

**Opinion No. 47-4984**

February 7, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. Calvin Horn Representative from Bernalillo County Albuquerque, New Mexico

{\*12} This will acknowledge receipt of your letter of February 7, 1947, wherein you request the opinion of this office as to whether an amendment to Section 2, Article 10 and Section 1, Article 5 of the Constitution of New Mexico may be proposed by a vote of a majority of members elected to each house of the legislature, or whether those amendments must be proposed by a vote of three-fourths of the members of each house.

Section 2, Article 10 of the New Mexico Constitution which you propose to amend governs the terms of county officers.

Section 1, Article 5 of the New Mexico Constitution which you propose to amend sets out what officers comprise the executive department and prescribes their term or terms of office.

Article 19 of the New Mexico Constitution prescribes the method of proposing and ratifying amendments to our Constitution and Section 1 of Article 19 provides in part as follows:

**"Any amendment or amendments to this constitution may be proposed in either house of the legislature at any regular session thereof; and if a majority of all members elected to each of the two houses voting separately shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon. \* \* \* Provided, That no amendment shall apply to or affect the provisions of sections one and three of article 7 hereof, on elective franchise, and sections eight and ten of article 12 hereof, on education, unless it be proposed by vote of three-fourths of the members elected to each house \* \* \*."** (Emphasis ours)

In view of the clear language of Section 1, Article 19 of the New Mexico Constitution, I am of the opinion that your proposals to amend Section 12, Article 10 and Section 1, Article 5 of the New Mexico Constitution need be passed only by a majority vote in each house.

By WM. R. FEDERICI,

Asst. Atty. General