approvals totaling $71,531,546. Approximately 30 of the loan applications were processed in a six-month time period. The final disaster loans were paid in full in 2020. Our ability to provide this disaster assistance, if needed, is available to help political subdivisions.

PFA BUDGET

The PFA 2019-2021 appropriation was $804,425. The PFA portion of the 2021-2023 operating expenses, salaries and wages total $880,762 an increase of $76,337 or 9.5% more than the current biennial appropriation. The 2021-2023 budget includes the recommended salary and benefit adjustments as outlined in the Executive Budget and approved in Engrossed Senate Bill 2014. As a result of changes to the State's classification system the loan officer position is now classified as an account budget specialist III and the salary budget has been adjusted to reflect that pay grade. Salaries and benefits are approximately 79% of the PFA portion of the budget.

Operating expense reductions of $29,571 amount to meet the Governor's 5% budget guidelines included reductions to travel, telecommunications, professional fees, operating fees, supplies and professional development. The optional request to restore $15,000 professional fees, $5,000 for operating fees and $5,000 for travel was approved in the Executive Budget and approved in Engrossed Senate Bill 2014.

The PFA is a state agency that operates under the supervision and authority of the Industrial Commission. **It is a self-supporting state agency and receives no money from the General Fund.** The PFA staffing level is currently authorized at 2.75 FTEs. Of the 2.75 authorized FTEs, 2.25 are filled, which includes an Executive Director, a Business Manager and Account Budget Specialist III. I ask that you continue to appropriate funding for the .5 FTE should the workload of the bonding process necessitate the Business Manager and the Account Budget Specialist III to increase their hours.

NORTH DAKOTA BUILDING AUTHORITY

The North Dakota Building Authority ("NDBA") was created in 1985 for the purpose of providing another option (obtaining funding through the capital markets) for the Legislature as it considers how to pay the costs of projects declared by the Legislature to be in the public interest. The authority for the NDBA can be found in N.D.C.C. 54-17.2. Since the NDBA was established it has funded over $207 million of projects.

Within the last year the Industrial Commission named me to be an Authorized Officer for the North Dakota Building Authority ("NDBA") along with Karlene Fine and Joe Morrissette. Previously the budget for the payment on the outstanding NDBA bonds was in the Administrative portion of this budget. For the 2021-2023 biennium the debt service payments will be administered through the PFA budget.

With the PFA taking on the additional responsibilities of administering the North Dakota Building Authority ("NDBA") the Governor's Executive Budget for the 2021-2023 biennium totals $22,921,483. The NDBA portion of the PFA budget includes $22,040,721 for NDBA (lease) bond payments for the outstanding bonds and are reflected in Section 3 of Engrossed SB 2014. The 2019-2021 appropriation for NDBA for bond payments was $8,033,221. Section 3 was amended by the Senate to reflect the increase of $14,007,500 due to the issuance of bonds for capital projects approved last session in SB 2297 and HB 1003. The bonded projects included the Dickinson State University Pulver Hall - $4,000,000, North Dakota State University Dunbar Hall - $40,000,000, University of North Dakota Deferred Maintenance projects- $30,000,000, University of North Dakota Gamble Hall - $6,000,000 and Valley City State University Communications and Fine Arts Building - $30,000,000. The Legislature had also approved bonding for the Agriculture Products Development Center project with a requirement that a certain level of match funding be provided. That match funding was not obtained so bonds were not issued for that project.

Attached for your information is the Debt Service Schedule for all the Building Authority outstanding bond issues. If NDBA bonding is authorized by the Legislature this session this attachment shows that there is available debt service under the 10% of 1¢ statutory limitation established for any bonds issued by the North Dakota Building Authority. The level of debt service available would translate into NDBA bonding for approximately $206.7 million of projects.

North Dakota University System	$17,204,639
North Dakota University System - energy conservation projects*	415,114
Department of Corrections and Rehabilitation	492,354
Department of Corrections and Rehabilitation - energy conservation projects*	8,181
State Department of Health	341,365
Job Service North Dakota	230,600
Office of Management and Budget	564,515
Attorney General's Office	648,055
State Historical Society	1,179,015
Parks and Recreation Department	66,165
Research and extension service	483,447
Veteran's Home	407,271

