MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

1309

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1309

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1309

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1876

Committee Clerk Signature Lois Smith

Minutes:

Chairman Herbel opened the hearing on HB 1309.

Representative Porter: In support of an appropriation for libraries. This bill will put those libraries that were cut out of the library funding back into it from the attorney generals opinion. (See testimony #1) Impact of that attorney generals opinion and this bill is hoping to fix that. I understand they were told to spend the money; I wish they would have waited until we fixed the problem.

Rep. Kim Koppelman: We are talking about additional funding because these funds are gone?

Representative Porter: Yes. It is a one time thing.

Chairman Herbel In essence these libraries spent these people shares. This amendment does not include taking away these funds that were given out.

Rep. Kari Conrad Is this in the governor's budget?

Representative Porter: No it is not.

Rep. William Kretschmar Is this language in the statue?

Representative Porter: This proposed language recommendation did come from the attorney generals office. It is only a one time thing.

Kelly Steckler, NDLA Legislative Chair: (see attached testimony #2).

Cheryl Tollefson, Director Dickinson Area Public Library: (see attached testimony #3)

Jerry Kaup, Library Director, Minot Public Library Board (see attached testimony #4).

Rep. Donald Dietrich: How will the amendments this into this.

Jerry Kaup: HB 1103 will change the wording so those 47 libraries will be eligible for state aid in 2007.1.3 million dollars for library fund. This bill 1103 addresses the wording change, but not the funding.

Doris Ott: State Librarian, ND State Library: (see testimony #5).

Rep. Kari Conrad Why is the amount important.

Doris Ott: Right now there is not a bill on the books that would give us a formula for distributing the money because HB 1103 has not pass fully. Under the attorney generals opinion these libraries will not qualify.

Rep. Kim Koppelman: Did you request any funding?

Doris Ott: We did not request it be put into the state library budget and that is the only vehicle that the state library has requesting it.

Chairman Herbel As I understand it, committee the reason you don't see a physical note is the bill itself contains the funding so a physical note is not necessary.

Rep. Pat Hatlestad Was there any discussion that those libraries that got double dose now get nothing in the next two years and we would deduct the difference with these libraries.

Doris Ott: No we have not discussed that.

Opposition: None

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1309

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: ~~January~~ Feb. 1, 2007

Recorder Job Number: 2604

Committee Clerk Signature

Minutes:

Chairman Herbel re-opened the hearing on HB 1309. Said there is no need for the amendment since HB 1103 decides how the money was distributed. Leave the numbers up to someone else.

Do Pass and re-referred to appropriations Motion Made By Rep. William Kretschmar

Seconded by Rep. Louis Pinkerton

No discussion.

Vote 11 Yes 0 No 3 Absent Carrier: Rep. Steve Zaiser

Hearing closed.

Date: 2-1-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1309

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass and Re-refer to Approp.

Motion Made By Rep Kretschmar Seconded By Rep Pinkerton

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	—		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	—				
Rep. William Kretschmar	✓				
Rep.Vonnie Pietsch	—				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Zaiser

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

REPORT OF STANDING COMMITTEE

HB 1309: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1309 was rereferred to the **Appropriations Committee**.

2007 HOUSE APPROPRIATIONS

HB 1309

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1309

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 2972

Committee Clerk Signature Shirley Banning

Minutes:

Chm. Svedjen called the meeting to order to take up HB 1309, a bill to provide an appropriation for libraries that did not receive certain state aid payments, by calling on **Rep. Gil Herbel,** District 16.

Rep. Herbel stated that the reason this bill is brought in is that some sessions ago, 41 libraries were not funded because of unintended consequences in the statute. This bill makes a retroactive payment that they lost.

Chm. Svedjen: The money that they were shorted would have come from property tax assessments.

Rep. Herbel: It was an appropriation from the state.

Rep. Monson: Was this money appropriated last biennium? Is this actually money that is left over from the 2005-07 biennium?

Rep. Herbel: You are partly right, but that money did get spent so the money isn't there any longer and is needed to cover this problem.

Rep. Williams: How was the money spent?

Rep. Herbel: It was spent by the other libraries that did qualify.

Rep. Aarsvold: Does this make those 47 libraries whole?

Rep. Herbel: Yes it will.

Chm. Svedjen: And no share of this $200,000 will go to the libraries that experienced the windfall.

Rep. Klein: To understand this, 47 libraries did not qualify because of an interpretation by the Attorney General, so the money was passed out to the other libraries. This $200,000 would go out to the libraries that didn't get the money last time not to those who got the windfall.

Rep. Monson: How big are these grants normally?

Rep. Herbal: There is a formula established that determines the amount that goes to each. There is a fact sheet describing the amount that each library would receive, the grant varies based on the formula that applies to that library.

Rep. Williams: If there were money in the last appropriation that covers all of the libraries, some did not qualify because of an attorney general's opinion, why was the rest of it distributed. I don't understand the formula.

Rep. Herbel: Some received as much as $50,000 more than they had received previously.

Rep. Wald: These libraries really had no control of their destiny because the city probably made a mistake and lowered their mills and raised their valuation so they couldn't qualify.

Rep. Herbel: That is correct.

