

2001 SENATE NATURAL RESOURCES

SB 2165

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2165

Senate Natural Resources Committee

Conference Committee

Hearing Date 1-12-01

Tape Number	Side A	Side B	Meter #
1	X		Start - 20.4
Committee Clerk Signature <i>Paul James</i>			

Minutes:

Attendance was taken with all committee member present.

SENATOR THOMAS FISCHER, Committee Chairman, opened the hearing on SB 2165. A BILL RELATING TO THE AUTHORITY OF THE STATE BUILDING AUTHORITY TO LEASE AND LEASEBACK STATE PROPERTY.

KARLENE FINE, Executive Director and Secretary of the Industrial Commission of North Dakota, testified in support of SB 2165. (See attached testimony).

SENATOR CHRISTMANN: questioned if the rating agency changes their mind and there are leases on bonds will this change our over all state rating.

KARLENE FINE: no, they would not go back on a previous standard they have taken unless they see an overall down grade on the state.

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Senate Natural Resources Committee

Bill/Resolution Number SB 2165

Hearing Date 1-12-01

SENATOR TRAYNOR: asked if the rating set by the legislature has been dependable and if they have ever defaulted.

KARLENE FINE: the rates set have been reliable and there has never been a default.

SENATOR CHRISTMANN: questioned if the transfer of title fee of \$10,000.00 is per item bonded and take title to.

KARLENE FINE: it varies and the highest ever was \$10,000.00.

ROD BACKMAN, Director of the Office of Management and Budget testified in support of Bill 2165. He felt it is important to tie a bond rating to a specific forecast then you would have a formula and when the bond is issued you can see that you are in compliance with the law.

SENATOR TRAYNOR: to clarify the bill, the state would retain the title to the building and the Industrial Commission would be the tenant.

ROD BACKMAN: in effect, the tenant would be the agency that is using the utilities, making the lease payments to the state and the state makes the bond payments.

SENATOR TRAYNOR: questioned why have the leaseback, doesn't the lease set the mode for the bond program.

ROD BACKMAN: because the state holds the debt, the state needs to own the asset, giving collateral behind the debt.

SENATOR TRAYNOR: questioned the leaseback authority and if a sublease could be made to a private entity

KARLENE FINE: the leaseback authority gives more flexibility that might be needed 10 years from now and that private facilities are not allowed to be in state buildings.

SENATOR FISCHER: closed the hearing on SB 2165.

SENATOR CHRISTMANN: made a motion for a "DO PASS" of Bill 2165.

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Senate Natural Resources Committee
Bill/Resolution Number SB 2165
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SENATOR TRAYNOR: second the motion.

Discussion was held.

SENATOR TRAYNOR: asked what the fiscal impact would be.

KARLENE FINE: no dollar amount could be given because it would depend on each project.

Roll vote was taken indicating 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING.

SENATOR CHRISTMANN will carry Bill 2165.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: SB 2165

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The Authorized Officers for the North Dakota Building Authority are unable to identify specific dollar amounts for each biennium because we do not know what projects will be approved for financing. In the past we have found that the costs involved in transferring title have been approximately \$10,000 (not including staff time).

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Karlene Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	01/11/2001

Date: 1-12-01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2165

Senate NATURAL RESOURCES Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Christmann Seconded By Senator Traynor

Senators	Yes	No	Senators	Yes	No
Sen. Thomas Fischer, Chairman	✓		Sen. Michael A. Every	✓	
Sen. Ben Tollefson, Vice Chair.	✓		Sen. Jerome Kelsh	✓	
Sen. Randel Christmann	✓				
Sen. Layton Freborg	✓				
Sen. John T. Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Christmann

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

REPORT OF STANDING COMMITTEE (410)
January 12, 2001 10:41 a.m.

Module No: SR-04-0927
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2165: Natural Resources Committee (Sen. Flecher, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2165 was placed on the
Eleventh order on the calendar.

2001 HOUSE NATURAL RESOURCES

SB 2165

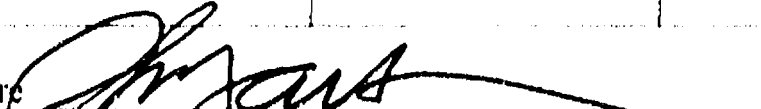
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2165

House Natural Resources Committee

Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
1	x		2029 to 2833
1		x	3052 to 3725
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Warich.

