

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

2/50

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2150

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2150

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-05

Tape Number	Side A	Side B	Meter #
1		xxx	1250-3700
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch** opened the hearing on SB 2150. All Senators were present.

**SB 2150** relates to financing by the building authority of projects authorized by the legislative assembly.

**Karlene Fine**, Executive Director and Secretary of the Industrial Commission of North Dakota, introduced the bill. See attached testimony.

**Karlene:** When looking at this bill this week, I discovered that we had taken out some language that we should NOT have over struck in this bill. If I could have one day, I would like to offer an amendment.

**Senator Heitkamp :** You take out "lease" and put in "financial agreements", "lease" would still fall under that if you wanted to finance a lease?

**Karlene:** That's correct.

**Senator Heitkamp :** Does this have anything to do with how you pay and finance a new bank?

**Karlene:** No.

**Senator Nething :** As I see it, it basically is to give the commission broader authority from construction and remodeling buildings for other kind of projects?

**Karlene:** It really isn't broader authority, it's more efficient ways to do it. You still tell us how it will be bonded and how to do the project.

**Senator Nething :** Your testimony says that you are limited to a lease structure, and my question is: Doesn't this expand what you can finance?

**Karlene:** Yes, other than just using a lease arrangement, we could use perhaps a loan arrangement.

**Senator Krebsbach:** The funding would have to be approved by the legislature for any project, right? But this gives you flexibility of other means, rather than leasing?

**Karlene:** That's right.

**Senator Espegard :** It seems that all you are looking at it a different mechanism between the institution and your authority. And simply, it may be a loan transaction.

**Karlene:** That's exactly right.

**Senator Heitkamp :** What else is out there besides a lease or a loan?

**Karlene:** In the bill we talk about other possibilities. It talks about mortgage, a sale contract, etc.

**Senator Espegard :** It's just like you bought a car and I authorize it, I could either lease it to you, loan it to you, rent it by the day, or whatever. This allows you to take a straight loan and make an agreement.

**The hearing was closed. No Action was taken.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-26-05

Tape Number	Side A	Side B	Meter #
2		xxx	4700-end
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch opened discussion on SB 2150. All Senators were present.**

**SB 2150 relates to financing by the building authority of projects authorized by the legislative assembly.**

**Senator Espgaard :** I don't see this as expansion at all.

**Senator Krebsbach:** According to my notes, it indicates that it gives flexibility to the industrial commission to use other means of financing, but they wanted the amendment.

**Senator Heitkamp moved to adopt the amendment. Senator Klein seconded.**

**Roll Call Vote: 7 yes. 10. 0 absent.**

**Senator Heitkamp moved a DO PASS AS AMENDED.**

**Senator Klein seconded.**

**Roll Call Vote: 6 yes. 1 no. 0 absent.**

**Carrier: Senator Heitkamp .**

## FISCAL NOTE

Requested by Legislative Council  
01/13/2005

**REVISION**

Bill/Resolution No.: SB 2150

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

Senate Bill 2150 would allow the Building Authority to utilize the most efficient legal arrangement in completing the financings authorized by the Legislature. There would be savings in legal costs and time of all the financing team participants. Passage of SB 2150 would reduce the overall costs of a bond transaction. Unable to determine the dollar amount of what the exact savings would be.

**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.*

<b>Name:</b>	Karlene Fine	<b>Agency:</b>	Industrial Commission
<b>Phone Number:</b>	328-3722	<b>Date Prepared:</b>	01/17/2005

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/03/2005

Bill/Resolution No.: SB 2150

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.

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$4,400	\$0	\$4,400
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.

There is no fiscal impact as it relates to the Bank of North Dakota Advisory Board. The Lignite Research Council meets twice a year and of its Council membership four members by Commission policy would be eligible for the \$100 compensation. Cost to the Lignite Research Fund for a biennium would be \$1,600. The Oil and Gas Research Council meets twice a year and of its Council membership seven members by Commission policy would be eligible for the \$100 compensation. Cost to the Oil and Gas Research Fund for a biennium would be \$2,800.

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.

See narrative

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.

