



Kansas Secretary of State Ron Thornburgh

Canvassing Kansas

An update on election news in Kansas

March 1998

Election consolidation task force has second meeting

Secretary of State Ron Thornburgh's election consolidation task force met for the second time in Topeka, February 19, 1998. As Secretary Thornburgh stated in his column in the December 1997 edition of this newsletter, the task force was formed to study the issue of

establishing a series of four to six authorized election days each calendar year when local governing bodies could hold special elections. The main idea is to limit the number of days when elections can be held, not limit the elections or the issues that can be voted on.

Proponents of consolidating elections cite lower costs, higher turnout, less voter confusion and more administrative efficiency as arguments for consolidating election days. Others question whether there is really a problem to be fixed and whether having fewer election days will really increase turnout. Also, they fear a reduction in flexibility and control that local governing bodies enjoy under current law.

In early February, Secretary Thornburgh appeared before the statewide conventions of the League of Kansas Municipalities and the Kansas Association of

Continued on page 5

■ Randy Foster says goodbye

Thanks for the memories

February 20 was my last day in the Elections Division and I am writing this to say goodbye and to say thank you to all of my friends in the county election offices across the state. I will be part of the Information Services (Data Processing) Division of the Secretary of State's Office.

Ten years ago I applied for this job and my life hasn't been the same since. There have been times when I've pinched myself and asked "What is a simple little guy from North Minneapolis (Minnesota) doing here?"

The opportunities I've had! I worked on the last state census, I helped plan and implement the first state adjustment of the federal census, I helped plan and implement the NVRA, I maintained the statewide precinct data base, I helped design the new Kansas Voter Registration Card - this is all pretty heady stuff for me. But this isn't about what I've done, it's about the opportunities I've been given.

And there are countless people to thank. My co-workers are terrific. But three others stand out above the rest -- Bill Graves, Ron Thornburgh and Brad Bryant. I cannot put into words how much I appreciate the faith they have displayed in me or to how to thank them for the opportunities. (Brad, of all the people I know, I admire you the most.)

The real thanks has to go to the county election officers, past and present, who taught me my job. I consider you as friends and I am going to miss you all. There are a few of you who I have had to lean on for help and guidance (I've needed lots of it). Every time I needed help you were there for me. (I'd like to be more specific, but I'm afraid I'd forget someone). I believe that you have accepted me into your group and have treated me as a member. I cannot think of a higher compliment. Thank you very much for ten wonderful years.

-Randy Foster

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IN THIS ISSUE

Legislation needed to exempt board workers.....	2
USPS implements changes in forwarding procedures.....	2
A note from the Secretary.....	3
Use of power of attorney in voting..	4
US Postal Service to distribute "How to" kit in March.....	4
Reminders.....	5
Honeymoon in Vegas.....	5
Foster moves to different department.....	6
Election officers not required to deputize... ..	6
Thornburgh and Knapp attend conference.....	7
Applying for a federal services ballot.....	8
1998 state primary calendar.....	8

Legislation needed to exempt board workers from unemployment tax

A new federal law signed by President Clinton last fall (Section 5405 of Public Law 105-33) exempts the first \$1,000 in annual earnings by election board workers from federal unemployment tax. The passage of

...states must incorporate the exemption into their own unemployment laws.

the federal law was reported in the September 1997 issue of this newsletter, based on information received from the Federal Election Commission.

We have since learned that this exemption is not automatic nationwide; states must incorporate the exemption into their own unemployment laws. We considered this new information in planning our legislative efforts this year. During our research we discovered that the Kansas Department of Human Resources

was planning to introduce this provision as part of a larger bill dealing with employment issues. To date we have not seen the printed version of the bill, but it is intended to be introduced in one of the appropriations committees in the Kansas Legislature. We will notify county election officers of further developments.

If the bill passes into law, it will take more study to figure out exactly what it means, but according to the Federal Election Commission and the U.S. Department of Labor, the first \$1,000 of earnings per year by each election board worker would be exempt from the federal unemployment tax and the workers would be ineligible to file unemployment claims based on those earnings.

This exemption, if enacted in Kansas, joins a list of similar exemptions already provided in federal law for Social Security and workers compensation withholdings from the first \$1,000 of election board workers' annual salaries.