Chairman Rennerfeldt: I will open the hearing on SB 2165.

Karlene Fine - Executive Director for the Industrial Commission: (See written testimony).

Rep. Droydal: When you lease back a building to somebody else, does the money go into the general fund? Or does it go into the Commission fund?

Fine: Lease payments made by the agency they go back to the agency, the agency pays the building authority and we pay the bond holders.

Chairman Rennerfeldt: Any more questions from the committee?

Rod Backman - OMB: I would like to speak in favor of SB 2165 for the same reasons that Karlene has just pointed out. Particularly on the second section. The question comes up when we are dealing with bond ratings. What happens if your sales tax are lower than the 10%. It makes the bond rating agencies nervous to have a statute out that says you can't go above a certain number and not really know what we are supposed be multiplying 1/10th of 1% by. So all this does is clarify that, it gives us a fixed number that we can look back to that number and make those computations. It identifies that number.

Vice Chair Nelson: What are you basing that number on today?

Backman: Today we base it on the forecast. The problem is the law is not clear and when bond rating agencies look at the law the question always come up to them, it doesn't say what you're supposed to be basing it on. We don't really have anything else to base it on, it is just not clear to the bond rating companies.

Chairman Rennerfeldt: Any other questions of the committee? Anyone else care to testify in favor of HB 2165. Any opposition to SB 2165. If not I will close the hearing.

COMMITTEE WORK

Chairman Rennerfeldt: Let's take SB 2165.

Rep. DeKrey: I move a Do Pass.

Rep. Winrich: I second.

Chairman Rennerfeldt: Okay, does everyone understand the bill?

Rep. Klein: No, what was wrong with the way it was?

Rep. DeKrey: It has to do with the way we bond for state projects? And the relationship with the State Industrial Commission. When we bond we have to go out on the money market to get the money, there is cost to the state for that. The way the state can do that cheaper is if our bonds

have a AA or AAA rating by the bond rating outfits. That is an indicator of our risk. The way we do it now, the bond companies don't understand that and they give us a lower rating. This costs us more money. If we do this with a lease option, then the bond companies understand that and the money will be appropriated for this project and we as a state get a higher rating. So North Dakota saves a few bucks.

Rep. Keiser: I think I understand that, the good faith of the state of North Dakota is behind any obligation which the state incurs. That obligation is a triple A regardless because of the state's rating. However, this puts behind the good faith and name of North Dakota a source of funds dedicated to the repayment. That gives you a few points on the good side, such as a secured loan with the funds appropriated to back that up. So the bond companies will give you a slightly better rate/

Rep. Winrich: One more point to understand is that the recognition of appropriation debt by the bonding underwriters is a relatively recent change. Before that recognition was given in order to secure the highest rating on the bonds, the bonds had to be guaranteed by the state holding title to the property and so if the state held title, that is what backed up the bond. Now, because the bonding underwriters recognize appropriation debt, we don't have to hold title anymore, we can lease the property, this allows that option.

Rep. Keiser: I understand, however, appropriation debt bonding only applies to states which can't deficit spend. According to our constitution, North Dakota cannot deficit spend. So we are obligated automatically to appropriation debt. Regardless of the language here. If for some reason we had a deficit after one year after we adjourned and we could not meet that deficit, we will have a special session by law and we will tax or do other things to bring the budget back into balance.

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House Natural Resources Committee
Bill/Resolution Number SB 2165
Hearing Date February 9, 2001

Chairman Rennerfeldt: Is everyone clear on that? Any further discussion? If not, take the roll.

MOTION FOR A DO PASS

YES, 15 NO, 0

CARRIED BY REP. KEISER

02/09/01
Date:

Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2165

House Natural Resources Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep DeKrey Seconded By Rep Winrich

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson	✓	
Jon O. Nelson - Vice Chairman	✓		Scot Kelsh	✓	
Curtis E. Brekke	✓		Lonnie B. Winrich	✓	
Duane DeKrey	✓		Dorvan Solberg	✓	
David Drovdal	✓				
Pat Galvin	✓				
George Keiser	✓				
Frank Klein	✓				
Darrell D. Nottestad	✓				
Todd Porter	✓				
Dave Weiler	✓				

Total (Yes) 15 No 0

Absent _____

Floor Assignment Rep. Keiser

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

2001 TESTIMONY

SB 2165



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Commissioner of Agriculture

Testimony on Senate Bill No. 2165
by Karlene Fine
Executive Director & Secretary
Industrial Commission of North Dakota
January 12, 2001 – Natural Resources Committee

Mr. Chairman and members of the Natural Resources Committee, my name is Karlene Fine and I am Executive Director and Secretary for the Industrial Commission. The Industrial Commission by statute is also the North Dakota Building Authority. I, along with Rod Backman, Director of the Office of Management and Budget, serve as the Authorized Officers for the Authority.

