

Opinion No. 57-37

February 28, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Santiago E. Campos,
Assistant Attorney General

TO: Honorable Donald D. Hallam, Speaker of the House, House of Representatives,
Santa Fe, New Mexico

QUESTIONS

QUESTIONS

Must a Joint Resolution proposing an Amendment to the State Constitution pass the House and Senate by a majority of those voting on the measure in each body, or by a majority of the elected membership in each body.

CONCLUSION

By a majority of the elected membership in each body, each body voting separately.

OPINION

ANALYSIS

On February 23rd, the House of Representatives voted 28 in the affirmative and 25 in the negative on the passage of House Joint Resolution No. 16. The measure thus carried by a majority of those voting but fell short by six votes of the majority of the elected membership of the House, i.e., more than one-half of sixty-six. And, thus the question arises.

The first paragraph of Article 19, Section 1 of our State Constitution provides:

"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."

The language is clear. Its import is unmistakable. The vote on such measures must be by a majority of the elected membership, and not by a mere majority of those voting on it. In the House of Representatives more than one-half of the membership must vote passage. The necessary number is 34 or more. Lacking such a vote you must treat the measure as dead and you are not authorized to forward this Resolution to the Senate as a measure passed by the House.