<b>Name:</b>	Karlene Fine	<b>Agency:</b>	Industrial Commission
<b>Phone Number:</b>	328-3722	<b>Date Prepared:</b>	01/10/2005

Date: 1-26-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2150

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Amend

Motion Made By Klein Heitkamp Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman	X		Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 7 No 0

Absent 0

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

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



Date: 1-26-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2150

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amend

Motion Made By Heitkamp Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch, Chairman		X	Senator Fairfield	X	
Senator Klein, Vice Chairman	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Nething	X				
Senator Espegard	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Heitkamp

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

REPORT OF STANDING COMMITTEE (410)  
January 28, 2005 12:03 p.m.

Module No: SR-19-1316  
Carrier: Heitkamp  
Insert LC: 58226.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SB 2150: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2150 was placed on the Sixth order on the calendar.**

Page 3, line 1, after "~~these~~" insert "construction or implementation of the authorized projects and"

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2150

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-14-05

Tape Number	Side A	Side B	Meter #
1	x		36.7-end
1		x	0-1.8
Committee Clerk Signature			

Minutes:

**Chairman Keiser:** Opened the hearing on **SB 2150**.

**Karlene Fine, Executive Director Industrial Commission:** Appeared in support of SB 2150 and provided a written statement (**SEE ATTACHED TESTIMONY**).

**Representative Ruby:** You went over this very quickly, can you summarize exactly what you are asking?

**Karlene Fine:** What we are asking that right now the statute says the only kind of agreement we can enter into the industry is a lease agreement, and they are working with our bond council and the lease agreement works fine, when you have construction, but last session for example last session, which computer software is much more cumbersome to try to develop a lease structure for equipment that is maybe less in the term of what the bonds are going to be issued

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB ~~2186~~ 2150

Hearing Date ~~3-8-05~~ 3-14-05

for perhaps or the energy conservation projects that you have directed that we do that we still have to construct the lease financing whether a loan agreement would have been much more efficient to do so it is really giving us the flexibility to choose the best financing mechanism to get the job done at the least cost.

**Representative Keiser:** I just want to follow up on page 1 line 22, we are adding the word "unsecured" can you explain that, in what ways would this transaction be unsecured?

**Karlene Fine:** What we are looking at here is that in our discussion with the agency, the agency may not be able to provide the security because of some types of property we are financing or perhaps equipment under the lease structure we have building as security, we did the work for Abbot Hall, and the first section we took security of the whole building that was really over secure, it was more that what we really needed, the next year we came back and did the second phase, so we had to take another building and secure that, if we have enough security in the first building in the first time around we felt that the next time around we may not need to secure it because we have enough security already.

**Representative Johnson:** I MOVE a DO PASS on SB 2150.

**Representative Ekstrom:** I SECOND the DO PASS motion

Motion carried **VOTE: 14-Yes 0-No 0-Absent**

Roll Call Vote #: 1 Date: 3-4-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2150

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Johnson Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Ruby

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

**REPORT OF STANDING COMMITTEE (410)**  
March 14, 2005 12:07 p.m.

**Module No: HR-46-4852**  
**Carrier: Ruby**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2150, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2150 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2150



## State Bonding

### General Obligation Bonds

General obligation bonds are secured by the full faith and credit and the general taxing power of the state.

Article X, Section 13 of the North Dakota Constitution provides for the issuance of general obligation bonds of the State as follows:

- The State may not incur general obligation debt unless evidenced by a bond issue authorized by law for clearly defined purposes.
- Every law authorizing a general obligation bond issue must:
  - Provide for a levying of an annual tax, or make some other provision, sufficient to pay the interest semiannually and the principal within 30 years from the date of issuance.
  - Specifically appropriate the proceeds of the tax levy, or such other provision, to the repayment of the principal of and interest on the bonds.
- The appropriation referred to above may not be repealed, or the tax or other provision discontinued, until both the principal of and interest on the bonds have been paid.
- General obligations bonds in excess of \$2,000,000 must be secured by a first mortgage upon either of the following:
  - A. A first mortgage on real estate for no more than 65% of the value of the real estate.
  - B. A first mortgage on real or personal property of State-owned utilities, enterprises or industries for no more than the value of the utilities, enterprises or industries.
- The State may not issue or guarantee bonds secured by property of State-owned utilities, enterprises or industries in excess of \$10,000,000.
- The State may not issue debt in excess of the limit set out in this section except for one of the following purposes:
  - A. Repelling invasion.
  - B. Suppressing insurrection.
  - C. Defending the State in time of war.
  - D. Providing for the public defense in case of threatened hostilities.