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USPS implements changes in forwarding procedures

New rates will apply only to first class mail that qualifies for pre-sort or bar-coded discounts

The United States Postal Service has implemented new procedures and rates for certain mailings. These new rates apply **only** to first class mail that qualifies for either pre-sort or bar-coded discounts. There are two different scenarios based on the

endorsement on the envelope.

❶ "Address Service Requested"

With this endorsement on the envelope, the post office will put a sticker with the new address on the mail piece, make a photocopy of the mail piece with the new address showing, forward the mail to the new address and send the photocopy to you. For this service the post office charges you 50 cents for the photocopy.

❷ "Return Service Requested"

With this endorsement, the post

office will affix a sticker on the envelope and return the mail piece with the sticker on it to you. This method will cost you another envelope and an additional 32 cents postage to send the mail to the new address.

The reasoning behind the changes in the rates is that it is anticipated that mailers will update their address records sooner and greatly reduce the number of mail pieces that are sent to old addresses.



RON THORNBURGH
SECRETARY OF STATE

Dear Friends:

As chairman of the National Association of Secretaries of State (NASS) Standing Committee on Elections and Voter Participation, I moderated a panel discussion about the NVRA and voter list integrity at our recent winter meeting. One of my biggest concerns with the NVRA is the possibility of inflated and inaccurate voter registration lists.

Many election officials from across the nation share my concern about voter list integrity. While we want to make registering to vote as easy as possible, we believe the sanctity and security of the electoral process should not be sacrificed. Therefore, several states have taken measures within the parameters of the NVRA to establish clean active voter files. Some election officials are holding out hope that the NVRA will be modified by Congress, while others do not believe there is a problem with inaccurate voter lists.

In Kansas, we are taking steps to ensure as much as possible that our active voter list is accurate. Even prior to the NVRA, voter list maintenance was a high priority to the Kansas Secretary of State's Office. Since implementation of the NVRA, we have not only done the required National Change of Address (NCOA) search; we also have performed a check of duplicate names on the entire statewide central voter registration file. As a result, we found approximately 15,000 to 20,000 potential duplicate registrations.

We will continue to do everything we can within the NVRA to protect the integrity of the electoral process in Kansas. Other measures we are hoping to pursue in the future include reduced paperwork at voter registration outposts, requiring the last four digits of an applicant's social security number and a better system of limiting the registration of non-citizens. We also will be persistent in urging Congress to modify the NVRA.

If you have additional suggestions or questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ron".

RON THORNBURGH
Secretary of State

Use of power of attorney in voting

A power of attorney is a written instrument by which a person, as principal, appoints another person as his agent and confers upon him the authority to perform certain specified acts on behalf of the principal. No Kansas statute or case law allows an agent to participate in the election process on behalf of a principal by means of a power of attorney. Likewise, there is no state law that prohibits its use either.

The Secretary of State's office often receives inquiries about the use of powers of attorney in the election process, usually in relation to the acts of completing and signing voter registration applications or applications for advance ballots. The past practice of our office was to leave the decision to the county election officers and local legal counsel of whether to allow a person to register to vote, apply for a ballot or vote for another by power of attorney. When asked for advice, we stated that we knew of nothing prohibiting such acts, but we referred county election officers to their county attorney or county counselor for guidance.

In 1997 our office received numerous inquiries and complaints arising from the 1996 election about using powers of attorney to actually cast a vote for another, so we asked the Attorney General. The Attorney General did not issue a formal, published opinion, but an informal opinion to the Secretary of State. Her findings are summarized below.

Attorney General 1997 informal opinion:

Voter registration application: Completing the information above the signature line on the registration application is clerical in nature and is not required to be done by the

principal person. An agent with power of attorney may provide the information required on a voter registration application. However, the act of signing the application cannot be delegated to another but must be performed personally by the principal voter.

Advance voting ballot application: As above, completing the information on the application is clerical in nature and may be done by an agent. However, the application must be signed personally by the principal voter.

The act of voting: A principal cannot authorize an agent to vote in a public election because public policy requires such be performed personally. Therefore, voting must be done by the principal person himself and cannot be done by another person by power of attorney.