Rep Aarsvold moved a Do Pass to HB 1309. Rep. Carlisle seconded the motion. The Do Pass motion carried by a roll call vote of 16 yeas, 7 nays, 1 absent and not voting. Rep. Zaiser is the carrier of the bill.

Date: 2/4/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1309

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number —

Action Taken Do Pass

Motion Made By Aarsvold Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson		✓	Representative Gulleson	—	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson		✓	Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol		✓	Representative Williams		✓
Representative Thoreson		✓			
Representative Pollert		✓	Representative Ekstrom	✓	
Representative Bellew		✓	Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 16 No 7

Absent 1

Floor Assignment Zaiser

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

REPORT OF STANDING COMMITTEE

HB 1309: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (16 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). HB 1309 was placed on the Eleventh order on the calendar.

2007 SENATE APPROPRIATIONS

HB 1309

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1309

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-08-07

Recorder Job Number: 4743

Committee Clerk Signature

Minutes:

Chairman Holmberg opened the hearing on HB 1309 on March 8, 2007 regarding Libraries and certain state aid payments.

Representative Todd Porter, District 34, Mandan distributed the Proposed Amendments (1) that had been done by the Attorney General's Office (AG)(not by Legislative Council) and explained them to the committee. This bill relates back to the state aid to eligible public libraries. In the last interim there was an AG's opinion that changed or said the way of payment could be given out was wrong, and so the money you see in this bill, the $200,000 was distributed to a bunch of other libraries. The libraries on the list I handed out did not receive what they thought was an allocation coming to them from the last legislative assembly based on that AG's opinion. There were two other companion bills that are going through the session that deal with that technicality so in the future this cannot and will not happen. The reason this is a proposed amendment is that the AG's office had come into the House side and thought that it should be spelled out what each library should get and as they further reviewed it in the House it was felt that that amendment wasn't needed but the reason I handed it out again was just to show the committee the list of libraries that were affected by the AG's opinion and what the dollar amount would have been and will be if this passes.

Chairman Holmberg asked how this came about. Was it in statute we passed or interpretation we passed. He was informed it was not intentional. It was based on when the AG's Opinion was asked for and when it came back the State Library was told that they would not distribute the money as intended by the law which they had been doing the old way for quite a number of years. My preference would have been they wouldn't have distributed the money and waited for a legislative session to meet and fix it, but all the money went out to the other eligible libraries so they got a bump in money and then this whole group got nothing.

Senator Christmann asked what is unique about this group of libraries and the group that got the money. What was the reason they did not get the funds? He was informed it was just a glitch.

Senator Lindaas stated he was confused about the amendment Mr. Porter handed out. He was informed that it is not a proposed amendment but an amendment that was drafted on the House side that spelled out all the individual libraries in the funding source that were missed. He underlined the different areas for his own testimony purposes only.

Kristen Baesler, President of Morton and Mandan Library Board of Trustees and President of Mandan School Board presented written testimony (2) and oral testimony in support of HB 1309. She talked about Maintenance of Effort, the dollars and the mill levy had to stay the same, but the AG came back with an Opinion that said it was clearly the mill levy had to stay the same as the amount of dollars, so in our case even though our dollars increased our city commission was able to lower the mill levy and that excluded us from being eligible for the state aid.

Senator Mathern asked if there was evidence that that was not the intent of the legislature. He was informed by Ms. Baesler that the only evidence of the precedent that had been set and

had been followed for a number of years as it being interpreted by the State Library as a Maintenance of Effort.

Chairman Holmberg stated we will get the AG's Opinion for historical background. Ms. Baesler read her testimony stating this would a one-time payment of $200,000 shared among those libraries. She shared that the citizens of Morton County have voted to combine the Morton County and Mandan City Library and as of July 1, 2007 these two will be combined and known as the Morton Mandan Public Library. As a combined library we were ineligible for over $20,000 in 2006. State aid dollars are essential to the Library. I am asking for a Do Pass.

Senator Bowman had questions regarding the dollar amount that will be distributed. Comments were made concerning other bills that are coming through the session.

Kelly Steckler provided written testimony (3) and oral testimony in support of HB 1309.

Senator Christmann asked what the formula is based on concerning eligibility.

Cindy Larson, State Librarian stated it is based on for cities $1.00 per capita and for counties $1.00 per capita and $5.00 per square mile. Depends on how big the county is. As you know the formula is only partially funded and it's about 50% funded right now.

Senator Kilzer asked if one person is a resident of the city and the county, does that count as 1. He was informed if they pay the taxes for both it would cost for both but most cities exclude themselves from the county.

Jerry Kaup, Director, Minot Library presented written testimony (4) and oral testimony in support of HB 1309. He gave testimony regarding a bill that was worked on in 1979 regarding the wording concerning mill levies and dollars. Further discussion followed concerning that bill. Chairman Holmberg stated that he and Senator Tallackson remember that bill clearly.

Senator Bowman asked how Minot Library got out of compliance if you knew the law and then the last year you did not meet either the mill or the dollar amount. He was told for 26 years

you got to meet the mill or the dollar amount and because of AG's Opinion it has been done 25 years incorrectly. He was asked by Senator Bowman if it had to be paid back, he said no.

Chairman Holmberg asked what was the impetus for the AG's Opinion, was there a disagreement? He was told the impetus was the audit from the State Auditor's Office and the State Auditor's Office requested an opinion on it.