Before actually going into Senate Bill 2165 I thought it might be helpful to explain what the Building Authority is and what it does. The North Dakota Building Authority was established by the 1965 Legislative Assembly to provide the Legislature with another option as it considers how to pay the costs of projects declared by the Legislature to be in the public interest. This is how it works:

- (1) The Legislature determines whether a project is in the public interest of the State and passes legislation authorizing the specific projects and authorizing the Building Authority to issue evidences of indebtedness (generally these are tax exempt lease revenue bonds payable from appropriations).
- (2) The Building Authority, working with the appropriate agencies, issues its bonds to acquire funds for the authorized projects.
- (3) The state or agency repays the bonds from the rent paid under leases. The leases run from the North Dakota Building Authority to the various state agencies utilizing the projects. The lease agreements are renewed every two years with rental funds provided from a legislative appropriation in each biennium.

(4) To provide additional security to the bond purchasers that the state will repay the debt, the Building Authority has generally in the past taken title to the authorized projects. The titles for those particular projects are then held as security for the bondholders. Currently the Authority holds title to portions of the State Penitentiary, State Hospital, Developmental Center in Grafton, Youth Correctional Center, portions of the University campuses, etc.

The Legislature has established a ceiling of General Fund dollars the State can utilize for Building Authority debt service. That ceiling is currently 10% of 1¢ of the sales use and motor vehicle taxes. Attached to my testimony is a debt service schedule for all the current outstanding Building Authority bond issues and a column showing the ceiling based on the most recent forecast.

Now, to Senate Bill 2165. This past year the rating agencies—Standard and Poor's and Moody's Investors Service—have begun to recognize the financial soundness to what they call "appropriation debt". That is, bond issues that have as a source of debt service payment appropriations made by the state legislatures. Because of this recognition of what we, as issuers, believe is already a strong commitment to paying outstanding debt, it is no longer necessary to actually take title to an Authority project.

What Section 1 of Senate Bill 2165 does is allows the state agency to **lease** a property to the Building Authority rather than transferring title to the Authority. In addition to staff time there are costs to complete a title transfer transaction—title insurance, preparation of a title opinion, sometimes we have needed a new land survey, purchase or update of abstracts, etc. Those costs are added to the bond issuance costs and increase the size of the financing and the total costs to the state. Because of this recent flexibility shown by the rating agencies, we are proposing that the Commission be given the option of obtaining a lease on a property rather than taking title to the property. This would lower the costs of doing the bond issue, lower the debt service payments and simplify the bond transaction. It may not be a lot of dollars but every savings helps.

Section 2 of Senate Bill 2165 deals with the limitation or ceiling that I mentioned earlier. The question posed to Rod Backman and me on prior bond issues is what numbers should be used in determining the ceiling. Is it the forecast the Governor uses when the Governor prepares the Executive Budget? Is it the forecast at the end of the session? Is it a forecast that may be received during the interim? Or is it the actual sales and motor vehicle tax collections? The proposed language in Section 2 clarifies this provision of the law and states that the numbers to be used in the computation are the numbers projected in the final forecast of the legislative session.

Thank you for the opportunity to present testimony on Senate Bill 2165.

