

February 8, 1982

Robert R. Schaible
Deputy Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Bob:

Thank you for your letter of January 12, 1982, regarding the additional district court judgeships created by the 1981 Legislative Assembly. The additional judicial positions you mention are judgeship number three in the Southwest Judicial District and judgeship number five in the Northwest Judicial District.

North Dakota law provides that district court judges are to have a term of six years. That term commences on the first Monday in January next succeeding his election. See Section 27-05-02 of the North Dakota Century Code and Article VI, Section 9 of the North Dakota Constitution. There are seven judicial districts within the state as set out by Rule 6-1979 of the Administrative Rules of the North Dakota Supreme Court. The elections of the respective district judges within those districts are staggered among the districts so that approximately one-third of the district court judges throughout the state face election every two years.

Those persons appointed to these newly created judgeships may hold these positions until the general election in 1982 when the positions will be filled by election to a complete six-year term. In other words, those elected at the general election in 1982 for these positions will hold the office of district court judge for a new term of six years, pursuant to Section 27-05-02, N.D.C.C.

Article VI, Section 13, North Dakota Constitution, states that:

An appointment shall continue until the next general election, when the office shall be filled by election for the remainder of the term.

However, it is my opinion that this constitutional section applies only to those appointments made to existing state offices and not to newly created district court judgeships as in this case. To hold otherwise would result in confusion and unique election dates for these new district court judges depending upon when the appointment was originally made. Such a conclusion was clearly not intended by the Legislature.

Sincerely,

Robert O. Wefald