

STATE OF NORTH DAKOTA

ATTORNEY GENERAL'S OPINION 91-16

Date issued: November 4, 1991

Requested by: Ron Carlisle, State Representative

- QUESTION PRESENTED -

Whether the Legislature may consider an override of a bill which the Governor vetoed after the 1991 legislative session adjourned.

- ATTORNEY GENERAL'S OPINION -

The Legislature may not consider an override of a bill which the Governor vetoed after the 1991 legislative session adjourned.

- ANALYSIS -

North Dakota Constitution Article V, section 9, states, in part, "[e]very bill which shall have passed the legislative assembly shall before it becomes a law, be presented to the governor. If he approves, he shall sign, but if not, he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. . . . 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." N.D. Const. art. V, '9. If the Legislature prevents the return of a bill by its adjournment, the bill goes to the Secretary of State's office with the Governor's objections. In that event the bill does not become law. There is no provision for the bill to be returned to the Legislature for its reconsideration once it has been submitted to the Secretary of State. "If the Legislature be not in session, the Governor cannot transmit [the bill] to the legislative body. The Constitution does not require an impossible act." State ex rel. Sandaker v. Olson, 260 N.W. 586, 588 (N.D. 1935). Since there is no provision for the return of the bill to the Legislature, the bill cannot become law. In order to reconsider the bill, the Legislature must reintroduce the bill.

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- EFFECT -

This opinion is issued pursuant to N.D.C.C. ' 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.

Nicholas J. Spaeth
Attorney General

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