North Dakota Building Authority Debt Service By Bond Issue

Biennium	1998B-1991									Totals	Other Source	Total Gen. Fund	10% of \$.01 Sales Tax*	Available Debt Ser
	1986	1998B-1992	1993-1990	1993B	1995A	1998 A	1998C	2000A	2001A**					
1999-2001	1,881,171	589,427	6,010,096	2,597,288	2,740,428	1,297,154	775,604	0	0	15,891,168	1,938,269	13,952,399	16,037,684	2,084,785
2001-2003	2,453,550	577,764	6,018,469	2,506,773	3,045,255	1,293,644	776,704	714,907	569,993	17,956,059	2,146,606	15,809,453	16,731,920	922,467
2003-2005	2,294,313	585,239	6,025,459	2,486,468	3,046,755	1,295,354	776,656	709,539	567,593	17,787,376	1,367,980	16,419,396	17,401,197	931,801
2005-2007	2,154,851	597,539	6,017,560	2,468,658	3,045,626	1,300,220	775,267	715,716	568,571	17,644,008	1,250,182	16,393,826	18,097,245	1,703,419
2007-2009	2,001,590	0	5,945,162	2,445,155	3,052,394	1,297,291	767,814	717,791	566,030	16,793,197	1,165,955	15,627,242	18,821,134	3,193,892
2009-2011	1,641,765	0	1,926	2,420,253	3,047,731	1,295,702	0	715,628	569,846	9,892,851	586,790	9,306,061	19,573,980	10,267,919
2011-2013	0	0	0	2,403,940	3,049,639	1,297,694	0	717,985	564,036	8,033,294	282,944	7,750,350	20,356,939	12,606,589
2013-2015	0	0	0	1,100,565	3,047,310	1,297,925	0	719,496	567,820	6,733,116	129,537	6,603,579	21,171,217	14,567,638
2015-2017	0	0	0	0	1,520,790	1,292,610	0	723,600	569,459	4,106,459	0	4,106,459	22,018,065	17,911,606
2017-2019	0	0	0	0	0	628,683	0	723,127	564,010	1,915,820	0	1,915,820	22,898,788	20,982,968
2019-2021	0	0	0	0	0	0	0	0	282,942	282,942	0	0	23,814,739	23,814,739
Totals	12,627,210	2,349,969	30,018,672	18,429,100	25,595,928	12,296,277	3,872,045	6,457,789	5,389,300	117,036,290	8,868,263	107,885,085	216,922,908	109,037,823

*Revised January 01 forecast used for 01-03 biennium with a 4% increase each subsequent biennia.

**Pending: sale of \$3,000,000 for Williston State College (WSC) project. Total project size is \$4,500,000.

WSC to provide a cash contribution of \$1,500,000 for construction.

WSC to provide a total of \$1,500,000 in ten equal annual payments for the retirement of proposed bonds.

01/12/01



INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
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Testimony on Senate Bill No. 2165
by Karlene Fine
Executive Director & Secretary
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February 9, 2001 – Natural Resources Committee

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- (1) The Legislature determines whether a project is in the public interest of the State and passes legislation authorizing the specific projects and authorizing the Building Authority to issue evidences of indebtedness (generally these are tax exempt lease revenue bonds payable from appropriations).
- (2) The Building Authority, working with the appropriate agencies, issues its bonds to acquire funds for the authorized projects.
- (3) The state or agency repays the bonds from the rent paid under leases. The leases run from the North Dakota Building Authority to the various state agencies utilizing the projects. The lease agreements are renewed every two years with rental funds provided from a legislative appropriation in each biennium.

(4) To provide additional security to the bond purchasers that the state will repay the debt, the Building Authority has generally in the past taken title to the authorized projects. The titles for those particular projects are then held as security for the bondholders. Currently the Authority holds title to portions of the State Penitentiary, State Hospital, Developmental Center in Grafton, Youth Correctional Center, portions of the University campuses, etc.

The Legislature has established a ceiling of General Fund dollars the State can utilize for Building Authority debt service. That ceiling is currently 10% of 1¢ of the sales use and motor vehicle taxes. Attached to my testimony is a debt service schedule for all the current outstanding Building Authority bond issues and a column showing the ceiling based on the most recent forecast.

Now, to Senate Bill 2165. This past year the rating agencies--Standard and Poor's and Moody's Investors Service--have begun to recognize the financial soundness to what they call "appropriation debt". That is, bond issues that have as a source of debt service payment appropriations made by the state legislatures. Because of this recognition of what we, as issuers, believe is already a strong commitment to paying outstanding debt, it is no longer necessary to actually take title to an Authority project.

What Section 1 of Senate Bill 2165 does is allows the state agency to **lease** a property to the Building Authority rather than transferring title to the Authority. In addition to staff time there are costs to complete a title transfer transaction--title insurance, preparation of a title opinion, sometimes we have needed a new land survey, purchase or update of abstracts, etc. Those costs are added to the bond issuance costs and increase the size of the financing and the total costs to the state. Because of this recent flexibility shown by the rating agencies, we are proposing that the Commission be given the option of obtaining a lease on a property rather than taking title to the property. This would lower the costs of doing the bond issue, lower the debt service payments and simplify the bond transaction. It may not be a lot of dollars but every savings helps.