***Currently, there are no outstanding General Obligation Bonds of the State.***

### Appropriation Bonds

Appropriation bonds do not carry a moral obligation as defined below nor are they general obligations of the state; they are payable solely from biennial appropriations of a specific source or from pooled revenues from various sources. For example, the Water Commission was given authority to issue bonds for water development projects with the primary source of payment being appropriations from the Water Development Trust Fund. N.D.C.C. §61-02.1--04 [The Water Development Trust Fund has as its source of funding the monies received from the Tobacco Settlement Trust Fund. If there are insufficient funds available in the Water

Development Trust Fund from tobacco settlement payments, then funds are to be drawn from a) the Resources Trust Fund, b) other available current revenues, c) other revenues of the Water Commission and d) biennial earnings of the Bank of North Dakota.]

#### North Dakota Building Authority Lease Revenue Bonds

The North Dakota Building Authority issues lease revenue bonds which are a form of appropriation bonds. The Authority looks to the leases (which provide for a lease rental payment every six months) entered into between the Authority and the State Agency to repay the outstanding bonds. The leases are structured for successive two-year terms. In the case of the Building Authority the majority of the lease payment from the State Agency comes from the General Fund that is appropriated each biennium by the Legislature, (although some lease payments originate from federal or other funds available to a State Agency). These bonds are sold with the understanding that the lease rentals are repayable (primarily) from biennial appropriations and that the Legislature is not required to appropriate funds for the lease rentals in future biennia.

#### **Moral Obligation Bonds**

A moral obligation pledge will generally require that the state agency issuing the bonds must notify the Governor or other executive branch office by a certain date in the fiscal year that a bond reserve fund deficiency exists or is expected to occur. The Governor or other executive officer is then required to submit in the executive budget a request for an appropriation that will be sufficient to restore or cover the reserve fund deficiency. The State Legislature then has the discretion whether to provide the requested appropriation.

For example, bonds issued by the Municipal Bond Bank are (unless otherwise specified) moral obligation bonds. Subsection 1 of NDCC §6-09.4-10 requires the Bond Bank to establish and maintain a reserve fund equal to the maximum annual debt service on all outstanding Bond Bank bonds. Subsection 4 of NDCC §6-09.4-10 provides that the legislative assembly may appropriate and pay to the Bond Bank for deposit in its reserve fund such sum as is certified to the Legislature by the Industrial Commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve.

#### **Revenue Bonds**

Revenue bonds are not general obligations of the State; they are payable solely from revenues from a specific source or from pooled revenues from various sources. There are different sources for repaying revenue bonds. State issued revenue bonds are as follows:

##### Mortgage Revenue Bonds

The North Dakota Housing Finance Agency issues mortgage revenue bonds. The proceeds from these bonds are used to buy home loans from lenders and

the repayment of these loans provides funds for the primary debt service on the bonds. HFA bonds are not debt of the State, but are full faith and credit obligations of the HFA (to the extent of available funds).

#### Other Revenue Bonds

- There are several other types of revenue bonds issued by the state. First, the Industrial Commission issues student loan revenue bonds (which are similar to mortgage revenue bonds). The proceeds from the student loan revenue bonds are used to purchase student loans primarily from the Bank of North Dakota. The payments made by students on the loans (the revenues) are then utilized to repay the bonds. The Industrial Commission issued student loan subordinate bonds during the 2003-2005 biennium. These bonds are subordinate to the outstanding student loan bonds but will have the same repayment source (student loan payments).
- The University System has issued several different types of revenue bonds. Parking lots are often financed by revenue bonds with the parking fees (revenues) used to repay the debt. The same applies for student housing, student unions and technology bonds.
- The Water Commission has issued revenue bonds for part of the Southwest Pipeline Project and for a small portion of the NAWA Project. The main source of repayment is water user fees.