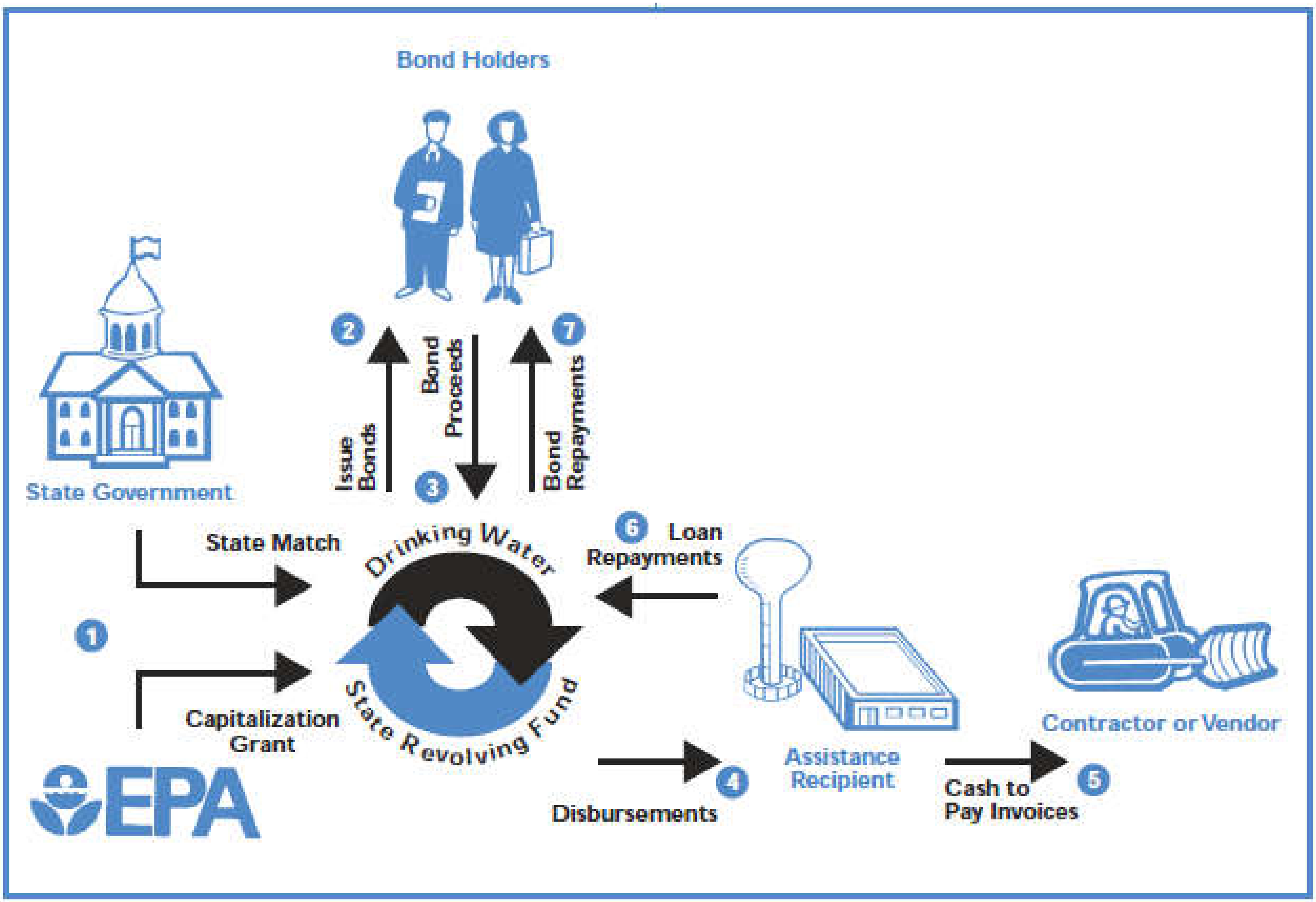
The following non-General Fund sources or energy conservation savings* will be utilized to pay a portion of these payments:

*University System – UND (05A)	$ 415,114
*Department of Corrections and Rehabilitation	$ 8,181
Job Service North Dakota (02A/10B) (fed funds)	$ 230,600
Historical Society (05A)	$ 33,333
Veterans Home (10A/B)	$ 407,271
Dept. of Health (02A) (federal funds)	$ 97,902
*University System – UND (2020A)	$3,819,375
	$5,011,775

The written testimony below describes additional information on the PFA and its financing programs. The attached PFA 2020 Annual Report included in the binder describes in more detail the PFA's programs and provides a complete history of all the Public Finance Authority's loans and bond issues since 1975. The PFA Annual Report is provided to Legislative Council each year.

The Industrial Commission, by policy, has established a three-member Public Finance Authority Advisory Committee with the Committee being appointed by the Commission. The Committee reviews each loan application for the purpose of making a recommendation concerning the loan to the Industrial Commission, which must give its approval before a loan may be made under each Program. However, if the loan is for $500,000 or less for the Capital Financing Program and $1,000,000 or less for the SRF Program, the Committee may authorize the approval of the loan, and then submit a report describing the loan and the action taken to the Commission at its next meeting.

The next page illustrates the flow of funds for SRF loans.