Testimony on Senate Bill ²¹⁶⁵~~2005~~
Page 3
February 9, 2001

Section 2 of Senate Bill 2165 deals with the limitation or ceiling that I mentioned earlier. The question posed to Rod Backman and me on prior bond issues is what numbers should be used in determining the ceiling. Is it the forecast the Governor uses when the Governor prepares the Executive Budget? Is it the forecast at the end of the session? Is it a forecast that may be received during the interim? Or is it the actual sales and motor vehicle tax collections? The proposed language in Section 2 clarifies this provision of the law and states that the numbers to be used in the computation are the numbers projected in the final forecast of the legislative session.

Thank you for the opportunity to present testimony on Senate Bill 2165.

North Dakota Building Authority Debt Service By Bond Issue

Biennium	1998B-1991										Totals	Other Source	Total Gen. Fund	10% of \$01 Sales Tax*	Available Debt Ser
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1999-2001	1,881,174	589,427	6,010,096	2,597,288	2,740,428	1,297,154	775,604	0	0	0	15,891,168	1,938,269	13,952,899	16,037,684	2,084,785
2001-2003	2,453,550	577,764	6,018,469	2,506,773	3,045,255	1,293,644	776,704	714,907	568,993	0	17,956,059	2,146,506	15,809,453	16,731,920	922,487
2003-2005	2,294,313	585,239	6,025,459	2,486,468	3,046,755	1,295,354	776,656	709,539	567,593	1,962,374	19,749,750	2,508,871	17,240,879	17,401,197	160,318
2005-2007	2,154,851	597,539	6,017,560	2,468,658	3,045,626	1,300,220	775,267	715,716	568,571	2,393,615	20,037,623	2,527,561	17,510,062	18,097,245	587,193
2007-2009	2,001,560	0	5,945,162	2,445,155	3,052,394	1,297,291	797,814	717,791	566,030	2,380,857	19,174,054	2,439,296	16,734,758	18,821,134	2,086,377
2009-2011	1,841,765	0	1,926	2,420,253	3,047,731	1,295,702	0	715,628	569,846	2,377,908	12,270,759	1,859,198	10,411,561	19,573,980	9,162,419
2011-2013	0	0	0	2,403,940	3,049,639	1,297,694	0	717,985	564,036	2,385,092	10,418,386	1,557,626	8,860,760	20,356,939	11,496,179
2013-2015	0	0	0	1,100,565	3,047,310	1,297,925	0	719,496	567,820	2,383,458	9,116,574	883,901	8,232,673	21,171,217	12,938,544
2015-2017	0	0	0	0	1,520,790	1,292,610	0	723,600	569,459	2,385,532	6,491,991	755,021	5,736,970	22,018,065	16,261,095
2017-2019	0	0	0	0	0	573,683	0	723,127	564,010	2,379,425	4,295,245	753,088	3,542,157	22,898,788	19,356,631
2019-2021	0	0	0	0	0	0	0	0	282,942	2,383,486	2,666,428	754,373	0	23,814,739	23,814,739
2021-2023	0	0	0	0	0	0	0	0	0	1,156,481	1,156,481	366,026	0	24,767,329	24,767,329
Totals	12,627,210	2,349,969	30,018,672	18,429,100	25,595,928	12,296,277	3,872,045	6,457,789	5,389,300	22,188,228	139,224,518	18,489,837	118,032,171	241,690,237	123,658,065

*Revised January 01 forecast used for 01-03 biennium with a 4% increase each subsequent biennia.

**Pending: sale of \$3,000,000 for Williston State College (WSC) project. Total project size is \$4,500,000.
WSC to provide a cash contribution of \$1,500,000 for construction.

WSC to provide a total of \$1,500,000 in ten equal annual payments for the retirement of proposed bonds.

***Proposed 2001 Projects: Department of Health project \$2,700,000; 65 % of DOH Debt Service to be paid from other funds.

Minot State University total project \$7,850,000; \$175,000 from General Fund, MSU to provide \$2,599,000 in ten equal annual payments.

Job Service project \$2,302,000; all Debt Service to be paid by other funds.

01/17/01