In analyzing the informal opinion it is important to note that it goes on to say that "(T)he inability to authorize an agent to cast a vote on behalf of the principal does not affect the ability to provide assistance to elderly voters or voters who are unable to mark a ballot by reason of physical disability, visual impairment, or lack of proficiency in reading the English language. Such assistance is specifically authorized by State statute under those conditions established under Kansas law." Voters may request assistance from election board workers or others either in the voting booth or outside the polling place.

Kansas allows voters to receive assistance from others if they need it and if the act is accomplished according to laws and regulations. Such assistance may include applying for, marking and delivering a ballot. The point of

distinction is that a person receiving assistance is participating in the act of voting and directing the person rendering assistance. The voter has not surrendered his vote to another person as is the case with a power of attorney.

US Postal Service to distribute "How to" kit in March

In March the USPS will begin distributing 15,000 copies of their How to User Guide to election officials across the country. The postal service has compiled this easy to read guide to assist election officials and postal account representatives in understanding and using the postal system. Included in the guide are explanations, examples and a camera-ready logo to use in election mailings. The logo is intended to be used for any and all official election mailings. This is the first time that the USPS has ever developed a special logo for anyone to use other than the postal service. The logo, available in red or black, will instruct all mail handlers that the mail piece is election related material and should receive expeditious handling. The postal service has already begun training for local account representatives. The Election Center plans to hold training sessions in late April or early May in conjunction with the release of the "How to" kit.

Task force continued from page 1

School Boards to state his views on the issue. The office of the Secretary of State coordinated with the League to distribute a questionnaire to county election officers asking about the number, type and frequency of special elections in the past two years. The Kansas Association of School Boards collects such information about local school districts annually, and the results of its research for the past several years were available to the task force.

At the February meeting the research was reviewed and task force members discussed several possible options. First, they could decide to suspend their efforts indefinitely, saying the research indicated there weren't that many elections anyway, so there was no

Proponents of consolidating elections cite lower costs, higher turnout, less voter confusion and more administrative efficiency as arguments for consolidating election days.

serious problem. Second, they could decide to go forward, conducting town hall meetings across the state, gathering public input and drafting a major piece of legislation for presentation to the Legislature in 1999, amending dozens of statutes governing cities, counties, school districts, community colleges, townships, and many other jurisdictions. Third, they could decide not to pursue legislation, but instead publicly advocate the consolidation of elections, urging associations such as the KASB, LOKM and Kansas Association of Counties to seek adoption by their members of statements of principle to adhere to a schedule of recommended special election days in addition to the regularly-scheduled primary and general election days.

The consensus of the task force was that the obstacles to imposing a new election system on the various units of government were great enough that the focus should be on developing a system of recommended election days and publicizing it, seeking cooperation from local elected officials in planning their special elections so they can be held on the recommended days.

Thornburgh told the task force that his office would draft a summary of the discussions and the direction in which the task force was moving. Over the next few months the summary will be distributed for public comment and input.

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REMINDERS

County election officers should keep the following upcoming dates in mind:

- ✓ The next central voter registration report is due April 1. It should include all the registration records in each county's database as of March 31, 1998. It is very important that we receive these reports on time this year because it's an election year and there's a lot of demand for the updated information. We finally received the last county's January 1 report on February 17. We hope to do better the next few times.
- ✓ The county NVRA report for the first quarter of 1998 is due April 1. A blank form is being mailed. Also, keep in mind that counties that have Internet access may file their reports electronically. Approximately two dozen counties did so in January, and we want to encourage everyone to do so as they become capable. Call if you have questions.
- ✓ The Secretary of State's office is scheduled to make a presentation to county election officers at 9:00 a.m., Thursday, May 7, at the statewide meeting of the Kansas County Clerks Association in Manhattan. We look forward to seeing everyone there!
- ✓ In counties with cities having elections, the primary is Tuesday, March 3. The city general election is Tuesday, April 7.

Honeymoon in Vegas

After six years of courtship, on December 13, 1997 Doniphan County clerk Peggy Weishaar was married to Tim Franken in Las Vegas, Nevada. Tim is a controller for Affiliated Foods in Elwood. Peggy and Tim now reside in Troy with Tim's sons, Nolan, 11, and Whitney, 9.



Foster moves to different department

Elsewhere in this issue of the newsletter Randy Foster announced he is leaving the elections division to work in the information technologies department of the Secretary of State's office. The bad news is that he's leaving the elections office; the good news is that he's not leaving the agency. We'll still have the chance to work with Randy regularly.