Senator Christmann asked if switching this around so that libraries don't lose out on state funds if they're in a well to do area, property evaluation wise, so they can cut their mills and still maintain the dollar amount, if we are going to continue to hold them even, isn't that kind of the opposite direction that education funding is going whereby we want to make sure that the property poor areas get better than the property wealthy areas. Jerry Kaup talked about the situation in Minot.

Kristen Beasler gave further testimony regarding mill levies and equity and stated that yes, this is in direct conflict to SB 2200 education bill. The education formula is much more complicated.

Doris Ott, ND State Library presented written testimony (5) and oral testimony in support of HB 1309.

Senator Christmann asked about the timing of payments to the libraries and whether the mistake was caught before any payments were made. He was informed payments are done annually by June 30th. She stated yes it was caught and was an issue before we made any payments but because it was an off year for Legislature, the problem could not be fixed before we had to appropriate the first chunk of money.

Senator Krauter asked if there were some libraries that were eligible that received payment that was due to other libraries If we're appropriating another $200,000 what happened to the original amount. He was told because of the way that it was interpreted we could only

appropriate only to those people who were eligible according to the interpretation and that meant that we had to distribute the mony by June 30th, some got double. They have it. He asked if there were any discussions as far as them getting a double payment that they wouldn't get a payment the next year then. He was told no.

Chairman Holmberg asked if they would have known what they should have gotten versus what they did get. He was told that they would have had a pretty good idea. Chairman Holmberg stated then they would have gotten an extra 3 or 5 thousand and in the world of libraries they would have spent that. They would not have any reason to believe that they should save it because something might happen down the road.

Senator Christmann asked about the $200,000 out of what. He was told we appropriate $500,000 each year. He then asked if most of the others got somewhere around 40%.

Senator Krebsbach asked how many libraries were involved and has the problem that the AG came up been resolved in any legislation. She was informed that HB 1103 resolves this issue. 53 libraries received an overpayment. Chairman Holmberg stated the bill has gone to the governor.

Senator Kilzer asked if they know which libraries received an excess in payment and asked if they have a list of them. He was told yes. We can supply you with that list that contains the names and the amounts.

Senator Mathern asked if the appropriation we are considering in this bill is the amount of money these libraries would have received or the amount of money they would receive to be in comparison to the ones who received the 40% extra. Chairman Holmberg asked if they are getting the same windfall the other folks did or just getting what they should have gotten. He was told they would get only what they should have gotten under the old interpretation. He also stated that we will get the AG's Opinion in this committee before we make a decision,

Cheryl Tollefson, Director Dickinson Area Public Library presented written testimony (6) and oral testimony in support of HB 1309.

Tom Jones, Bismarck Public Library gave oral testimony in support of HB 1309. He stated he was in the AG's office last year and discussed this issue and we asked the AG if we could withhold spending the money and the AG said no, you have to spend 50% of what was allocated in the first year of the biennium. That's the way the law is. We were wondering if there was some way we could hold back so we wouldn't have this whole issue that has come to be and as you heard HB 1103 has already passed so that is going to correct the issue. But it wasn't because we didn't want to do something and the libraries that received the money spent the money for new materials which are being shared throughout the state.

Chairman Holmerg stated we will get a copy of the AG's Opinion to our committee and we'll look at this and also the list from the state library requested by Senator Kilzer. The hearing closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1309

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-22-07

Recorder Job Number: 5484

Committee Clerk Signature Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on HB 1309.

Senator Wardner passed out amendment .0101 and explained the amendments. He moved a do pass the amendment, seconded by Senator Seymour. There was further discussion. The motion carried.

Senator Fischer moved a DO PASS AS AMENDED, seconded by Senator Lindaas. A roll call vote was taken resulting in 14 yeas, 0 nays, 0 absent. The motion carried. Senator Lindaas will carry the bill.

The hearing was closed on HB 1309.

70526.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Cook
March 21, 2007

3-22-07

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1309

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-24.2 of the North Dakota Century Code, relating to reimbursement for certain public libraries; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-24.2 of the North Dakota Century Code is created and enacted as follows:

State aid to libraries - Reimbursement.

1. The state library shall withhold from the amount of state aid to which a public library is entitled during the 2007-09 biennium any amount the public library received in excess of that to which it was entitled during the 2005-07 biennium, as a result of a statutory dispute regarding the meaning of a mill levy.

2. From the amounts withheld under subsection 1, the state library shall provide to each public library that received less than the amount to which it was entitled during the 2005-07 biennium, the difference between the amount the library received during the 2005-07 biennium and the amount that it would have received, but for the statutory dispute regarding the meaning of a mill levy.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2009, and after that date is ineffective."

Renumber accordingly

Date: 3/22
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1309

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do pass as amended. 0101

Motion Made By ~~Lindaas~~ Fischer Seconded By Lindaas

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No

Absent

Floor Assignment Lindaas

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

REPORT OF STANDING COMMITTEE

HB 1309: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1309 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-24.2 of the North Dakota Century Code, relating to reimbursement for certain public libraries; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-24.2 of the North Dakota Century Code is created and enacted as follows:

State aid to libraries - Reimbursement.

