

BALLOT ACCESS NEWS

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1990 "OTHER" VOTE FOR TOP OFFICES WAS THE HIGHEST SINCE 1980

Last month, 4.7% of the voters voted for a candidate other than the Democratic or Republican nominee, for the most important office on the ballot. This contrasts with 1988, when fewer than 1% of the voters voted for a presidential candidate other than George Bush or Michael Dukakis.

Furthermore, in 1990, there was an "other" candidate (i.e., third party or independent candidate) on the ballot for the most important office in states containing only 60% of the voters. Among those 60% of the 1990 voters who had a ballot with an "other" candidate on it for the most important office, 7.8% of them did vote for that "other" candidate. By contrast, in 1988, there was an "other" candidate on the ballot for president in all states.

The last presidential or congressional election year in which the "other" vote for the most important office exceeded 5%, was 1980, when 8.5% of the voters voted "other" for president. 1980, like 1990, was a year of great public dissatisfaction.

(The "most important" office in 1990, for purposes of this study, is deemed to be Governor. In the 14 states which had no gubernatorial contest in 1990, U.S. Senate is taken to be the most important office. The states which had neither a gubernatorial contest nor a U.S. Senate contest were Missouri, North Dakota, Utah and Washington. In Missouri, the Auditor's race is deemed to be the most important office, since it was the only statewide office and it was at the top of the ballot. In North Dakota, Congressman-at-large was the only statewide race and it is considered the most important office. In Utah and Washington, where there were no statewide races, congress is deemed the most important office. In the District of Columbia, Mayor is deemed the most important office.)

In 1990, no "other" candidates appeared on the ballot for the most important office in Alabama, Arizona, Arkansas, Florida, Idaho, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, most of Washington state, West Virginia, Wisconsin and Wyoming (23 states).

In 1988, the press carried prominent stories during December, announcing that the "other" vote for president had been less than 1%. The stories were somewhat self-serving on the part of the press, since they tended to excuse the television networks from criticism that they hadn't covered the third party presidential candidates, and hadn't reported their votes on election night. This year, when the "other" vote was five times greater than it was in 1988 even though "other" was on the ballot before just 60% of the 1990 voters, network television news and major newspaper have not carried stories about the national "other" vote, although *Congressional Quarterly* released some information about it.

LIBERTARIAN PARTY TO LAUNCH LOBBYING CAMPAIGN

On December 9, the Libertarian Party National Committee voted to launch a nationwide lobbying campaign in state legislatures to improve presidential ballot access. The goal is to make it possible for a new, or previously unqualified political party, to do the work of getting on the ballot, before it has chosen its presidential candidate.

Many states provide that a new party cannot begin to circulate a ballot access petition, until after the party has named its presidential candidate. This is because the laws of these states require that the party's candidates be named on the petition. Obviously, in these states, the party can't begin to circulate the petition until after it has chosen its presidential candidate. Since some of the petitions take months to complete and are due as early as July of the presidential election year, it follows that such a party must name its presidential candidate very early in the year, or even in the year before the election.

Third parties suffer because they are forced to nominate their presidential candidates so early. They do not have the flexibility to make the decision as to whom they should run, at a time when the identity of the major party nominees, and some of the issues, are known. Third parties could probably attract better and more prominent presidential candidates if they were free to nominate when the major parties nominate.

Steve Givot is in charge of the lobbying effort. He can be reached at Rt 7, One Middlebury Rd., Barrington Hills, Ill. 60010, tel. (708) 382-2098. If the lobbying efforts fail in any state, the party will probably sue that state. The party set its 1996 presidential convention for June, 1996. This is a departure from the party's usual habit of holding its presidential convention in September of the year before the election.

TWO INDEPENDENTS ELECTED TO VERMONT LEGISLATURE

The November 12 *B.A.N.* mentioned some independents who were elected to important office last month, but failed to mention that two independents were elected to the Vermont legislature. They are Terry Bouricius and Tom Smith, both of whom used the ballot label "Progressive Coalition" and both of whom were elected from districts in the city of Burlington. Bouricius defeated a Democrat in a 2-person race with 52.4%, and Smith placed first in a two-member district, outpolling two Democrats and a Republican. The Progressive Coalition is not yet a political party, but it is an organization and it will probably turn itself into a party. Congressman Bernie Sanders, elected last month from Vermont under the "independent" label, will probably be a part of the future party. However, he has said that he won't have time to play a role in organizing it.