This is an opportunity for Randy to learn more about computers and information technology, something he has always enjoyed and has become adept at during his years in elections. He will receive training and experience to allow him to

manage the agency's network of personal computers, Macintoshes and their connections to the IBM AS400.

In his new capacity, Randy will, among other things, help develop our electronic communications with county election officers, including e-mail, electronic reporting of NVRA reports, election night tabulation, and other computer-related functions that are on the drawing board. We are glad Randy will continue to work with us on those projects.

We will sorely miss Randy's knowledge and expertise on precinct geography, annexations, census, mail ballots, election of

judicial officers, ballot rotation, development of ballot styles and dozens of other forms, election night tabulation, and state canvasses, to name just a few.

Randy's replacement in the elections division will be Bryan Caskey, who has worked in the Secretary of State's office in various capacities for five years, some full-time and some part-time. He has been a college student intern and law clerk, and he has worked in the corporations and administrative divisions. He has more than a year's experience in the elections division, including work on campaign finance reports, precinct geography and election night tabulation. We are excited to bring Bryan on board.

Election officers not required to deputize NVRA agency voter registration sites

Since the state law became effective in April, 1996 to bring Kansas into full compliance with the National Voter Registration Act (NVRA), many county and state agencies, individuals and, most notably, county election officers have coordinated in implementing the many and varied changes brought about by the program. A tremendous amount of discussion and effort for several years went into just planning for implementation of the Act. As reported in earlier issues of this newsletter, by and large the implementation went smoothly in Kansas, although questions do arise from time to time.

One recent question arises from confusion over the status of the new voter registration sites mandated by the NVRA. The federal law requires

the following offices to be voter registration sites in each state covered by the NVRA:

- motor vehicle licensing offices,
- offices primarily engaged in providing state-funded programs to assist persons with disabilities,
- offices which provide public assistance, and
- other offices designated by the state.

Further, the law authorizes any person to distribute registration cards, which can be mailed to the county election officer by the applicant or collected by the person who distributes them and delivered to the election office. This is the so-called "door-to-door" registration that pre-NVRA Kansas law did not allow.

The term public assistance is defined as the following four

federal programs: Aid to Families with Dependent Children, Food Stamps, Medicaid, and Women Infants and Children. In Kansas, the Social and Rehabilitation Services offices are responsible for AFDC, Food Stamps and Medicaid. The WIC program is overseen by the Kansas Department of Health and Environment and administered by a combination of county health departments and private agencies.

Because federal and state law required these offices to become voter registration sites, no deputization by the county election officer is needed. Many will remember the days before NVRA when anyone or any office conducting voter registration first had to be deputized and trained by the election officer and a notice had

Continued on page 8

Thornburgh and Knapp attend conference

Thornburgh leads effort on full campaign disclosure

Secretary of State Ron Thornburgh and Special Deputy Assistant Secretary of State Chuck Knapp attended the National Association of Secretaries of State (NASS) winter conference in Washington, D.C., February 11 through February 14, 1998. Conference sessions covered a variety of subjects, including the National Voter Registration Act (NVRA), campaign finance reform, utilizing technology and programs to enhance voter turnout.

Thornburgh, who chairs the NASS Committee on Elections and Voter Participation, moderated a panel discussion about voter list integrity. George Russell, chairman of the National Association of State Election Directors and Alfie Charles of the California Secretary of State's Office served as panelists for the discussion. The U.S. Department of Justice also was invited to participate but had to cancel.

Russell, the executive director of the Kentucky Elections Board, told the committee about some steps his state has taken to maintain a clean voter registration list. Because Kentucky has the ability to use Social Security numbers, a check of the national drivers license database is useful in detecting voters that have moved to other states. Russell also can use the Social Security "death list" to check for registered voters who are dead. In addition to these methods, Russell uses the National Change of Address (NCOA) System, but cautioned that users of the NCOA must be aware of some inherent flaws with the system. One of those flaws is the fact that local election officials may have more current information than the NCOA.

Charles related some problems California has had with non-citizen voting. In response to former U.S. Representative Bob Dornan's claim that non-citizens caused his defeat in the 1996 general election, the California Secretary of State's Office worked with the U.S. Immigration and Naturalization Service to investigate Dornan's concerns. The California inquiry concluded that more than 700 non-citizens voted in Dornan's race.