#### **Payment Sources**

Each type of issue reflects a different source of repayment should there be a default. The only bonds that require that a tax be levied to pay for debt service are the general obligation bonds. The State has no general obligation bonds outstanding at this time.

All the other bonds must clearly state in the legal documents and official statements that the bonds are not a general obligation of the State of North Dakota and the bondholder can only rely on the revenue or other sources that are pledged. Typically an official statement for the bond issue will include a paragraph that states something similar to the following:

"The Bonds do not constitute debt of the State or any agency or political subdivision thereof, neither the faith or credit nor the taxing powers of the State or political subdivision thereof are pledged to the payment of the principal or interest on the bonds."

#### **Bonding Authority**

Attached is a chart which shows what entities have authority to issue bonds, the security and repayment sources for each type of bonds, any limitations, amounts outstanding and the statutory reference.

Karlene Fine  
328-3722

01/14/05

Issuance	Type of Bond	Security Source*	Source of Repayment	Various Limitations**	Amount Outstanding as of 6/30/03	Statutory Reference
Ind. Commission/ Agricultural Bonds	Revenue Bonds	Agricultural loans	Loan Repayments	***	\$0	4-36
North Dakota Building Authority	Lease Revenue/ Appropriation Bonds	Deed/lease held on the facilities either constructed or rehabilitated	Biennial appropriations (including General Fund, Local Match Funds & for ConnectND - student fees)	<b>General Fund</b> appropriation cannot exceed 10% of 1% of the sales use, motor vehicle tax ****	\$115,968,000 as of 6/30/04	54-17.2
State Fair Association	Revenue Bonds	Revenues and earnings	Revenues	***	\$2,250,000	4-02.1
Housing Finance Agency	Mortgage Revenue Bonds	Revenues from Mortgages held on homes and multi-family facilities	Mortgage loan repayments and reserve/ investment income	***	\$598,832,000 as of 6/30/04	54-17
Industrial Commission/ Lignite Research Program	Revenue Bonds	Letter of Credit from Bank of North Dakota	Biennial appropriations from the Lignite Research Fund	No limitations except to the extent of funds available in the Lignite Research Fund for debt service payments	\$2,860,000 as of 6/30/04	54-17.5
Municipal Bond Bank	Moral Obligation Revenue Bonds	Political Subdivision bonds	Loan repayments from political subdivisions	Capital Financing Program has rating agency & IC limitation of \$75,000,000. SRF Program ***	\$153,245,000 as of 12/31/04	6-09.4
Natural Resource Bonds	General Obligation	Taxing Authority of the State	Loan repayments	Together with all GO debt 5% of full and true value of all taxable property	\$0	21-11-08
Governor & Treasurer - Real Estate Bonds	General Obligation	Real Estate mortgages & a commitment to levy a statewide mill levy	Payments from Real Estate Loans and Statewide Mill levy	\$150,000,000/65% of the value of real estate mortgages	\$0	54-30
Industrial Commission/ Student Loan Program	Revenue Bonds Residual Bonds	Student Loans guaranteed by Guarantee Agency and Federal Government	Student Loan payments	*** The residual (subordinate) bonds are statutorily limited to \$23,000,000. The residual bonds are subordinate to all other student loan bonds—they are not issued on parity with other SLT bonds.	\$125,388,000 as of 6/30/04	54-17
University System	Revenue Bonds	Revenues from the fees	Parking Fees, Housing Fees, Student Fees	Each project must be approved by the Legislature. No overall limitation	\$87,143,000	15-55
Water Commission	Revenue Bonds Appropriation Bonds	Revenues and earnings	Collection of User Fees; Water Development Trust Fund appropriation	Statutory limitation of an aggregate of \$2 million unless Legislature authorizes a higher amount for a specific project (SW pipeline has a limitation of \$25,000,000; Northwest Area Water Supply project does not have such a limitation. Water development bonds limited to \$60,000,000.)	\$46,111,602 as of 6/30/04	61-24.3, 61-24.6, 61-02, 61-02.1

\*Security Sources also include reserve funds and other invested funds and accounts that are provided for in each bond issue. Generally these reserve funds represent up to one year's debt service or 10% of the bond issue. Balances in the reserve funds are generally used to make the final debt service payment.