THIRD PARTY 1990 VOTE FOR GOVERNOR & U.S.SENATOR

<u>U. S. SENATE</u>				<u>GOVERNORS</u>				
<u>STATE</u>	<u>LIBT</u>	<u>SWP</u>	<u>OTHER</u>	<u>INDP</u>	<u>LIBT</u>	<u>SWP</u>	<u>NAP</u>	<u>OTHER</u>
Alabama	*	*	0	0	*	*	0	0
Alaska	0	0	0	942	0	0	0	82,284
Arizona	----	----	----	11,731	0	*	0	0
Arkansas	0	0	0	0	0	0	0	0
California	----	----	----	0	145,366	*	96,458	139,237
Colorado	0	0	est 11,000	0	19,793	0	0	7,099
Connecticut	----	----	----	16,044	0	*	0	460,576
Delaware	2,680	0	0	----	----	----	----	----
Florida	----	----	----	0	0	597	0	0
Georgia	0	78	0	62	37,365	16	0	0
Hawaii	4,787	0	0	2,446	2,885	0	0	0
Idaho	0	0	0	0	0	0	0	0
Illinois	*	*	0	0	1,937	0	35,067	0
Indiana	*	0	0	----	----	----	----	----
Iowa	0	*	0	0	0	5,671	0	0
Kansas	0	0	0	68,998	0	0	0	0
Kentucky	0	0	0	----	----	----	----	----
Louisiana	0	0	0	----	----	----	----	----
Maine	0	0	0	48,377	0	0	0	0
Maryland	----	----	----	0	88	*	0	0
Massachusetts	0	*	0	0	0	*	0	62,703
Michigan	0	*	32,796	0	0	*	0	28,091
Minnesota	0	*	29,820	21,139	0	6,701	0	17,176
Mississippi	0	0	0	----	----	----	----	----
Missouri	----	----	----	----	----	----	----	----
Montana	7,937	0	0	----	----	----	----	----
Nebraska	0	*	0	1,887	0	*	0	----
Nevada	----	----	----	0	8,059	0	0	0
New Hampshire	9,717	----	----	385	14,348	0	0	252
New Jersey	13,988	7,804	19,978	----	----	----	----	----
New Mexico	0	0	0	0	268	0	0	0
New York	----	----	----	0	24,611	12,743	31,089	1036,435
North Carolina	0	681	0	----	----	----	----	----
North Dakota	----	----	----	----	----	----	----	----
Ohio	----	----	----	49	0	82	0	0
Oklahoma	0	0	0	90,534	0	0	0	0
Oregon	0	0	0	144,062	14,583	0	0	0
Pennsylvania	----	----	----	0	0	*	0	0
Rhode Island	0	0	0	0	0	0	0	0
South Carolina	13,805	0	10,317	0	0	0	0	17,302
South Dakota	0	0	6,567	0	0	0	0	0
Tennessee	0	0	19,212	20,102	0	0	0	0
Texas	89,689	*	74	11,553	129,185	*	0	0
Utah	----	----	----	----	----	----	----	----
Vermont	----	----	----	0	2,777	0	0	1,389
Virginia	*	0	206,908	----	----	----	----	----
Washington	----	----	----	----	----	----	----	----
West Virginia	0	*	0	----	----	----	----	----
Wisconsin	----	----	----	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0	0
TOTAL	142,603	8,563	336,672	436,424	401,265	25,810	162,614	1,854,431

CHART ON PAGE TWO EXPLAINED

The chart shows the vote cast for third party and independent candidates for U.S.Senator and Governor last month. A dash means a particular state had no election for that office. A zero means that a particular party didn't name any candidate for that office. An asterisk means that a party had a write-in candidate for that office, but the number of write-ins has not been tallied. The U.S. Senate "other" column is Prohibition in Colorado, Workers World in Michigan, Grassroots in Minnesota, Populist in New Jersey and Tennessee, and independent in Tennessee and Texas. The Governor "Other" column is Alaska Independence and Green in Alaska, American Independent in California, Prohibition in Colorado, A Connecticut Party in Connecticut, High-Tech Independent in Massachusetts, Workers World in Michigan, Grassroots in Minnesota, Green in New Hampshire, Conservative, Liberal and Right-to-Life in New York, American in South Carolina, and Liberty Union in Vermont. The chart does not include miscellaneous write-in vote totals.

