

**LETTER OPINION  
2003-L-20**

March 19, 2003

Mr. James O. Johnson  
Mercer County State's Attorney  
PO Box 39  
Stanton, ND 58571-0039

Dear Mr. Johnson:

Thank you for requesting my opinion regarding whether a newly elected county official's monthly salary should be prorated when the official takes office on January 6, 2003, rather than January 1.

Section 11-10-05, N.D.C.C., provides that a county officer commences the officer's term on the first Monday in January. The first Monday in January 2003 was January 6. Thus, the official commenced the official's term on the appropriate day.

Section 11-10-10, N.D.C.C., provides for salaries of elected county officers. Elected county officers are paid an "annual salary," payable monthly. See N.D.C.C. § 11-10-10. The annual salary attached to the official's office is for the official year, rather than the calendar year. Pa. Att'y Gen. Op., 80 Pa. D. & C. 93 (Jan. 7, 1952). The official year runs from the first Monday in January to the first Monday in the following January, without regard to the days of the month on which either of those Mondays may occur. State Employees Ass'n, Inc. v. Lau, 877 P.2d 531 (Nev. 1994); Matter of Hutchings, 142 N.Y.S.2d 586 (N.Y. Sup. Ct. 1955); Crockett v. Tuttle, 197 P. 900 (Utah 1921). Thus, it is my opinion the official's "official year" began on January 6, 2003, not January 1, 2003, and the official is entitled to the official's full annual salary from that date to January 5, 2004, the first Monday in 2004. Because the official started on the first day of the term, the official's first salary check should be for one-twelfth of the official's annual salary.

Sincerely,

Wayne Stenehjem  
Attorney General

dab/vkk