

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

24/11

2005 SENATE POLITICAL SUBDIVISIONS

SB 2411


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2411

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 17, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-1440
Committee Clerk Signature 			

Minutes:

**Chairman Cook called the hearing to order on SB 2411. All Senators were present.**

**Senator Nething** introduced the bill. He explained the problems that have occurred in the process of merging the county and city libraries in Jamestown.

**Awanda Nowatzki, chairman of the Jamestown-Stutsman County joint library study committee,** appeared in support of the bill. See written testimony. **Alice Pekarski, representing the Stutsman County Library Board** also appeared in support of the bill.

**Chairman Cook-** Do the city and county both have mill levy caps for library services?

**Alice-** Only the county does, the city is exempt from the cap. The county can only levy up to 4 mills, while the city levies up to 14-17 mills.

**Chairman Cook-** So, under consolidation, the county mill levy would probably go up to 12 mills?

**Awanda-** It couldn't without a vote of the people. There is a difference in proximity of the library services and population density. I don't think it is fair for our county citizens to expect them to pay a mill levy. Between the two libraries we could maintain services under a joint library situation.

**Senator Triplett-** Can you tell us what 4 mills raise on the county, versus 15 mills on the city level?

**Alice-** The county raises \$104,000, while the city raises \$352,000 in mill levy taxes, in 2003. Another example, in Barnes County, the city has 6.8 mills and the county has 2 mills.

**Senator Cook-** Are both libraries located in Jamestown?

**Awanda-** Yes.

**Senator Dever-** Is four mills sufficient to support the county library?

**Alice-** We have been operating on that amount for several years, we purchased a new bookmobile a few years ago. The county library doesn't offer all of the services that the city library is able to do.

**Senator Triplett-** Can you tell me what the language means in Senator Nething's amendment? Is there a limitation in the home rule ordinance, that its just not up to the city council?

**Awanda-** Correct. We had a 3 mill increase a few years ago to do some improvements in the library building. We have went to the voters and they supported us with the mill increase.

**Chairman Cook closed the hearing on SB 2411.**

**Discussion:**

**Senator Triplett-** My only concern is if this would mess up a delicate balance between other city and county libraries in the state.

**Chairman Cook-** In Grand Forks, is the mill levy the same in the county as it is in the city?

**Senator Triplett-** We have a combined city/county public library for everyone. It has been very successful. The county imposes the mill levy to all the citizens of the county, including the citizens of Grand Forks.

**Action taken:**

**Senator Fairfield moved a Do Pass recommendation, seconded by Senator Triplett. The vote was 6-0-0, with Senator Fairfield being the carrier of SB 2411.**

**Chairman Cook closed the meeting on SB 2411.**

Date: 3-17-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2411

Senate Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Fairfield Seconded By Triplet

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplet	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Fairfield

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

**REPORT OF STANDING COMMITTEE (410)**  
March 17, 2005 2:01 p.m.

**Module No: SR-49-5282**  
**Carrier: Fairfield**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2411: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2411 was placed on the Eleventh order on the calendar.**

2005 HOUSE POLITICAL SUBDIVISIONS

SB 2411



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2411

House Political Subdivisions Committee

Conference Committee

Hearing Date March 24,2005

Tape Number	Side A	Side B	Meter #
1	x		0.0 to 46.1
Committee Clerk Signature <i>Samuel B. Zide</i>			

Minutes: **Rep.Devlin, Chairman** opened the hearing on SB 2411, A bill for an Act to amend and reenact subsection 5 of section 40-38-11 of the North Dakota Century Code, relating to property tax levies by joint public library services by cities and counties; and to provide an effective date. **Sen. Nething** representing District 12 and prime sponsor of the bill spoke briefly to explain the bill is a late file bill because the problem came up after the deadline for introduction of bills. This is a kind of -- well it is appropriate for a last bill -- it is sort of a 'warm-fuzzy' type of bill that you can get your arms around -- where you can have two units of government combine and save tax payers money and still provide better services. It involves the Stutsman county and the Jamestown City library -- the Alfred Dickey library. I will not expound further but hand out a letter which brought the problem to my attention. It explains it well and the sender is present to further testify and answer questions. A copy of that letter from Awanda Nowatzki is attached.