1. The state library shall withhold from the amount of state aid to which a public library is entitled during the 2007-09 biennium any amount the public library received in excess of that to which it was entitled during the 2005-07 biennium, as a result of a statutory dispute regarding the meaning of a mill levy.

2. From the amounts withheld under subsection 1, the state library shall provide to each public library that received less than the amount to which it was entitled during the 2005-07 biennium, the difference between the amount the library received during the 2005-07 biennium and the amount that it would have received, but for the statutory dispute regarding the meaning of a mill levy.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2009, and after that date is ineffective."

Renumber accordingly

2007 TESTIMONY

HB 1309

Submitted 3/13/07 after hearing -

HB 1309

LETTER OPINION
2006-L-24

August 28, 2006

Mr. Kent A. Reierson
Williston City Attorney
PO Box 1366
Williston, ND 58802-1366

Dear Mr. Reierson:

Thank you for your letter asking whether the phrase "mill levy on the taxable valuation" in the state aid to public libraries law refers to the amount of dollars levied rather than the number of mills levied. Based on the following analysis, it is my opinion that "mill levy on the taxable valuation" in the state aid to public libraries law refers to the number of mills levied and not the amount of dollars levied.

ANALYSIS

In approximately November of 2005, the State Auditor's office began questioning whether the State Library was distributing aid to public libraries in accordance with the law. The Auditor raised concerns regarding the State Library's interpretation of N.D.C.C. § 54-24.2-04, which provides:

> **54-24.2-04. Maintenance of local effort.** No public library is eligible to receive any funds appropriated under this chapter during a fiscal year if the governing body has diminished the:
>
> 1. Mill levy on the taxable valuation below the average of the three preceding fiscal years; or
>
> 2. Appropriation for public library services below an amount equal to the revenue derived from the maximum mill levy for public library services authorized under section 40-38-02.

(Emphasis supplied.) For approximately 25 years, the State Library had been interpreting "mill levy on the taxable valuation" in subsection 1 to mean either the

number of mills levied or the amount of dollars levied. The State Auditor's office questioned this interpretation and asked whether the phrase meant number of mills levied.

It is not immediately clear what "mill levy on the taxable valuation" means. It could refer to the number of mills levied or the amount of dollars levied. The phrase is ambiguous because it is susceptible to differing rational meanings.[1] The primary objective in interpreting a statute is to determine the intent of the Legislature.[2] If a statute is ambiguous, the following may be considered in determining the intention of the legislation: other laws on the same subject, the legislative history, and the administrative construction of the statute.[3]

Other laws on the same subject are found in N.D.C.C. ch. 54-24.2 regarding state aid to public libraries. Section 54-24.2-02, N.D.C.C., specifies the formula used to make a preliminary determination of the grant or allocation to a particular library. The following statute, N.D.C.C. § 54-24.2-03, immediately precedes the statute at issue. Section 54-24.2-03, N.D.C.C., specifies differing percentages of the allocation that city or county libraries will receive, depending on how many mills the city or county is levying to support its public library. It provides:

> **54-24.2-03. Incentive for local funding.** To provide for increased local funding, public libraries eligible to receive funds under section 54-24.2-02 shall have the funds allocated to them modified in accordance with the following formula:
>
> Cities levying
>
8.00 or more mills	150 percent of allocation
6.00 - 7.99 mills	125 percent of allocation
4.00 - 5.99 mills	100 percent of allocation
3.00 - 3.99 mills	75 percent of allocation
2.00 - 2.99 mills	50 percent of allocation
1.00 - 1.99 mills	33 percent of allocation
0.01 - 0.99 mills	25 percent of allocation
0.00 - mills	0 percent of allocation
>
> Counties levying

---

[1] See Kallhoff v. North Dakota Workers' Compensation Bureau, 484 N.W.2d 510 (N.D. 1992).
[2] Id.
[3] N.D.C.C. § 1-02-39; Kallhoff v. North Dakota Workers' Compensation Bureau, 484 N.W.2d 510 (N.D. 1992).

4.00 or more mills	150 percent of allocation
3.00 - 3.99 mills	125 percent of allocation
2.00 - 2.99 mills	100 percent of allocation
1.50 - 1.99 mills	75 percent of allocation
1.00 - 1.49 mills	50 percent of allocation
0.50 - 0.99 mills	33 percent of allocation
0.01 - 0.49 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

> The computation of mills must be based upon the levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year as certified by the auditor of the city or county operating the library.

(Emphasis supplied.) Thus, the more mills levied for public libraries at the local level, the greater the percentage of the allocation that will be received. The computation of the number of mills levied, as listed in the left column, "must be based upon the levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund . . . ."[4] This appears to mean that, to determine the number of mills under the left column, you add the number of mills levied to the "mill levy equivalent" of other public funds received. Thus, it appears that "levy on the taxable valuation," as used in N.D.C.C. § 54-24.2-03, means the number of mills levied. The phrase, "levy on the taxable valuation" in N.D.C.C. § 54-24.2-03 is similar to the phrase, "mill levy on the taxable valuation" in N.D.C.C. § 54-24.2-04. The use of the phrase in N.D.C.C. § 54-24.2-03 suggests that the use of the similar phrase in N.D.C.C. § 54-24.2-04 also refers to the number of mills levied.