To insure better that only U.S. citizens are registering and voting, California Secretary of State Bill Jones has requested modifying the NVRA. Jones wants state agencies to be able to decline registering known non-citizens and to give states the authority to require proof of citizenship. Congress

recently defeated legislation stipulating such modifications.

Campaign finance reform was a popular subject at the NASS conference. U.S. Senator Don Nickels and U.S. Representative Tom Allen were among the panelists who were not optimistic that meaningful reform would get through Congress in 1998. Most secretaries of state attending the conference endorsed full disclosure of independent expenditures. Thornburgh spearheaded an effort that resulted in nineteen secretaries of state sending a letter to President Clinton and congressional leadership urging immediate action on full disclosure of all campaign contributions and expenditures.

Technology and related issues were the focus of a full-day seminar at the IBM Institute in Washington. Thornburgh and Knapp attended many sessions ranging from policy making and technology to publishing on the Internet. Thornburgh was impressed by the vast amount of technological advances demonstrated at the IBM seminar. He is concerned, however, that it is difficult for the State of Kansas to keep up with the fast pace of technology.

"It is amazing to see how technology is being used in government throughout the world," said Thornburgh. "One thing that was really impressed upon us is that the life span of new technology is approximately 18 months. The budget process for Kansas government is minimally 18 months. Therefore, we will never have new technology — we are statutorily and structurally bound to outdated equipment."

Knapp said the NASS conference was a good opportunity to learn from other states. Besides discussions about recruiting and maintaining computer staff, voter outreach programs, digital signatures and document imaging, he was pleased to learn that many states look to Kansas as an example.

"I enjoy hearing people from other states compliment Kansas on the great things we are doing in the secretary of state's office," said Knapp. "We have a reputation for being a leader in electronic filing and electronic dissemination of information."

While in Washington, Thornburgh and Knapp also visited with members of the Kansas congressional delegation.

Applying for a federal services ballot

One category of voters that sometimes receives too little notice is the federal services voters, sometimes called military voters. The term military voters actually is too simplified, because all the following people are eligible to vote federal services ballots:

- active members of the U.S. armed forces and merchant marine
- non-military U.S. citizens residing outside the U.S.
- spouses and dependents of the above groups

Federal services voting in Kansas is governed by a series of state laws, KSA 25-1214 through -1228, passed in conformity with the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The UOCAVA is administered by the Federal Voting Assistance Program (FVAP), which operates as part of the U.S. Department of Defense in the Pentagon in Washington, D.C.

This is the only form of voting still referred to as absentee voting in Kansas; in 1996 the Kansas Legislature adopted a system of advance voting to expand on and replace the absentee voting system, but it did not amend statutes governing federal services absentee voting.

Federal services voters may complete a Federal Post Card Application (FPCA) card, referred to as form SF-76 by the FVAP. This card is accepted by all the states and territories of the U.S. as a simultaneous request for voter registration and/or an absentee ballot.

The FPCA serves as a ballot request for all elections in a calendar year. For instance, if a federal services voter files an FPCA to receive a ballot in an August primary election, that applicant should also automatically receive a ballot for the November

general election. The main thing to emphasize to federal services applicants is the completeness and timeliness of their applications. According to state law, federal services ballots must be mailed to the intended voters not later than the 45th day before the election. This is an important deadline because it is the earliest ballot deadline in Kansas election law. This is the first set of ballots prepared and distributed by county election officers in each election, and the early deadline sometimes means the ballots are printed especially for these voters. In some exceptional cases, such as when a candidate has died or withdrawn and been replaced, the candidate names that will eventually be printed on the regular ballots are not available for inclusion on the federal services ballots.

In recent public information releases the FVAP has emphasized to its voters the importance of accurately and completely filling out their forms. According to the FVAP, in 1996 local election officers were unable to process many FPCAs. The reasons were: 66% had an inadequate home address, 25% had an inadequate mailing address, 19% failed to indicate the party preference when necessary and 18% were illegible. Obviously, some of the applications had more than one problem.

One procedure Kansas has adopted in its laws is the faxing of applications and ballots. Federal services voters may fax their applications to the county election officers, election officers may fax blank ballots to the voters, and the voters may then fax their completed ballots back to the election officers, thereby waiving their right to secrecy. Recent statutory changes have allowed advance voters to fax their applications for ballots, but federal services voters are the only ones allowed to fax their ballots.