LAWSUIT NEWS

1. On November 26, the U.S. Supreme Court refused to hear the appeal of the Republican Party of Oconto County, Wisconsin, in a case over whether state governments may limit how much financial help political parties can give to their own candidates. *Gard v Wisconsin State Election Board*, no. 90-536.
2. The November 12, 1990 *B.A.N.* stated that the U.S. Supreme Court had agreed to give a full hearing to the Harold Washington Party in its ballot access case, *Norman v Reed*. This was incorrect. However, since the Supreme Court already countermanded the orders of the lower Illinois courts and ordered that the party appear on the ballot, it is likely that the Court will accept the case for a full decision. The attorney for the party will file his petition asking the court to take the case in a few weeks.
3. On November 13, California officials asked the U.S. Supreme Court to hear an appeal in *Geary v Renne I*. This is the case over whether state law can ban political parties from endorsing candidates for non-partisan office. The Supreme Court will probably decide in January whether to hear the appeal.
4. On December 7, the Ohio Secretary of State filed an appeal to the 6th circuit in *Rosen v Brown*, the case over whether states must let independent candidates have a partisan label on the ballot (such as "Independent"). The lower court had ruled that as long as the state prints partisan labels for the nominees of qualified parties, it must also print a partisan label for independent candidates.
5. The Libertarian Party of Georgia has requested an *en banc* rehearing in *Chandler v Georgia Public Telecommunications*, the case over whether government-owned TV stations can sponsor debates in which only the Democratic and Republican candidates are invited. Since the vote in the 11th circuit was 2-1 (rather than 3-0) against the party, there is a fair chance that the rehearing before all the judges will be granted.

PRESIDENTIAL REQUIREMENTS

<u>STATE</u>	<u>1988</u>	<u>1992</u>
Alabama	12,345	12,157
Alaska	2,068	2,035
Arizona	17,340	21,109
Arkansas	0	0
California	reg 76,172	reg 79,188
Colorado	5,000	5,000
Connecticut	14,910	14,620
Delaware	reg 142	(est) reg 145
Dist of Columbia	2,700	(est) 2,600
Florida	56,318	60,312
Georgia	25,759	26,955
Hawaii	3,493	4,177
Idaho	8,224	8,180
Illinois	25,000	25,000
Indiana	30,950	29,890
Iowa	1,000	1,000
Kansas	16,813	15,661
Kentucky	5,000	5,000
Louisiana	0	0
Maine	4,000	4,000
Maryland	10,000	10,000
Massachusetts	33,682	11,692
Michigan	16,313	25,646
Minnesota	2,000	2,000
Mississippi	0	0
Missouri	21,083	20,860
Montana	13,329	9,531
Nebraska	5,635	5,834
Nevada	7,717	9,392
New Hampshire	3,000	3,000
New Jersey	800	800
New Mexico	500	2,069
New York	20,000	20,000
North Carolina	44,535	43,601
North Dakota	4,000	4,000
Ohio	30,667	34,777
Oklahoma	37,671	35,132
Oregon	51,578	(est) 36,000
Pennsylvania	25,568	(est) 27,000
Rhode Island	1,000	1,000
South Carolina	10,000	10,000
South Dakota	2,945	2,568
Tennessee	30,259	19,759
Texas	34,424	38,900
Utah	300	300
Vermont	0	0
Virginia	12,963	(est) 14,500
Washington	188	200
West Virginia	7,358	6,534
Wisconsin	2,000	2,000
Wyoming	8,000	8,000
TOTAL SIGNATURES	668,435	642,791
TOTAL REGISTRANTS	76,314	79,333
GRAND TOTAL	744,749	722,124

The figures show the number of signatures needed to get a new party presidential candidate on the ballot, with the party name, for both 1988 and 1992.

