

## Opinion No. 72-51

September 26, 1972

**BY:** OPINION OF DAVID L. NORVELL, Attorney General Prentis Reid Griffith, Jr.,  
Assistant Attorney General

**TO:** The Honorable Betty Fiorina, Secretary of State, State of New Mexico, Legislative-  
Executive Building, Santa Fe, New Mexico 87501

### QUESTIONS

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If a minor political party is anticipating a candidate in the November General Election from a multicounty district for the office of State Senator or Representative, must they comply with the provisions of Section 3-8-2(S), N.M.S.A., 1953 Comp. (1971 P.S.) before the names of their candidates may be printed on the ballot?

#### CONCLUSION

Yes.

### OPINION

#### {\*81} ANALYSIS

A qualified political party which is not eligible to participate in the primary election under Section 3-8-1, N.M.S.A., 1953 Comp. because none of its candidates received "as many as fifteen percent [15%] of the total number of votes cast for the candidates for governor by all political parties at the last preceding general election," must comply with the provisions of Section 3-8-2, N.M.S.A., 1953 Comp., before it is eligible to have the names of any of its candidates printed on the general election ballot. That provision provides, in pertinent part, as follows:

{\*82} **"3-8-2. Nomination by party not participating in primary -- Convention-designated nominees.** -- A. If a qualified political party is not eligible to participate in the primary election and its party rules and regulations require nomination by political convention:

(1) The chairman and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) The chairman and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one [1] county or which is composed of only one [1] county. county.

B. The names certified to the secretary of state shall be delivered not less than fifty-seven [57] days prior to the general election and shall be accompanied by a list of signatures and legal addresses of not less than three per cent [3%] of the qualified electors of the state as computed from the total number of votes cast for the office of governor at the last preceding general election at which the governor was elected. Such petition shall be to the effect that the signers thereof endorse the principles of the political party named thereon or that the signers will designate or have designated such party affiliation on their affidavits of registration.

C. The names certified to the county clerk shall be delivered not less than forty-seven [47] days prior to the general election and shall be accompanied by a list of signatures and legal addresses of not less than three per cent [3%] of the qualified electors of the county as computed from the total number of votes cast for the office of governor in the county at the last preceding general election at which the governor was elected. Such petition shall be to the effect that the signers thereof endorse the principles of the political "party named therein or that the signers will designate or have designated such party affiliation on their affidavit of registration."

A party not participating in the primary and not nominating its candidates by convention must also comply with the requirements of Section 3-8-2, **supra**. See Section 3-8-3(C), N.M.S.A., 1953 Comp.

Section 3-8-2, **supra**, requires that a party not eligible to participate in the primary election submit to the Secretary of State the names of its candidates for a district office composed of more than one county, or parts of more than one county. It is equally clear that names certified to the Secretary of State must be accompanied by a petition signed by three (3%) percent of the voters throughout the state in the last election for governor.

Therefore, we must conclude that, by specific legislative fiat, a party, not eligible to participate in the primary, in order to qualify to place a name on the general election ballot for any office which represents an area composed of more than one county or parts of more than one county, must submit along with the name, a petition signed by three (3%) percent of the total number of voters throughout the state who cast ballots for any candidate in the last election for governor.