

**LETTER OPINION**  
**94-L-127**

April 29, 1994

Mr. Joseph H. Kubik  
Dunn County State's Attorney  
P.O. Box 1173  
Dickinson, ND 58602-1173

Dear Mr. Kubik:

Thank you for your April 12, 1994, letter asking whether the issue presented to the Dunn County Board of Commissioners by petition for removal of county seat may be placed on the primary ballot this June 14, 1994. You also ask whether the affirmative vote necessary to remove the Dunn County seat to Killdeer, North Dakota would be two-thirds of all legal votes cast or a simple majority of the votes cast for the county seat location.

I have enclosed a copy of 1988 N.D. Op. Att'y Gen. 99 which discusses in detail the procedures for voting on the question of removal of a county seat when the county seat is not located on an interstate river or a railroad. There have not been any statutory changes to the pertinent sections since the 1988 opinion by former Attorney General Nicholas J. Spaeth; therefore, that opinion remains the opinion of this office. As stated in N.D.C.C. ? 11-04-12, in counties where the county seat is not located on a railroad or interstate river, the question of county seat removal may be voted on at any primary election.

Along with the 1988 Attorney General's opinion, I am enclosing a copy of the ballot form which was submitted with the request letter and which was approved in section II of that opinion. Section III of the opinion on page 107 answers your question regarding the vote by pointing out that a simple majority vote is all that is required.

I trust that this adequately responds to your questions.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

bab/pg  
Enclosures