

Opinion No. 69-20

March 18, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Gary O'Dowd, Deputy Attorney General

TO: Honorable Frank McClure, New Mexico State Senator, Legislative-Executive Building, Santa Fe, New Mexico 87501

QUESTIONS

FACTS

Senate Bill 81 of the Twenty-Ninth Legislature, first session, was enrolled and engrossed, signed by the presiding officers of each house in open session, and transmitted to the governor for approval. The governor received the bill at 2:10 P.M. on Monday, March 10, 1969. Subsequently the governor vetoed Senate Bill 81. On Tuesday, March 11, 1969, the bill, along with a letter stating objections to the bill, was transmitted by the governor to the secretary of state. The letter stating objections was addressed to the secretary of state.

QUESTIONS

Since the governor failed to return Senate Bill 81 to the house in which it originated, with his objections, within three days after being presented to him, has Senate Bill 81 become law without the governor's signature?

CONCLUSION

Yes

OPINION

{*30} ANALYSIS

Article IV, Section 22 of the New Mexico Constitution provides in part as follows:

"Every bill passed by the legislature shall, before it becomes a law, be presented to the governor for approval. If he approves, he shall sign it, and deposit it with the secretary of state; otherwise, he shall return it **to the house in which it originated**, with his objections, which shall be entered at large upon the journal; and such bill shall not become a law unless thereafter approved by two-thirds of the members present voting in each house by yea and nay vote entered upon its journal. **Any bill not returned by the governor within three days**, Sundays excepted, **after being presented to him**,

shall become a law, whether signed {31} by him or not, unless the legislature by adjournment prevent such return." (Emphasis added.)

Constitutional provisions relating to the veto of bills by the governor stand on a much higher plane than mere statutes. The Courts have uniformly held that deviations from such constitutional provisions by the governor, in respect to manner and time of the performance of the acts prescribed, are not to be permitted. See **Cleveland v. Martin**, 29 So. 2d 516 (1947); **Arnett v. Meredith**, 121 S.W.2d 36 (1938) and 119 A.L.R. 1189.

It is our opinion that the provisions of Article IV, Section 22 of the New Mexico Constitution prescribing the manner and time of performance of vetoes by the governor are mandatory. Failure to follow the prescribed procedure result in the veto becoming a nullity and the vetoed bills become law.