GOOD BILLS TO BE INTRODUCED

In at least eleven states, state legislators have promised to introduce bills to improve ballot access:

1. Arizona: Senator James Sossaman and Representative Mark Killian have promised to introduce a bill lowering the number of signatures needed to qualify a new party for the ballot.
2. Georgia: Senator Culver Kidd and Representative Wyche Wycorr are re-introducing the bill which almost passed last year. It would lower petition requirements for third party and independent candidates for both statewide office, and district office. Also, it would provide that if a party is qualified statewide, then it is deemed to be qualified for all districts within Georgia (currently, Georgia and Connecticut are the only states which provide that even though a party is qualified statewide, it may not be qualified within individual districts within the state).
3. Indiana: Senator Sue Landske will be introducing a bill to lower the number of signatures needed to qualify third party and independent candidates.
4. Kansas: Senator Don Sallee has said he will reintroduce his bill, defeated last year, which lowers the number of signatures for a new party from 2% of the last gubernatorial vote, to 1%.
5. Maine: Representative Dick Gould has promised to introduce a bill to make it easier for a new party to get on the ballot, and also to let voters register into unqualified parties.
6. Missouri: Senator Frank Flotron and Representative Sheila Lumpe have already prefiled a bill to improve ballot access, almost identical to the bill which almost passed last year. It would lower the number of signatures needed for statewide third party and independent candidates from 1% of the last gubernatorial vote (now over 20,000 signatures) to a flat 10,000, and would eliminate the requirement that a certain portion of the signatures must come from at least 5 of the state's 9 congressional districts.
7. Montana: Senator Tom Beck will soon introduce a bill to make it easier for a party to remain qualified for the ballot.
8. North Carolina: Representative Art Pope will reintroduce his bill (which was defeated in 1989) to lower the number of signatures needed to qualify a new party for the ballot.
9. Oklahoma: Representative Gary Taylor is likely to introduce a bill to legalize write-in voting.
10. Virginia: Delegate Alan Mayer will introduce a bill to legalize write-in voting for president. He also may introduce a bill to make it easier for a party to remain qualified for the ballot, since technically the Democratic Party of Virginia is no longer qualified because it failed to poll as much as 10% for any statewide race last month (there was only one statewide race, U.S. Senator, and the party ran no candidate).

11. Wyoming: Senator Charles Scott will introduce the Secretary of State's comprehensive election code revision, which includes a substantial easing of ballot access requirements for new parties and independent candidates.

LIBERTARIANS ON IN KANSAS, UTAH

The November 12 *B.A.N.* carried an article listing all states where any third party enjoys "qualified" status. However, that article failed to list Utah as a state in which the Libertarian Party is qualified. It did poll enough votes last month to retain status, for the first time. In Utah, any candidate of a party, not just a statewide candidate, is eligible to poll enough votes to give the party status. A Libertarian for county office in Davis County polled 9,648 votes, which was more than the needed 8,845.

On December 12, the party's petition for the 1992 Kansas ballot was approved, and the party is now qualified there. The party is now on in 17 states.

In Maryland the party's petition fell short by about 2,300 signatures, but the party has until March to obtain more.

NEWS ELECTION SERVICE

The November 12 issue of *B.A.N.* mentioned some instances in which the News Election Service failed to report the votes of some third party and independent candidates who did very well. News Election Service is wholly owned by ABC, CBS, NBC, and CNN television networks, and by the *Washington Post* and *New York Times*. It decides which candidates' votes will be reported on television election night and carried in newspapers across the country the next day.

Since the last issue, more odd lapses in N.E.S. coverage have come to light. N.E.S. failed to collect data on the vote total of an independent candidate for Governor of Oklahoma who polled 10% of the vote, and also failed to collect data for an independent candidate for Governor of Kansas who polled 9%. Yet N.E.S. *did* cover an independent write-in candidate for Governor of Nebraska who only polled three-tenths of 1%! N.E.S. failed to cover the gubernatorial candidate of the Massachusetts High-Tech Independent Party, who polled almost 3% of the vote; yet N.E.S. covered the gubernatorial candidate of Liberty Union Party in Vermont even though he only polled seven-tenths of 1%. It is time for N.E.S. to admit that it can't know ahead of time which third party and independent candidates will get relatively large votes, and which ones won't; and it might as well collect vote data for *all* candidates listed on the ballot.