**Awanda Nowatzki** -- Chairman of the Jamestown/Stutsman County Joint Library Study

Committee spoke in support of the bill and explained their local working arrangements as well as what they hope to do. A copy of her prepared written remarks is attached.

**Rep. Ekstrom** ( 4.9 ) Being familiar with these facilities myself -- are there plans to close either of these libraries?

**Awanda Nowatzki** No plan to close the facilities but in the long term there is the thought that some day there will need to build to garner more space and one of the big things driving that of course is technology.

**Rep. Herbal, Vice Chairman** You say that right now the Jamestown library is operating on 15 mils and the Stutsman County -- on 4 mils -- when you do your merger how do you plan to bring those two together?

**Awanda Nowatzki** -- That is the point of this bill -- we would each bring to the table -- our current funding levels and then we would propose to our voters -- would you support a merger of these two libraries --and maintaining your current support -- of course there are two separate funding districts and two separate levies -- the first time we would have an opportunity to do that would be 2006.

**Rep. Herbal, Vice Chairman** So then that would then become an average between the county's and city's levies?

**Awanda Nowatzki** --No we would maintain the level of the levies -- each would stay the same -- And we need to go to the voters -- if say we needed two mils -- we would have to put that to the voters.

**Rep. Koppelman** ( 6.7 ) both libraries are located in Jamestown?

**Awanda Nowatzki** -- yes

**Rep. Koppelman** -- is it just a desire to merge -- or are their missions different ?

**Awanda Nowatzki** -- Right now our County library --we have a book mobile -- we have a new vehicle and paid cash for it but you know what happened to interest rates -- last year both libraries operated at a 41-19,000 deficit. -- it has been a difficult year --the City library is running out of room.

**Rep. Koppelman ( 7.8 )** Are the patrons you serve pretty much the same folks?

**Awanda Nowatzki** -- The county library serves the rural communities with the book mobile - that goes out to the community -- ten small towns in Stutsman County. We serve a lot of the senior citizens -- in those towns and we go to children's -- like the Building Block -- or child services and nursing homes.

**Alice Perkarski** -- also offered more one the county library services as she is the county librarian.

**Rep. Herbal, Vice Chairman ( 8.5 )** -- Help me understand -- what determines patrons served versus circulation's --

Page 4

House Political Subdivisions Committee

Bill/Resolution Number SB 2411

Hearing Date March 24, 2005

**Awanda Nowatzki** -- Actually that is our total number of our registered card holders -- that is the number of patrons we have for that particular library -- it doesn't necessarily reflect the entire family or the number of family members.

**Rep. Herbal, Vice Chairman ( 9.0 )** any circulation ?

**Awanda Nowatzki** -- that is the number of items checked out.

**Rep. Kretschmar --- ( 9.2 )** is there a limit to the mil levies in the statutes now?

**Awanda Nowatzki** -- the county library levy -- you cannot levy more than 4 mils --

**Alice Pekarski** -- The Counties are restricted to 4 mils -- the cities are exempted from that restriction

**Rep. Maragos ( 9.8 )** Does the county library operate out of the County Courthouse?

**Awanda Notwatzki** -- no -- we have another building -- we operate out of what used to be the old County shop building.

**Rep. Maragos ( 10.0 )** Are they going to add on to the Alfred Dickey Library or are they going to build?

**Awanda Notwatzki** --no they will eventually build as there is no room to expand on their present site.

**Rep. Zaiser ( 10.7 )** Do you have an active committee looking at -- the future of that building?

**Awanda Notwatzki** No because we are so far away from doing anything about it but when the time comes?

**Rep. Koppelman ( 11.5 )** you mentioned earlier about going to the vote of the people for this merger -- are you a your mil levy cap now and if not if you were to try to raise that -- would that require the vote of the people?

**Awanda Notwatzki** --yes it would.

**Rep.Devlin, Chairman** If you the merger goes through and can a vote of the city people raise the county mils ?

**Alice Pekarski** -- I don't believe they can -- the last statement in 40-38-11 and I don't know the sub -- it says that it is the vote of each of the city and the county --- I assume the county will vote on their own and the city will vote on their levy.

**Rep. Koppelman** ( 12.9 ) we have had another bill where they were talking merger and if you vote en mass - concern was that the city could have more votes and raise the county taxes.