A review of the legislative history is also helpful in determining the meaning of N.D.C.C. § 54-24.2-04.[5] This statute was amended in 1981 as follows:

> 54-24.2-04. MAINTENANCE OF LOCAL EFFORT. No public library ~~shall be~~ is eligible to receive any funds appropriated under this chapter during a fiscal year if the ~~total of the mill~~ governing body has diminished the:
>
> 1. Mill levy on the taxable valuation ~~and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library has been diminished~~

[4] N.D.C.C. § 54-24.2-03 (emphasis supplied).
[5] N.D.C.C. § 1-02-39.

~~from~~ below the average of the three preceding fiscal years. ~~Excluded are Comprehensive Employment Training Act funds, Library Services and Construction Act funds, and other grants of a nonrecurring nature~~; or

2. Appropriation for public library services below an amount equal to the revenue derived from the maximum mill levy for public library services authorized under section 40-38-02.[6]

The underlined language was proposed new language and the overstruck language was proposed to be removed from the law. Representative Unhjem was the prime sponsor of the bill. The following is an excerpt from his testimony before the Senate State and Federal Government Committee:

> The other major problem that we encountered with the state aid to public libraries, legislation in the last session, was the maintenance of local effort found on section 6. And it required that no library would be eligible for state aid funds if during the fiscal year the total of the mill levy on the taxable valuation and the mill levy equivalent of other public funds given by the governing body of a political subdivision was, fell below the average for the three preceding fiscal years. The problem that happened in many areas was that the State Board of Equalization lowered the assessment levels around the state and many libraries, even though they were still levying two mills or four mills were bringing in less money than they had for the average of the three preceding fiscal years. . . . These amendments would simply say as long as the number of mills being levied did not go down and as long as the appropriation of other revenue given by the city or the county commissioners didn't go down . . . [the library would receive state aid].[7]

Thus, the prime sponsor of the bill understood "mill levy on the taxable valuation" to mean "the number of mills being levied," and he relayed this understanding to the legislators who passed the bill.

Another way to determine legislative intent is to consider the administrative construction of the statute.[8] Although the State Library has, for 25 years, interpreted "mill levy on the taxable valuation" to mean either the number of mills levied or the amount of dollars

---

[6] 1981 N.D. Sess. Laws ch. 418, § 6.
[7] Hearing on H.B. 1551 Before the Senate Comm. on State and Federal Government, 1981 N.D. Leg. (Mar. 2) (Statement of Rep. Unhjem) (emphasis supplied).
[8] N.D.C.C. § 1-02-39.

levied, such interpretation is not supported by the legislative history, nor is it supported by reading this law in context with other laws using similar language in the chapter regarding state aid to public libraries.

While I am mindful of the burden this statutory wording may place on public libraries, I believe this interpretation of the current statute is clear. I have previously recommended that the State Library seek an amendment to the statute when the 2007 session of the Legislature convenes, and I understand the State Library is preparing to do so.

In conclusion, it is my opinion that "mill levy on the taxable valuation," as used in N.D.C.C. § 54-24.2-04, refers to the number of mills levied.

Sincerely,

Wayne Stenehjem
Attorney General

las/pg

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.[9]

[9] See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1309

Page 1, line 5, replace "$200,000" with "$190,324"

Page 1, line 10, after the period insert: "The public libraries that will receive state aid under this bill are: Ashley Public Library - $312.00; Bismarck Veterans Memorial Public Library - $39,332.00; Bowbells Public Library - $144.00; Buffalo—Margaret Fraase Public Library - $74.00; Cavalier Public Library - $726.00; Devils Lake—Lake Region Public Library - $3,410.00; Dickinson Area Public Library - $11,340.00; Edgeley Public Library - $226.00; Ellendale Public Library - $920.00; Flasher Public Library - $202.00; Garrison Public Library - $622.00; Glen Ullin Public Library - $204.00; Goodrich Public Library - $77.00; Harvey Public Library - $1,174.00; Jamestown—Alfred Dickey Public Library - $10,997.00; Kenmare Public Library - $383.00; Lakota City Library - $553.00; Leeds Public Library - $219.00; Lidgerwood City Library - $523.00; Maddock Community Library - $235.00; Mandan Public Library - $11,841.00; Max Community Library - $131.00; Mayville Public Library - $1,383.00; Minot Public Library - $25,900.00; Mott Public Library - $572.00; New England Public Library - $328.00; New Rockford Public Library - $864.00; Northwood School and City Library - $340.00; Oakes School and Public Library - $934.00; Parshall Public Library - $579.00; Pembina School and City Library - $152.00; Rolette Public Library - $84.00; Rolla Public Library - $669.00; Tioga Community Library - $797.00; Turtle Lake Public Library - $411.00; Underwood Public Library - $479.00; Valley City Barnes County Public Library - $4,029.00; Velva School and Public Library - $495.00; Williston Community Library - $8,862.00; Adams County Library - $3,559.00; Billings County Resource Center - $4,714.00; McLean County Public Library - $12,366.00; Morton County Library - $10,808.00; Pembina County Public Library - $3,351.00; Sioux County Public Library - $4,573.00; Walsh County Public Library - $5,080.00; Ward County Public Library - $15,350.00; Total: $190,324.00.