NVRA agencies from page 6

to be published informing the public of the times, dates and locations where voter registration would be conducted. See KSA 25-2313, 25-2314, and KAR 7-23-4.

When the laws were passed to expand registration opportunities and to allow anyone to distribute registration cards without official designation or training by the county election officer, the deputization process was rendered mostly moot. However, the laws were not repealed because some people felt there might be some value in maintaining the deputization/training/publication process in instances where registration sites were planned at banks, grocery stores, libraries and

other public places.

County election officers are not required or even authorized to deputize offices that are designated as voter registration sites by federal and state law. Such deputization would be an unnecessary step. The deputization process may be used by the election officer to maintain some control over the other registration sites designated by the election officer rather than by the law.

This question has come up most recently in regard to the WIC offices in several areas of the state.

1998 STATE PRIMARY CALENDAR

The Federal Voting Assistance Program, which administers the federal services voting in the United States, has issued a calendar of 1998 primary elections in the various states. We have reproduced the chart here for public information purposes.

STATE	OFFICIALS TO BE NOMINATED FOR THE GENERAL ELECTION				
	STATE PRIMARY DATE	STATE RUNOFF PRIMARY (if necessary)	FEDERAL		STATE
			U.S. SENATOR	U.S. REPRESENTATIVE	GOVERNOR
Alabama	June 2	June 30	Yes	7	Yes
Alaska	August 25	—	Yes	1	Yes
American Samoa	—	—	—	—	—
Arizona	September 8	—	Yes	6	Yes
Arkansas	May 19	June 9	Yes	4	Yes
California	June 2	—	Yes	52	Yes
Colorado	August 11	—	Yes	6	Yes
Connecticut	September 15	—	Yes	6	Yes
Delaware	September 12	—	—	1	—
District of Columbia	September 15	—	—	1 Delegate	(Mayor)
Florida	September 1	October 1	Yes	23	Yes
Georgia	July 21	August 11	Yes	11	Yes
Guam	September 5	—	—	1	Yes
Hawaii	September 19	—	Yes	2	Yes
Idaho	May 26	—	Yes	2	Yes
Illinois	March 17	—	Yes	20	Yes
Indiana	May 5	—	Yes	10	—
Iowa	June 2	—	Yes	5	Yes
Kansas	August 4	—	Yes	4	Yes
Kentucky	May 26	—	Yes	6	—
Louisiana	October 3	—	Yes	7	—
Maine	June 9	—	—	2	Yes
Maryland	September 15	—	Yes	8	Yes
Massachusetts	September 15	—	—	10	Yes
Michigan	August 4	—	—	16	Yes
Minnesota	September 15	—	—	8	Yes
Mississippi	June 2	June 23	—	5	—
Missouri	August 4	—	Yes	9	—
Montana	June 2	—	—	1	—
Nebraska	May 12	—	—	3	Yes
Nevada	September 1	—	Yes	2	Yes
New Hampshire	September 8	—	Yes	2	Yes
New Jersey	June 2	—	Yes	13	—
New Mexico	June 2	—	—	3	Yes
New York	September 15	—	Yes	31	Yes
North Carolina	May 5	June 2	Yes	12	—
North Dakota	June 9	—	Yes	1	—
Ohio	May 5	—	Yes	19	Yes
Oklahoma	August 25	September 15	Yes	6	Yes
Oregon	May 19	—	Yes	5	Yes
Pennsylvania	May 19	—	Yes	21	Yes
Puerto Rico	—	—	—	—	—
Rhode Island	September 15	—	—	2	Yes
South Carolina	June 9	June 23	Yes	6	Yes
South Dakota	June 2	June 16	Yes	1	Yes
Tennessee	August 6	—	—	9	Yes
Texas	March 10	April 14	—	30	Yes
Utah	June 23	—	Yes	3	Yes
Vermont	September 8	—	Yes	1	Yes
Virgin Islands	September 8	—	—	1	Yes
Virginia	June 9	—	—	11	—
Washington	September 15	—	Yes	9	—
West Virginia	May 12	—	—	3	—
Wisconsin	September 8	—	Yes	9	Yes
Wyoming	August 18	—	—	1	Yes