**Awanda Notwatzki** -- There would be two separate elections on that.

**Rep. Kaldor** (14.2 ) if you were restricted in a joint mil levy -- as I read it you would be limited to the 4-mils?

**Awanda Nowatzki** that is why it is wo inportant as to how we do this.

**Rep. Herbal, Vice Chairman** (15.5 ) I am still not quite clear -- now it is established in statute that the cap of 4 mils is the maximum in County ---but the only way that cap can be changed is through legislation -- isn't it?

**Rep. Kretschmar** ( 16.0 ) I believe there is a provision in statutes that they can increase their mil levy by a vote of the people above the statutory limits but I am not sure whether the library limit can be.

**Rep. Herbal, Vice Chairman** ( 16.3 0 if you recall -- in our committee we earlier voted to increase the caps from 5 to 10 mils for corrections because they were maxed out and the only way -- they said --- was to change the law.

**Rep. Kretschmar** ( 16.6 ) but they were unable to convince the voters to go for more.

Note: Following further discussion on this subject **Rep.Devlin, Chairman** determined that Legislative Council attorney John Walstad was need to clarify the issue before the committee.

**Rep.Devlin, Chairman** ( 23.7 ) If the merger goes through and there is one board does the city voters dictate what the levy is going to be in the rural areas?

**John Walstad** -- No -- the language bill -- once the joint library board is authority is established -- the levy would be influenced by the governing board of this joint authority and what the bill says is - the levy that will apply outside city limits can not be a higher mil rate than is allowed for county library service now and within the city it is capped by what ever levy -- so city residents or voters can no impose their higher mil rate outside the city --

**Rep.Devlin, Chairman** -- even if they merge?

**John Walstad** -- even if they merge. That's what the language in the bill was intended to do.  
??? -- something about ?? rate -- mil levy ?

**John Walstad** -- What ever the rate is will still be established by this governing board but the territory outside the city -- the county cap as it now exist would continue to apply and within the city the city cap would continue to apply.

**Rep.Devlin, Chairman** ( 25.4 ) Is the cap set in State statute? For the county?

**John Walstad** -- It is for both the county and the city -- it is.

**Rep.Devlin, Chairman** ( 25.6 ) So if the limit was 4 mils now this new board couldn't go above the 4 mils without coming back to the legislature? And getting them to raise the cap?

**John Walstad** -- Exactly.

**Rep. N. Johnson** ( 26.0 ) As a city resident I vote for the County Commissioners on the ballot -- if this issue comes up for the county people to increase their mil levy -- as a city voter who votes

county issues do I also vote on that issue ( to raise the cap ) or does that have to be a separate ballot.

**John Walstad** -- Other than to establish this joint board there won't be an election question for the voters because once this joint board is established --its levies is determined by its governing body and I think what they do is submit their budgets to the commissioners and they set the levy.

**Rep. N. Johnson** ( 26.7 ) but doesn't it go to a vote then if you want -- say if the legislature raised the cap to 700 -- and we are at 4 and we go to a vote and say we want to raise it to 5 -- and the city recommends to the county and also raise it in the county -- then do I as a city person could change the county levy.

**John Walstad** -- following discussion between several committee members -- that is exactly right only the county board can raise that one levy and you are voter of the county even though you live in the city -- only the county board can decide that the new board only recommends.

**Rep. Koppelman** ( 27.6 ) I am getting more confused here because we asked the question before -- we were under the impression that only a vote of the people that raised the cap and the levy? In the section of law that we are looking at here it says the city if the -- the county even after this legislation -- you are looking at the county levy for example -- and Rep. Johnson was talking about -- she lives in the city but votes on county issues but if you had a mil levy increase in the county but the city has a library levy -- the people in the city don't pay that tax in the county --now I am not sure that if they are exempted from it -- I am not sure whether they vote on it or not?

**John Walstad** -- I haven't looked at this statutory stuff for a couple of months -- so -- OK first of all -- I am wrong -- there is an election provision that allows for an increase by the voters

approval -- and secondly your question about whether the county levy applies -- within the city if the city is also levying -- my guess is there we've got something in there that says it does not apply to the city if the city is levying for the library services --

**Rep. Koppelman ( 29.5 )** It does say that in this same section but what is not clear is whether you vote on it or not -- I think the concern is that if the city is exempted and can still vote on this they can raise the taxes on the county residents --

**Rep.Devlin, Chairman ( 31.2 )** The way it is now the governing body is the one who raises the levy -- not the library board

**John Walstad** -- That is correct -- it is the governing that levies the tax.

**Rep.Devlin, Chairman ( 31.9 )** -- Under this bill does that change anything -- does that board still have to go to the city or to the county?