Renumber accordingly

This came from atty generals office

#2

TESTIMONY ON HB 1309
POLITICAL SUBDIVISIONS COMMITTEE

January 25, 2007
Kelly Steckler, NDLA Legislative Chair
North Dakota Library Association
c/o Mandan Public Library
667-5365

Dear Chairperson and Members of the Committee:

My name is Kelly Steckler and I am the Legislative Chair for the North Dakota Library Association. I am here in support of HB 1309.

This bill is considered retroactive funding for the public libraries that were ineligible for State Aid to Public Library grants in 2006. This legislation would be a one-time payment of $190,374 shared among those libraries.

Public Library State Aid support is very important to the operation of local libraries. At its annual conference, the North Dakota Library Association drafted a resolution endorsing this retroactive funding.

As Director of Mandan Public Library, State Aid dollars comprised 18% of the materials budget for 2006. Public libraries purchase materials in various formats from books to electronic resources to videos and DVDs. All resources are imperative in the service to patrons.

NDLA would support a DO PASS of this one-time bill for retroactive funding for public libraries.

Sincerely,

Kelly Steckler
NDLA Legislative Chair

#3

SINCE 1908

DICKINSON AREA PUBLIC
LIBRARY

VISION FOR THE FUTURE

Same given to Senate Appropriations

January 25, 2007 **IN SUPPORT OF HB 1309**

To: HOUSE POLITICAL SUBDIVISIONS COMMITTEE

By: CHERYL TOLLEFSON, DIRECTOR
DICKINSON AREA PUBLIC LIBRARY
Phone: 456-7828 Cheryl.Tollefson@sendit.nodak.edu

Chairman Herbel,
Members of the Committee

I speak in favor of funding HB 1309, a bill for an Act to provide a one time appropriation for libraries that did not receive State Aid to Libraries payments for 2006.
I was one of a group of many in the Library Community that worked to pass legislation to establish State Aid to Libraries back in 1979. I did not anticipate that a dispute governing the meaning of a mill levy would result in our library not qualifying for State Aid 27 years later. Our local mill levy and dollar amount has grown considerably since 1979.

The Dickinson Area Public Library serves the City of Dickinson, Stark, Billings, and Slope counties with a central library located in Dickinson, two branch libraries in Medora and Fairfield located in the schools, and a bookmobile that covers 3,712 square miles, from Richardton to Marmarth.

Last year our circulation of items was up 10% and our Internet, computer usage was up 17%. We offer materials in all formats: regular print, large print, audio books, e-books, CD's, videos, and DVDs, etc. The loss of nearly $15,000 in State Aid dollars affected our materials and equipment budgets, with the full impact still being felt in our operation. This is 33% of our book and audio-visual budget and nearly $5,000.00 that was earmarked for bookmobile replacement (which we plan for 2007).

I am asking for retroactive State Aid funding for 2006 for the 47 libraries who did not qualify for State Aid to Libraries for 2006. This will help to restore our equipment and material budgets so that we can continue to serve our 14,000 library cardholders with the level of service we had in 2005. THANK YOU FOR YOUR CONSIDERATION.

139 Third Street West
Dickinson ND 58601

Tel 701-456-7700
Fax 701-456-7702 www.dickinsonnd.com/library.htm

MINOT PUBLIC LIBRARY

516 SECOND AVE. SW • MINOT, NORTH DAKOTA 58701-3792 • PHONE 701-852-1045 • FAX 701-852-2595

House Political Subdivisions Committee
January 25, 2007
SB 1309
Restoration of State Aid

Same given to Senate appropriations

Mr. Chairman and Committee Members:

My name is Jerry Kaup, Library Director, from Minot representing the Minot Public Library Board. We support the House Bill 1309 to restore State Aid to 47 libraries.

In 2005 and 2006 the Minot Public Library did not receive nearly $52,000 in funding. The 2006 budget was symbolic for us since it was the first time in 23 years that we reached a goal set in 1983 to fully fund the books and materials budget. In October 2005 the City Council gave final approval to that budget. In December 2005 we received news that we would not receive State Aid in December 2005. Our cash fund was depleted by nearly $26,000 in 2005 and we cut our books and materials budget by $23,000 (14%) and our equipment budget by $10,000 (35%) in 2006. In December 2006 we did not receive the state aid projected as income. Now in 2007 we are faced again with reducing expenditures for books and materials and equipment if 2005 funding is not restored.

A large portion of State Aid in North Dakota is used to purchase books and materials. Restoration of this funding will result in a substantial increase in new books and materials for local and state citizens to use. This is a one-time request to make 47 public libraries stronger resources in their communities.

We ask for your support of HB 1309.

#5

TESTIMONY ON HB 1309
POLITICAL SUBDIVISIONS COMMITTEE

January 25, 2007
Doris Ott, State Librarian
North Dakota State Library
701-328-2492

Mr. Chairman and Members of the Committee:

My name is Doris Ott, and I am the State Librarian of North Dakota. I am here in support of HB 1309.

The Attorney General issued an informal opinion in 2006 that changed the way State Aid to Public Libraries, NDCC, Chapter 54-24.2, was interpreted. This caused almost one-half of the public libraries to be ineligible for State Aid grants for 2006.