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ONE-START PARTIES DID WELL

1. The Alaska Independence Party elected its candidate for Governor of Alaska, with 38.9% of the vote. However, this was due more to the popularity of the party's candidate, former Republican Governor Walter Hickel, than to the party's intrinsic appeal. The party's only candidate for the legislature received 4.5% of the vote.

2. California's Peace & Freedom Party polled the highest percentage of the vote for Governor in its history, 1.3% (since the party's gubernatorial candidate was an active leader in the New Alliance Party, her vote total on the chart on page 4 is listed in the New Alliance Party column). The Peace & Freedom Party also polled the highest number of votes it has ever received for Congress, approximately 125,000 (it had never before received as much as 90,000 for its congressional candidates). The party's candidate in the First district, Darlene Comingore, received 15% and is widely credited with being responsible for the unexpected defeat of the incumbent Democrat, Doug Bosco.

3. California's American Independent Party also polled the highest percentage of the vote for Governor in its history, 1.8% (its previous high for Governor had been 1.3%, in 1974). The party's candidate, Jerome McCready, campaigned against legalized abortion, since he was the only one of the 5 candidates on the ballot with that position.

4. A Connecticut Party, the vehicle created by former U.S. Senator Lowell Weicker to run as an independent for Governor, not only became a qualified party last month, it will enjoy the top line on Connecticut ballots for at least the next four years. Connecticut is a state which permits a candidate to be the nominee of more than one political party, so it is likely that a great many Democratic and Republican candidates will also run in the primary of A Connecticut Party in 1992. Weicker and his new party won the gubernatorial election with 40.4% of the vote.

5. The Statehood Party of the District of Columbia re-elected its city councilwoman-at-large, Hilda Mason, with 57% of the vote. Under the unique provisions for electing city councilmen-at-large in Washington, D.C., no party may run more than one candidate for that post, yet the voters elect two candidates. Therefore, it is fairly easy for the Statehood Party to continue to win this seat; all it needs to do is beat the Republican Party and any independent candidate, since the Democrats cannot run for this seat. This year, Mason's biggest challenge was from independent candidate Marion Berry, the outgoing Mayor. The other Statehood Party candidates polled between seven-tenths of 1% for Mayor, to 12% for "shadow" member of the U.S. House of Representatives.

6. The High-Tech Independent Party of Massachusetts, organized this year, became a fully-qualified party in Massachusetts last month based on its vote for Secretary of State (16%), Treasurer (6%) and Auditor (8%). The party has very little ideology and was originally founded as a vehicle whereby several independent candidates could pool their signature-gathering efforts behind a single slate, to facilitate getting on the ballot for each of them.

7. The Harold Washington Party of Cook County, Illinois polled 14% for Sheriff and 12% for County Board President, far more than the 5% needed to win permanent ballot status as a Cook County Party.

8. The Tisch Independent Citizens Party, which has been a qualified party in Michigan since 1982, polled 8.2% of the vote for State Board of Education. Since this is over 5%, the party is now qualified to nominate by primary rather than by convention. The party stands for lower taxes.

9. The New York Conservative Party polled 20.4% of the vote for Governor, less than one percentage point behind the Republican showing for Governor. The Conservative Party nominee, Herbert London, is a Republican who had sought the Republican Party's nomination. He did well partly because the man who became the Republican Party nominee ran an inept campaign.

10. The New York Liberal Party polled only 71,017 votes (1.75%) for Governor, its lowest vote total for Governor ever. The party has existed since 1944 and usually endorses Democratic candidates for statewide office, as it did this year by cross-endorsing Mario Cuomo, the Democratic nominee. If the party had polled under 50,000 votes for Governor, it would have been disqualified.

11. The New York Right-to-Life Party polled 3.4% of the vote for Governor, its best showing ever for that office. The party has been qualified in New York since 1978.

12. The Independent Party of Utah polled enough votes to remain qualified. It has existed since 1986, when an ex-Republican, Merrill Cook, created it as a vehicle in order to run for Governor.