**John Walstad --- ( 32.0 )** -- normally when levy is made by a weed board or some such board that normally goes back to the board and the money flows through the county commission -- park boards flow through the city commission -- but in this case I believe the governing board of the joint library authority would propose what its levy is going to be and that levy would go to the county where there is territory outside of the city and to the city body for the territory within the city.

**Rep.Devlin, Chairman** -- so the County commission would not have the authority over the whole thing being that it is a county board ?

**John Walstad** -- not entirely that way -- I don't believe the county commission would have authority over the entire joint library authority --



**Rep. Koppelman ( 33.1 )** the language in the bill -- leads me to believe that is correct -- at least that is the intent -- the taxes within the agreement may be levied within the limitations provided by law for a county library fund levy and taxes within the service that is within the city limits and the area outside the side limits may be levies within the limits provided by law for a county library fund levy and taxes within the service area. The leads me to believe the city will determine its tax levy and the county will determine their tax levy.

**Rep.Devlin, Chairman ( 34.0 )** I would almost agree with you if the two 'mays' were not in there. If it were shall and shall then I would -- but that isn't what it says.

**Rep. Koppelman ( 34.5 )** With shall they would have to levy a tax whether they wanted to or not.

**John Walstad --** The 'shall' and 'may' thing shall is mandatory -- what we are saying here with is -- they can -- they have the authority to levy but then we tacked on 'within the limitations' provided by law -- so it is not saying that it is optional that they observe those limits -- they can levy a tax but within the limitations --

**Rep.Devlin, Chairman ( 35.2 )** so to cut to the bottom line -- they could not raise the tax limits without coming back to the legislature?

**John Walstad --** That's the way I would read it and that's is the way that it has to be interpreted.-  
--otherwise that 'limitation provided by law' would not mean anything.

**Rep.Devlin, Chairman ( 35.0 )** In section two we don't very often see a retroactive date?

**JohnWalstad --** Whenever we deal with property taxes -- this is standard because -- what this means is that this applies to the tax year we are in right now -- which is this year's levy which

will be collected in 2006. It says we are counting the entire year for property tax -- rather than trying to figure out what would happen if you levy a tax for part of a year.

**Rep. Koppelman ( 36.4 )** As I read this again and again -- it says the taxes may be levied within the limitation within the law -- when I think about that -- what that means is -- does it is also levied by the provisions of law -- back the that question of when elections are held -- or does this have to do with the caps --

**John Walstad** - I supposed that is arguable -- but it doesn't talk about the procedures and so on -- so I think that all that is being pulled in is the limits -- is where that cap is.

**Rep. Koppelman ( 37.2 )** We want to be sure that those elections which raise that mil levy amount -- were still separate -- we probably should amend this to include that

**John Walstad** -- If that is the desire -- maybe the language should say -- ' and in accordance with' procedures provided by law.

**Alice Pekarski** -- I just want the committee to know that this bill was to clarify the language of subsection 5 -- I think we have pulled in more than was intended -- more issues than what this was intended -- but for this bill we were dealing with clarification of what it is that we would have to do to have two separate mils levies for the merger -- I think that is what the bill would have done but I am not sure with al these other issues -- non the elections and the voting -- I am not sure all that is necessary for this bill. So I would suggest that you think about that before amending it.

**Rep.Devlin, Chairman ( 39.9 )** The problem the legislature runs into for lack of better words is the 'action with unintended consequences' . -- whenever we do things that effect other things in additions to what we are trying to do here -- we want to make sure that it is clear.

**Alice Pekarski** -- we respect that.

**Connie Sprynzynatyak** -- Just a comment about how the money's flow. When you have a combined city/county entity -- in this case the county would levy its 4 mils and let's just say the city levies 10 mils -- the money is still going to flow -- the city is going to prepare a budget and provide that budget to the county auditor by a date certain in October -- the levy will be certified and the money will flow into joint operation -- there is no magic about that -- so I wanted to make sure that you have that because things do sometimes have a habit of getting muddled up.