Bond Holders
State Government
2
Issue Bonds
Bond Proceeds
3
7
Bond Repayments
State Match
1
Capitalization Grant
Drinking Water State Revolving Fund
6
Loan Repayments
Disbursements
4
Assistance Recipient
Cash to Pay Invoices
5
Contractor or Vendor
EPA

The municipal securities issued by a political subdivision to the Public Finance Authority may be either tax-exempt or taxable obligations. A political subdivision must retain bond counsel to assist in the preparation and adoption of its bond resolution and other necessary documents. The Public Finance Authority may purchase municipal securities only if the Attorney General issues an opinion that states the municipal securities are properly eligible for purchase under the North Dakota Century Code (N.D.C.C.) chapter 6-09.4, the Public Finance Authority Act.

Required Debt Service Reserve

Subsection 1 of §6-09.4-10 of the N.D.C.C. requires the Public Finance Authority to establish a debt service reserve in an aggregate amount equal to at least the largest amount of money required in the current or any succeeding calendar year for the payment of the principal of and interest on its outstanding bonds.

Subsection 4 of §6-09.4-10 of the N.D.C.C. of the N.D.C.C. provides as follows:

> "In order to assure the maintenance of the required debt service reserve, there shall be appropriated by the Legislative Assembly and paid to the Public Finance Authority for deposit in the reserve fund, such sum, if any, as shall be certified by the Industrial Commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve."

In the written opinion of the Attorney General, this provision does not constitute a legally enforceable obligation of the State. In the written opinion of the Public Finance Authority's bond counsel, there is no applicable provision of state law that would prohibit a future Legislative Assembly from appropriating any sum that is certified by the Industrial Commission as necessary to restore the reserve fund in an amount sufficient to meet the required debt service reserve amount. The legislative obligation imposed by the Legislative Assembly in subsection 4 of §6-09.4-10 is referred to as a moral obligation because the obligation to provide an appropriation for the Public Finance Authority's reserve fund is not backed by the full faith and credit of the State. All bonds issued by the Public Finance Authority under any of its programs prior to 2011 are moral obligation bonds unless the Industrial Commission approves a resolution to allow the Public Finance Authority to issue bonds under section 40-57 as a conduit issuer. The State Revolving Fund Program bonds issued in 2011, 2012, 2015, 2016 and 2018 do not contain the moral obligation provision. Under any of the Public Finance Authority programs, there has never been the need to request an appropriation to cover a shortfall in a reserve fund.

At the present time, the Public Finance Authority has three loan programs: the Capital Financing Program, the State Revolving Fund Program, and the Industrial Development Bond Program.

Capital Financing Program

The Capital Financing Program, established in 1990, makes loans to political subdivisions for any purpose for which political subdivisions are authorized to issue municipal securities, subject to certain statutory requirements.

Through December 31, 2020, the Public Finance Authority has made $262,963,016 of loans to political subdivisions under the Capital Financing Program. The outstanding amount of Capital Financing Program bonds is $139,725,000. Recognizing the strength of the State's moral obligation pledge, Standard and Poor's (S&P) has assigned a rating of "AA-" to the Capital Financing Program Bonds.

The Industrial Commission authorized the PFA to utilize the Capital Financing Program to provide loans for political subdivisions impacted by the weather-related events. These loans assisted political subdivisions until federal and state money was available or aided in cash flowing local match requirements.

During times of crisis, the PFA was able to assist 40 political subdivisions. Loans approved under this program total $71,531,546 and none were outstanding as of December 31, 2020.

State Revolving Fund Program

Under the State Revolving Fund (SRF) Program, federal capitalization grants are received by the State through the Department of Environmental Quality from the Environmental Protection Agency (EPA), and are deposited and held under the Program's Master Trust Indenture for the purpose of making below-market interest rate loans to political subdivisions for qualified projects and for other authorized purposes. The projects are subject to the approval by the State Health Department under appropriate state law and the Federal Clean Water Act and the Federal Safe Drinking Water Act. The federal capitalization grants are available to states on the basis of an 80-20 federal-state match. A portion of the SRF Program bonds issued by the Public Finance Authority provides the 20% state match. The federal capitalization grants must be held by the state in a revolving loan fund and are available only for purposes authorized under the Federal Clean Water Act and the Federal Safe Drinking Water Act.

The SRF Program consists of a Clean Water SRF Program and a Drinking Water SRF Program. Federal capitalization grants for the Clean Water SRF Program were first appropriated to the State in 1989. Since that time, $235,806,688 of federal capitalization grants under the Clean Water SRF Program have been appropriated and awarded to the State through federal fiscal year 2020. Through December 31, 2020, 318 loans totaling $877,976,241 have been approved under the Clean Water SRF Program. The Department of Environmental Quality's Clean Water Intended Use Plan for 2021 includes over $587,858,000 of potential projects.