Public library directors and their governing board members met in Bismarck on May 5, 2006, to address this. They unanimously voted to request a change in the law so all public libraries who maintained their effort, in dollars derived from the mill levy, could become eligible in the future; and to request retroactive 2006 funding to compensate public libraries that did not receive money in FY 2006.

Public librarians are also supporting HB 1103 which will change legislation to equitably distribute State Aid to Public Libraries who maintain their effort.

HB 1309 will retroactively fund 47 public libraries that did not receive State Aid in 2006. It will direct $190,324 to communities in North Dakota which will give libraries many options. They could purchase computers and update their technology which would allow even greater access for their patrons to the Online Library Resources; they could purchase new reference, fiction, and children's books which would serve their communities and the citizens and students throughout the state through interlibrary loan; and they could continue their children's story hours and provide programming for adults.

There are many needs that public libraries have that will not be met without State Aid to Public Libraries.

As you consider this request, know that in order to keep a strong educational system or be able to attract economic development to our communities, we need a strong public library system to add content to our libraries and to the technology infrastructure. We live in an information-based economy with libraries being the information providers. If we are to have globally competitive citizens, libraries need to be funded in such a way that they can keep pace with inflation and new technologies. It is the connection of people to knowledge that keeps us all going, despite economic ups and downs.

I urge you to support the passage of HB 1309. It is also very important to specify how the money will be distributed, as outlined in the proposed amendment. Thank you for your consideration.

(2)

TESTIMONY ON HB1309
SENATE APPROPRIATIONS COMMITTEE

March 8, 2007
Kirsten Baesler
President, Morton Mandan Public Library Board of Trustees
701-667-5365

Dear Chairperson and Members of the Committee:

My name is Kirsten Baesler and I am the President of the Morton Mandan Public Library Board of Trustees. I am here in support of HB1309. This bill is considered retroactive funding for the public libraries that were ineligible for State Aid to Public Library grants in 2006. This legislation would be a one-time payment of $200,000 shared among those libraries.

This past year, our Board took it upon ourselves to resolve a thirty-year discussion of merging libraries. In November, a vote of the citizens of Mandan and Morton County overwhelmingly supported a merger of the two libraries. Mandan Public Library and Morton County Library will become the Morton Mandan Public Library by July of this year.

State Aid to Public Libraries significantly affects both of our libraries. By combining resources in to one joint library, we are making better use of our dollars. However, as a combined library, we were ineligible for over $20,000 in 2006. State Aid dollars are essential in providing print materials, online licenses in order to offer credible Internet resources which are not free of charge, kids' programming, and bookmobile services for rural residents.

We would support a DO PASS of this one-time bill for retroactive funding for public libraries.

Sincerely,

Kirsten Baesler

Kirsten Baesler, President

3

TESTIMONY ON HB 1309
SENATE APPROPRIATIONS COMMITTEE

March 8, 2007
Kelly Steckler, Legislative Chair
North Dakota Library Association
c/o Mandan Public Library
667-5365

Dear Chairperson and Members of the Committee:

My name is Kelly Steckler and I am the Legislative Chair for the North Dakota Library Association. I am here in support of HB 1309.

This bill is considered retroactive funding for the public libraries that were ineligible for State Aid to Public Library grants in 2006. This legislation would be a one-time payment of $200,000 shared among those libraries.

Public Library State Aid support is very important to the operation of local libraries. At its annual conference, the North Dakota Library Association drafted a resolution endorsing this retroactive funding.

As Director of Mandan Public Library, State Aid dollars comprised 18% of the materials budget for 2006. Public libraries purchase materials in various formats from books to electronic resources to videos and DVDs. All resources are imperative in the service to patrons.

NDLA would support a DO PASS of this one-time bill for retroactive funding for public libraries.

Sincerely,

Kelly Steckler

Kelly Steckler
NDLA Legislative Chair

(3)

TESTIMONY ON HB 1309
SENATE APPROPRIATIONS COMMITTEE

March 8, 2007
Doris Ott, State Librarian
North Dakota State Library
701-328-2492

Mr. Chairman and Members of the Committee:

My name is Doris Ott, and I am the State Librarian of North Dakota. I am here in support of HB 1309.

The Attorney General issued an informal opinion in 2006 that changed the way State Aid to Public Libraries, NDCC Chapter 54-24.2, was interpreted. This caused almost one-half of the public library entities to be ineligible for State Aid grants for 2006.

Public library directors and their governing board members met in Bismarck on May 5, 2006, to address this concern. They unanimously voted to request a change in the law so all public libraries who maintained their effort, in dollars derived from the mill levy, could become eligible in the future; and to request retroactive 2006 funding to compensate public libraries that did not receive money in FY 2006.

Public librarians are also supporting HB 1103 which will change legislation to equitably distribute State Aid to Public Libraries who maintain their effort.

HB 1309 will direct dollars to communities in North Dakota which will give libraries many options. They could purchase computers and update their technology which would allow even greater access for their patrons to the Online Library Resources; they could purchase new reference, fiction, and children's books which would serve their communities, and the citizens and students throughout the state through interlibrary loan; and they could continue their children's story hours and provide programming for adults.