That is probably the easiest part of this.

**Rep. Koppelman** ( 42.1 ) I would move an amendment -- that on line 12 and 13 -- where the words limitations appear - immediately after that insert the word ' as according to procedures' -- that would insure that both the levy and the methods by which those levies are voted on.

**Rep. Herbal, Vice Chairman** seconded the motion. The motion carried on a voice vote.

**Rep. Maragos** moved a 'Do Pass as amended' for SB 2411. **Rep. Koppelman** seconded the motion. On a roll call vote the motion carried **12 ayes 0 nays 0 absent**. **Rep. Maragos** was designated to carry SB 2144 on the floor. End of record ( 46.1 ).

Date: March 24, 2005  
 Roll Call Vote:

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2411**

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee *Koppelman moved - line 12 + 13 add "as according to procedures" after committee. Rep. Herbel seconded - carried voice vote*

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

Action Taken Do Pass as Amended

Motion Made By Rep. Maragos Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 0

Floor Assignment Rep. Maragos

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

**REPORT OF STANDING COMMITTEE**

**SB 2411: Political Subdivisions Committee (Rep. Devlin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2411 was placed on the Sixth order on the calendar.

Page 1, line 12, after "limitations" insert "and according to the procedures"

Page 1, line 13, after "limitations" insert "and according to the procedures"

Renumber accordingly

2005 TESTIMONY

SB 2411

JOINT LIBRARY STUDY COMMITTEE  
P.O. Box 1913  
Jamestown, ND 58402-1913  
February 9, 2005

Senator Dave Nething  
Representative Lyle Hanson  
Representative Joe Kroeber  
Members of the North Dakota State Legislature, Bismarck, North Dakota

Senator April Fairfield  
Representative Craig Headland  
Representative Chet Pollert

RE: Clarification of the Intent of the Legislature

Greetings:

A committee consisting of representatives from the Stutsman County Library and the Alfred Dickey Library (either Board Members or Staff) has been appointed to study the question of merging the two libraries. Permission was granted to this committee by both the Stutsman County Commission and the Jamestown City Council to study the feasibility of such a merger. Committee members have accepted the responsibility of researching and reporting on various areas of concern. The areas identified were: Financial, Staff, Assets, Operations and Legal.

It is in the legal aspects that we have encountered a potential roadblock. The N.D.C.C outlines the procedures to be used in providing joint public library services by cities and counties in section 40-38-11. The question arises over the interpretation of paragraph 5:

“5. A joint library fund shall be established for the public library services covered by the agreement. Each city or county represented in the agreement shall provide its **pro rata share** (emphasis mine) of funds for services, as specified in the agreement, from the funds received under section 40-38-02.”

This question was addressed in Attorney General's Opinion 98-F-29 which states in part, “It is my further opinion that joint public library service provided by a city and a county under N.D.C.C. 40-38-11 results in a single taxing district, which may not impose a mill levy on property within the city limits that is different from the mill levy imposed on property outside the city limits.”

**We respectfully suggest that this may not have been the intent of the Legislature in adopting 40-38-11, paragraph 5.** There is a great difference in population density between the county and city properties. The pro-rata share, based on population density, may indeed support a different mill rate. For the year 2004, the mill rate in Jamestown to support

library services at Alfred Dickey Public Library was 16.61 mills, generating an income of \$352,483. The mill rate for Stutsman County support of the Stutsman County Library was 4.0 mills, generating an income of \$104,166. The primary focus of the Stutsman County Library is the Bookmobile (a service which everyone involved believes to be essential). Obviously the Alfred Dickey Library is much larger, has expanded services and programs available and has a landmark building to maintain.

In a combined library setting we believe that the county contribution would be sufficient to continue to support the Bookmobile and that savings derived from the joint operation would fund additional costs incurred from the joint library's expanded patronage.

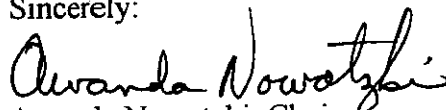
**We believe that the Pro-Rata share should be defined by looking at such factors as prospective usage, access to facilities, etc. In other words, if the tax payers are willing to offer the support needed for library services, that right should not be denied.** According to information we have received there are counties (Barnes and Williams were given as examples) which presently have joint library services that do have different mill rates.

