

N.D.A.G. Letter to Syverson (June 30, 1987)

June 30, 1987

Mr. Gayle Syverson
Deputy State Auditor
Office of the State Auditor
State Capitol
Bismarck, ND 58505

Dear Mr. Syverson:

Thank you for your letter dated May 13, 1987, in which you inquire as to whether a part-time state's attorney may receive less than the 45% minimum salary as authorized in N.D.C.C. § 11-10-10(7).

N.D.C.C. § 11-10-10(7) sets forth the minimum salary which a part-time state's attorney will receive in the performance of that state's attorney's duties. The legislative history pertaining to this provision indicates that it was adopted for the purpose of raising the state's attorneys' salaries. Prior law also established minimum salaries for a state's attorney but in an amount less than that finally adopted in N.D.C.C. § 11-10-10(7).

That statutory provision is clear that a part-time state's attorney must receive a salary of at least 45% of the minimum salary paid to a county judge as of January 1, 1985. Although the board of county commissioners is given discretion to increase the state's attorney's salary, no discretion is given to reduce that salary below the minimum amount.

Nothing in N.D.C.C. § 11-10-10(7) prohibits a state's attorney from voluntarily refusing a portion of the state's attorney's salary.

Sincerely,

Nicholas J. Spaeth

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