. As you consider this request, know that in order to keep a strong educational system or be able to attract economic development to our communities, we need a strong public library system to add content to our libraries and to the technology infrastructure. We live in an information-based economy with libraries being the information providers. If we are to have globally competitive citizens, libraries need to be funded in such a way that they can keep pace with inflation and new technologies. It is the connection of people to knowledge that keeps us all going, despite economic ups and downs.

I urge you to support the passage of HB 1309. Thank you for your consideration.

1309

NORTH DAKOTA STATE LIBRARY

604 E. Boulevard Avenue - Dept. 250, Bismarck, North Dakota 58505-0800 - (701) 328-2492 - FAX: (701) 328-2040

DORIS OTT, STATE LIBRARIAN

March 12, 2007

MEMO

TO: Clerk, Senate Appropriations Committee

FROM: Doris Ott, State Librarian

RE: Information for Senator Holmberg

Please give this information to Senator Holmberg.

He asked that we send it to him during our hearing last Thursday, March 8.

It is relating to the public libraries and who did and did not receive State Aid during FY 2006.

Thank you.

NORTH DAKOTA STATE LIBRARY: STATE AID TO PUBLIC LIBRARIES
FY2006

ASHLEY CITY	-
GOLDEN VALLEY COUNTY-Beach	7,932
BEULAH CITY	3,605
BISMARCK CITY	-
BURLEIGH COUNTY-Bismarck	25,415
BOTTINEAU COUNTY-Bottineau	17,883
BOWBELLS CITY	-
BOWMAN CITY	1,830
MARGARET FRAASE - Buffalo	-
CANDO CITY	1,535
CARRINGTON CITY	2,594
CASSELTON CITY	1,414
CAVALIER CITY	-
COOPERSTOWN CITY	1,204
GRIGGS COUNTY-Cooperstown	6,040
DIVIDE COUNTY-Crosby	10,011
DEVILS LAKE CITY	-
RAMSEY COUNTY-Devils Lake	8,652
DICKINSON CITY	-
STARK COUNTY-Dickinson	10,161
BILLINGS COUNTY-Dickinson	-
SLOPE COUNTY-Dickinson	7,849
DRAKE CITY	245
DUNN CENTER	93
EDGELEY CITY	-
LAMOURE COUNTY-Edgeley	5,978
LOGAN COUNTY-Edgeley	7,017
ELLENDALE CITY	-
ENDERLIN CITY	1,083
FARGO CITY	103,606
FLASHER CITY	-
FORMAN CITY	579
SIOUX COUNTY-Fort Yates	-
GACKLE CITY	383
GARRISON CITY	-
GLEN ULLIN CITY	-
GOODRICH CITY	-
GRAFTON CITY	3,443
WALSH COUNTY-Grafton	-
PEMBINA COUNTY	-
NELSON COUNTY-Grafton	3,339
GRAND FORKS CITY	56,403
GRAND FORKS COUNTY-Grand Forks	27,431
HANKINSON CITY	1,008
HARVEY CITY	-
HATTON CITY	Didn't apply
HAZEN CITY	2,810
HEBRON CITY	765
ADAMS COUNTY-Hettinger	-
JAMESTOWN CITY	-
STUTSMAN COUNTY-Jamestown	20,438
KILLDEER CITY	815
KINDRED CITY	351
LAKOTA CITY	-
LAMOURE CITY	720
LANGDON CITY	-
CAVALIER COUNTY-Langdon	11,800
LARIMORE CITY	1,093

NORTH DAKOTA STATE LIBRARY: STATE AID TO PUBLIC LIBRARIES
FY2006

LEEDS CITY	-
LEONARD CITY	Didn't apply
LIDGERWOOD CITY	-
LINTON CITY	1,259
LISBON CITY	2,621
MADDOCK CITY	-
MANDAN CITY	-
MORTON COUNTY-Mandan	-
MAX CITY	-
MAYVILLE CITY	-
MILNOR CITY	678
MINNEWAUKAN CITY	364
MINOT CITY	-
WARD COUNTY-Minot	-
MOUNTRAIL COUNTY-Minot	12,455
KENMARE CITY-Minot	-
MOHALL CITY	929
MOTT CITY	-
NEW ENGLAND CITY	-
NEW ROCKFORD CITY	-
NEW TOWN CITY	1,042
NORTHWOOD CITY	-
OAKS CITY	-
PARK RIVER CITY	1,463
PARSHALL CITY	-
PEMBINA CITY	-
MCLEAN COUNTY-Riverdale	-
MERCER COUNTY-Riverdale	16,246
ROLETTE CITY	-
ROLLA CITY	-
RUGBY CITY	3,361
PIERCE COUNTY-Rugby	8,173
STANLEY CITY	1,219
STANTON CITY	263
KIDDER COUNTY-Steele	11,343
TURTLE LAKE CITY	-
UNDERWOOD CITY	-
VALLEY CITY	-
BARNES COUNTY-Valley City	9,541
VELVA CITY	-
WAHPETON CITY	9,819
WALHALLA CITY	1,209
WASHBURN CITY	1,059
MCKENZIE COUNTY-Watford City	22,919
WEST FARGO CITY	17,085
WILLISTON CITY	-
WILLIAMS COUNTY-Williston	20,572
TIOGA CITY-Williston	-
WISHEK CITY	855
TOTAL	500,000