**(PROPOSED WORDING TO CLARIFY SECTION 40-38-11, PARAGRAPH 5, IS INCLUDED AS AN ADDENDUM TO THIS LETTER. PLEASE SEE PAGE 3.)**

The whole issue of combined library services will, of course, have to be taken before the voters (both city and county residents) for their approval. The merger would only be possible if we are able to maintain the present taxation levels. Future requested increases (a building project for a new joint library, for example), would again have to go to the voters.

Any help that you would be able to give to us would be greatly appreciated.

Sincerely:

  
Awanda Nowatzki, Chairman

Committee Members:

Representing Stutsman County Library: Alice Pekarski, Vicky Struxness and Kay Heinle.  
Representing Alfred Dickey Library: Brenda Gibson, Ken Schulz, and Awanda Nowatzki



**Testimony**  
**Senate Political Subdivisions Committee**  
**Regarding Senate Bill – 2411**  
**Senator Dwight Cook, Chairman**  
**March 17, 2005**

*Same given to House*

Chairman Dwight Cook and members of the Senate Political Subdivisions Committee, I am Awanda Nowatzki, Chairman of the Jamestown/Stutsman County Joint Library Study Committee. This committee was established with the permission of the Stutsman County Commission and the Jamestown City Council to study the feasibility of combining the Stutsman County Library and Alfred Dickey Public Library of Jamestown. The Study Committee is made up of representatives of both libraries. My colleague, Alice Pekarski, who is with me today, represents the Stutsman County Library Board. I serve on the Alfred Dickey Library Board. We are here today to ask you to consider amending Subsection 5 of section 40-38-11 of the North Dakota Century Code.

The North Dakota Century Code outlines the procedures to be used in providing joint public library services by cities and counties in section 40-38-11. Subsection 5 as originally adopted by the Legislature includes the statement that "Each city or county represented in the agreement shall provide its pro rata share of funds for the services, as specified in the agreement, from the funds received under section 40-38-02." The definition of "pro rata share" intended by the Legislature is not included in Subsection 5.

One of the tasks of our committee was to investigate the legal aspects of a merger of our libraries. We enlisted the assistance of our County Attorney, Mr. Fritz Fremgen. He alerted us to the existence of an Attorney General's opinion, 98-F-29, which interpreted the N.D.C.C. 40-38-11 as

“ . . . establishing a single taxing district, which may not impose a mill levy on property within the city limits that is different from the mill levy imposed on property outside the city limits.” We respectfully suggest that this may not have been the intent of the Legislature. According to information provided to us by North Dakota State Library personnel, successful mergers were accomplished by libraries in McIntosh County and McKenzie County using the provisions of N.D.C.C. 40-38-11. Both of these mergers were completed prior to 1998 when the Attorney General’s opinion was given and did not involve establishing a uniform tax base. There have been no successful mergers since that date.

A uniform mill levy for two very different types of real estate (rural and urban) ignores these obvious differences:

- Population Density
- Proximity to Library Services

Funds collected in the City of Jamestown have averaged 15 to 17 mills over the past few years. The Stutsman County Library has operated on the 4 mills established for their library services. A primary focus of the Stutsman County Library is the Bookmobile service to schools, small towns, and nursing homes. The Alfred Dickey Library offers a broader range of services to a greater number of patrons. Statistics for 2004 illustrate, in part, the differing funding needs of the two entities:

Patrons Served:

Stutsman County Library	-	3,259
Alfred Dickey Public Library	-	7,413

Circulation:

Stutsman County Library	-	42,005
Alfred Dickey Public Library	-	113,102

It would be impossible for a joint library to maintain the services offered by each of the libraries with less than the current financial support which has been established by the tax payers of our jurisdictions.

We feel that the amendment proposed by Senator Dave Nething will correct the problem of interpretation of Subsection 5 of section 40-38-11. The proposed amendment very clearly states that the limitations provided by law for the city and the limitations provided by law for the county shall determine the joint library fund levy. The passage of this amendment will allow us to bring to the voters of Jamestown and Stutsman County a proposal for merger which would enhance library services for the entire region.

Thank you. If Alice Pekarski will join me, we will be happy to answer any questions.