

**OPINION
73-276**

October 8, 1973 (OPINION)

Mr. John Romanick
State's Attorney
McLean County
Washburn, ND

Dear Mr. Romanick:

This is in response to your letter of September 28, 1973, with regard to use of Federal Revenue Sharing Funds to support the County Library.

Your question is stated as:

"Your opinion is requested concerning the use of revenue sharing funds to supplement funds collected by a 1-1/2 mill tax levy to support a County Library established under provisions of 40-38, North Dakota Century Code, wherein the revenue sharing funds allocated combined with the taxes collected would not exceed 2 mills on the net taxable assessed valuation of property in this county.

We are enclosing herewith a copy of an opinion of this office of date 22 June 1973, to the State's Attorney of Cass County wherein we held that where the county had not authorized its governing body to establish and maintain public library service by the petition or vote specified in section 40-38-01, the Board of County Commissioners would have no authority to expend county money, whether derived from tax levies or from the Federal Revenue Sharing Program for such public library service.

Your question would appear to present the opposite situation, i.e., apparently the electors of your county, either by petition or election pursuant to section 40-38-01 of the 1973 Supplement to the North Dakota Century Code (or prior statutes in this regard) have authorized their governing body to establish and maintain public library service. It would thus be our opinion that your question must be answered in the affirmative; the County Commissioners of your county may properly utilize revenue sharing funds to supplement funds collected by a 1-1/2 mill tax levy to support a county library establishes under provisions of section 40-38 of the North Dakota Century Code wherein the revenue sharing funds allocated, combined with the taxes collected would not exceed 2 mills on the net taxable assessed valuation of property in the county.

We hope the within, foregoing and enclosed will be sufficient for your purposes.

Sincerely yours,

Allen I. Olson

Attorney General