

Opinion No. 73-11

January 31, 1973

BY: OPINION OF DAVID L. NORVELL, Attorney General

TO: Mr. Richard H. Folmar Assistant Director New Mexico Legislative Council 334 State Capitol Santa Fe, New Mexico 87501

QUESTIONS

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May the Legislature **by statute** increase the terms of office of members of the House of Representatives from two to four years?

CONCLUSION

No; a constitutional amendment is necessary.

OPINION

{*20} ANALYSIS

Article IV, Section 4, New Mexico Constitution, relating to the election of legislators, provides in pertinent part as follows in the first paragraph thereof:

"Members of the legislature shall be elected as follows . . . members of the house of representatives for a term of two years."

This Article and Section was one of the constitutional provisions at issue in the 1965-1966 reapportionment litigation in the United States District Court for the District of New Mexico involving the State Senate. **Beauchamp & Lindsay v. Campbell, et al.**, No. 5778 Civil.

In its Amended Decision and Judgment in that case the Court held:

"The first paragraph (as it appears in the 1965 Pocket Supplement to New Mexico Statutes Annotated 1953) Article IV, Section 4, of the New Mexico Constitution is also declared to be unconstitutional for the same reasons **insofar as it refers to or pertains to the senate or to senators.**" (Emphasis added.)

The language of Article IV, Section 4 in the 1965 supplement is identical to that contained in the present Replacement Volume 1 of the New Mexico Statutes including the two-year term provision for members of the House of Representatives quoted earlier herein.

Since only the provisions relating to the State Senate and State Senators were declared unconstitutional in **Beauchamp v. Campbell**, the two-year term provision for members of the House of Representatives is still an operative part of our State Constitution. Hence we have no alternative but to advise you that a constitutional amendment is necessary in order to provide four-year terms for members of the House of Representatives.

By: Oliver E. Payne

Deputy Attorney General