

**OPINION
67-87**

March 2, 1967 (OPINION)

Honorable William L. Guy

Governor

RE: Governor - Signing of Bills - Time

This is in response to your letter in which you ask what is the exact time and date in this legislative session after which bills received by the Governor can no longer be returned to the Legislature under the three-day constitutional provision.

For purposes of answering your question, we must assume that the sixtieth legislative day comes to an end at twelve o'clock noon on Saturday, March 4, 1967. This would be in accordance with Section 53 of the North Dakota Constitution, which states that the legislative assembly shall meet at twelve o'clock noon on the first Tuesday after the first Monday in January, and in accordance with Section 56 of the North Dakota Constitution, which provides that a regular session shall not exceed sixty days. Under these two constitutional provisions the sixtieth day would end on March 4, 1967, at twelve o'clock noon.

Section 79 of the North Dakota Constitution, as is material to your question, provides as follows: " * * * If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the legislative assembly by its adjournment, prevent its return, in which case it shall be a law unless he shall file the same with his objections in the office of the secretary of state within fifteen days after such adjournment."

The North Dakota Supreme Court had occasion to rule on this section as pertaining to the fifteen days but not as pertaining to the three days. The North Dakota Supreme Court has not ruled whether this state follows the calendar day or the twenty-four hour day with reference to the three days in which a bill must be returned.

In reviewing the authorities in other states, we find there is a division. Some use the calendar day (twelve midnight to twelve midnight) and some use the twenty-four hour day (any twenty-four hours). In reviewing the authorities, the impression is that the later cases seem to adhere to the twenty-four hour day and thus the three day period is computed to mean seventy-two hours.

If the calendar day were to prevail, any bill received on February 28, 1967, would have to be returned before midnight Friday, March 3, 1967. Under the calendar day concept, a bill received on Wednesday, March 1, 1967, would be returned on Saturday before midnight, but because the legislative session comes to an end at twelve o'clock noon on Saturday, March 4, 1967, three full calendar days would not have intervened and consequently the bill would not have to be returned to the legislative assembly.

Under the twenty-four hour day or a seventy-two hour period (three days), any bill received on or before twelve o'clock p.m. (noon), March 1, 1967, would have to be returned on or before twelve o'clock p.m. (noon), Saturday, March 4, 1967, otherwise the bill will become law.

Because this state has not definitely determined whether the twenty-four hour day or a calendar day shall be used, it is our opinion that if you wish to exercise any executive veto on bills received by you on or before twelve o'clock p.m. (noon) on March 1, 1967, same must be returned to the legislative assembly within seventy-two hours on or before twelve o'clock p.m. (noon) on Saturday, March 4, 1967, unless the legislative assembly adjourns prior to twelve o'clock p.m. (noon) on Saturday, March 4, 1967. Any bill received after twelve o'clock p.m. (noon) on March 1, 1967, need not be returned to the legislative assembly, nor must it be acted on within three days.

HELGI JOHANNESON

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