\*\*The Federal Government has established an overall volume cap for Private Activity Bonds that is \$233,800,000 for calendar year 2004. The Student Loan Revenue Bonds and the Housing Finance Agency Revenue Bonds fall within the Private Activity Bond Volume Cap.

\*\*\*The issuance of bonds is subject to adherence to bond document requirements and statutory program cash flows.

\*\*\*\*North Dakota's Energy Conservation Projects and ConnectND, by law, are not under the 10% of 1% sales tax limitation.

/ised 1/14/05



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

Testimony on Senate Bill 2150  
By Karlene Fine  
Executive Director & Secretary  
Industrial Commission of North Dakota  
January 12, 2005  
Senate Industry, Business and Labor Committee

Mr. Chairman and members of the Senate Industry, Business and Labor 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 will just take a couple of minutes to talk about what the Building Authority does.

The North Dakota Building Authority was established by the 1985 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 currently 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 biennial appropriations).
- (2) The Building Authority, working with the appropriate agencies, issues its bonds to acquire funds for the authorized projects.
- (3) As part of the financing, the agency and the North Dakota Building Authority enter into a lease agreement. The lease agreements are renewed every two years with rental funds provided from a legislative appropriation in each biennium. The lease payments made by the agency to the Building Authority are then used to make the debt service payments on the outstanding bonds.

Senate Bill 2150 is being proposed to allow the Building Authority with the flexibility to finance the projects approved by the Legislature in the most efficient manner. Right now we are limited to a lease structure. The lease structure was designed for construction and remodeling of buildings, not for other types of projects that the Legislature may direct that the Authority finance. The lease structure involves the sale or lease of a building (or part of a building) by the affected agency to the Building Authority; the Authority issues its bonds, secured by the building and leases back the

building to the agency. This is a somewhat complicated process that works satisfactorily for building projects but is cumbersome when applied to financing of energy-saving equipment or computer software and equipment.

Over the years we have made the lease structure work but it would be more efficient by saving time and legal costs to have the flexibility in statute to look at simpler and more direct alternatives such as a loan structure in which the Authority would loan bond proceeds to the affected agency under a simple loan agreement.

The changes we are proposing in Senate Bill 2150 do not change the Legislature's role. The Legislature must still authorize any project that is to be financed. The Legislature still determines the size of the project. The Legislature still determines that the project will be financed through bonding. What adoption of this bill would allow is that the Building Authority could more efficiently do what the Legislature has directed the Authority to do.

I would ask for one amendment to Senate Bill 2150. In reviewing the legislation this week I realized that we were removing some language that needs to stay in the statute. On Page 2 line 31 the words "acquisition of these authorized projects and" should not be removed. When we finance a building project the construction can take longer than one biennium. Therefore, it is necessary to have continuing appropriation language to allow the Authority sufficient time to utilize the bond proceeds. We have prepared a proposed amendment for your consideration.

Thank you for the opportunity to present testimony on SB 2150.



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

Testimony on Engrossed Senate Bill 2150  
By Karlene Fine  
Executive Director & Secretary  
Industrial Commission of North Dakota  
March 14, 2005  
House Industry, Business and Labor Committee

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Karlene K. Fine, Executive Director and Secretary  
State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840  
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"Your Gateway to North Dakota": [discovernd.com](http://discovernd.com)

building to the agency. This is a somewhat complicated process that works satisfactorily for building projects but is cumbersome when applied to financing of energy-saving equipment or computer software and equipment.

Over the years we have made the lease structure work but it would be more efficient by saving time and legal costs to have the flexibility in statute to look at simpler and more direct alternatives such as a loan structure in which the Authority would loan bond proceeds to the affected agency under a simple loan agreement.

The changes we are proposing in Senate Bill 2150 do not change the Legislature's role. The Legislature must still authorize any project that is to be financed. The Legislature still determines the size of the project. The Legislature still determines that the project will be financed through bonding. What adoption of this bill would allow is that the Building Authority could more efficiently do what the Legislature has directed the Authority to do:

Thank you for the opportunity to present testimony on Engrossed SB 2150 and on behalf of the Industrial Commission request your favorable consideration.