Federal capitalization grants for the Drinking Water SRF Program were first appropriated to the State in 1997. Since that time, $229,545,767 of federal capitalization grants under the Drinking Water SRF Program have been appropriated and awarded to the State through federal fiscal year 2020. Through December 31, 2020, 278 loans totaling $734,512,930 have been approved under the Drinking Water SRF Program. The Department of Environmental Quality's Drinking Water Intended Use Plan for 2021 includes approximately $636,648,000 of potential projects.

A project must be on the appropriate Intended Use Plan to be able to apply for a loan under the SRF Program. The current interest rate for most loans under the SRF Program is 1.5% with a 0.5% annual administrative fee on the outstanding balance. Bonds issued by the Public Finance

Authority under the SRF program are rated “Aaa” by Moody’s Investors Service, Inc. (Moody’s), which is Moody’s highest possible rating. The PFA obtained an additional rating for the North Dakota SRF Program bonds from Standard & Poor’s Ratings Services which assigned their highest rating, “AAA”.

Industrial Development Bond Program

The Public Finance Authority’s Industrial Development Bond Program provides loans to North Dakota manufacturers that meet the IRS definition for small issue manufacturers. This program has been assigned an “A+” rating by S&P, which allows those manufacturers that qualify to finance fixed assets at attractive tax-exempt rates. Bonds issued under this Program will be moral obligation bonds of the State unless the borrower has the financial strength to request that the Public Finance Authority issue the bonds on a conduit basis. The 2005 Legislature passed the legislation allowing the Public Finance Authority to issue industrial revenue bonds. Current Program limits are $2,000,000 per borrower. For conduit issuance when the state’s moral obligation is not used as a credit enhancement there are no project or program limits. The Public Finance Authority has made three loans under this program in the amount of $4,860,000 and $800,000 is currently outstanding.

If you have any questions, feel free to contact me at 701.426.5723 or dament@nd.gov.

NORTH DAKOTA BUILDING AUTHORITY DEBT SERVICE

Biennium	2010B 2002A	2010A/B	2012A	2017A 2006B/2001A 2006A/2000A/1998A 2005A	2020A	Totals	Other Source	Energy Conser. Budgeted	Total Gen. Fund	Legislative 2019 10% of $.01 Sales Tax*	Available Debt Ser
2019-21	928,088	407,357	1,797,750	7,361,250	0	10,494,445	1,056,762	431,844	9,005,839	46,404,580	37,398,741
2021-23	497,700	407,271	914,000	6,214,250	14,007,500	22,040,721	4,585,981	423,295	17,031,445	46,404,580	29,373,135
2023-25	0	404,834	0	2,782,875	14,016,375	17,204,084	4,262,045	207,649	12,734,390	46,404,580	33,670,190
2025-27	0	402,344	0	0	14,001,750	14,404,094	4,224,219	0	10,179,875	46,404,580	36,224,705
2027-29	0	396,928	0	0	14,020,125	14,417,053	4,223,678	0	10,193,375	46,404,580	36,211,205
2029-31	0	164,096	0	0	14,019,875	14,183,971	4,159,317	0	10,024,654	46,404,580	36,379,926
2031-33	0	0	0	0	14,013,500	14,013,500	3,823,500	0	10,190,000	46,404,580	36,214,580
2033-35	0	0	0	0	14,017,875	14,017,875	3,826,750	0	10,191,125	46,404,580	36,213,455
2035-37	0	0	0	0	14,018,125	14,018,125	3,818,125	0	10,200,000	46,404,580	36,204,580
2037-39	0	0	0	0	14,009,125	14,009,125	3,820,000	0	10,189,125	46,404,580	36,215,455
2039-41	0	0	0	0	14,010,125	14,010,125	3,818,875	0	10,191,250	46,404,580	36,213,330
Totals	1,425,788	2,182,830	2,711,750	16,358,375	140,134,375	162,813,118	41,619,252	1,062,788	120,131,078		
	3.24%	3.33%	1.41%	1.53%	2.34%						

Ex. Budget 10% of $.01 Sales Tax**	Available Debt Ser
43,546,540	34,540,701
41,603,500	24,572,055
41,603,500	28,869,110
41,603,500	31,423,625
41,603,500	31,410,125
41,603,500	31,578,846
41,603,500	31,413,500
41,603,500	31,412,375
41,603,500	31,403,500
41,603,500	31,414,375
41,603,500	31,412,250

Revised 1/10/2021

*The statutory limitation is based on the Legislative March 2019 forecast with a 0% increase each subsequent biennium.

**The statutory limitation is based on the Executive Budget December 2020 forecast with a 0% increase each subsequent biennium.