

Opinion No. 32-424

March 29, 1932

BY: E. K. Neumann, Attorney General

TO: Mr. W. B. Biebelle, San Lorenzo, New Mexico.

{*152} Your letter of March 26th, 1932, raises the following questions relating to the qualifications of voters at a school bond election:

1. Can a husband vote when all the property is in his wife's name?
2. Can heirs of an undivided estate {*153} vote?
3. Can voters who pay taxes only on personal property vote?
4. Can voters who are exempt from taxes because of military service vote?

Sec. 11 of Article 9 of the State Constitution is, in part as follows:

"No school district shall borrow money, except for the purpose of erecting and furnishing school buildings or purchasing school grounds, and in such cases only when the proposition to create the debt shall have been submitted to the **qualified electors** of the district, and approved by a majority of those voting thereon."

It is to be noted that the above provides only that the question be submitted to the **qualified electors** of the district and nothing is said regarding the necessity of being a taxpayer to vote at such an election. Nothing is found in our statutes which changes the situation.

It is our opinion, therefore, that each of your questions must be answered in the affirmative, providing that the persons mentioned have the qualifications of electors in this state, which qualifications are that such persons must be citizens of the United States, over the age of twenty-one years, and who have resided in the State twelve months, in the country ninety days and the precinct in which he offers to vote thirty days next preceeding the election, except idiots, insane persons, persons convicted of a felonious or infamous crime, unless restored to political rights and Indians not taxed.

Believing the above answers your questions, I am