13. Liberty Union Party of Vermont polled over 5% of the vote for Secretary of State, as well as Auditor, and thereby won back its status as a party entitled to nominate by primary. Liberty Union has existed since 1970 and stands for a type of left anarchism. It is the only one-state political party in the nation with a *binding* presidential primary. Its own rules provide that whomever wins its presidential primary, will be its general election nominee.

14. The Labor-Farm Party of Wisconsin easily retained its permanent status by polling 2.2% for Treasurer, and 2.1% for Attorney General (only 1% was needed). The party has enjoyed qualified status since 1982.

N.O.W. COMMISSION MEETING

On November 30 and December 1, the Commission for Responsive Democracy held its first hearing, in New York city. The Commission was established by the National Organization for Women, to decide whether or not to form a new political party. A transcript will soon be available for \$10 from the Commission, c/o N.O.W., 1000 16th St., #700, Washington, D.C. 20036. The only representatives of nationally-organized third parties who testified were Si Gerson and Fern Winston of the Communist Party, and David Belmont of the New Alliance Party. Civil rights attorney Joseph Rauh urged that the Commission try to make the Democratic Party "militantly liberal" so that a third party wouldn't be needed. The next hearing is in Atlanta on January 18-19.

OPPOSITION TO MASSACHUSETTS INITIATIVE ANALYZED

by David Hudson

(note: the following article was written by a leading participant in the campaign for Question 4, the Massachusetts initiative which improved that state's ballot access laws. Question 4 passed by a vote of 1,134,535 to 1,027,966).

Most of our problem in persuading the average Massachusetts voter to support Question 4 was that he or she does not know much, if anything, about election laws. The challenge was to answer opposition arguments which were designed to confuse the voters.

Most of the opposition (which came from the Democratic and Republican Party candidates for Governor, the 3 original TV networks, the Republican Party, and a few newspapers) used these arguments:

- (1) *ad hominem* attacks on some of the small political parties listed as having sponsored the initiative;
- (2) An argument that because independents are not required to go through conventions or primaries, it would be unfair to Republicans and Democrats to lower independents' signature requirements to a comparable level (in Massachusetts, Republican and Democratic candidates sometimes must submit fairly substantial petitions in order to appear on the primary ballot). This argument was ludicrous, but it played well in the absence of debate. Party conventions in Massachusetts are not required in order to hinder party candidates. This year, even though political interest was unusually high, half of the Democratic and Republican statewide candidates, and over three-fourths of the Democratic and Republican legislative candidates, had no primary or convention opposition. The argument also ignores that primaries and conventions are usually advantageous, in insulating a candidate from outside competition, consolidating support, and providing a tax-subsidized recruitment mechanism for the candidates.

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(3) An argument that so many candidates would run for office if we lowered the signature requirements that the voters would be confused. To counter that argument, we presented data from the experience of other states.

(4) An argument, used especially by the Republican Party, that having extra candidates on the ballot would split the anti-incumbent vote, making it too difficult for the weaker of the two major parties from ever winning. The Republicans argued that Question 4 was therefore a threat to the two-party system. We countered this argument by pointing out that the U.S. two-party system evolved in the complete absence of ballot access barriers and that it re-appeared when the Whigs vanished.

If anyone plans an initiative in any other state to improve ballot access laws, please contact me for further information, at 60 Dinsmore Ave., #114, Framingham Ma 01701, (508) 875-5741. Or contact Kate Gardiner of the Rainbow Lobby, 2000 Massachusetts Ave., Boston Ma 02140, (617) 547-8565. She coordinated the campaign during the last few months.

COFOE

The Coalition for Free and Open Elections consists of political parties, other organizations, and individuals. Dues of \$10 entitles an individual to membership with no expiration date; this includes a one-year subscription to *Ballot Access News* (or a one-year renewal). Address: Box 355, Old Chelsea Sta., New York NY 10011. Applications can also be sent to 3201 Baker St., San Francisco Ca 94123.

ERRATA: The November 12 *B.A.N.* erred when it said that independent candidate Jim Lendall was re-elected to the Arkansas legislature. He lost to a Democrat.

1992 PETITIONING

The Libertarian Party has 4,500 signatures in North Carolina, 1,000 signatures in Maine, 13,000 in Alabama, and 100 in Nebraska. The New Alliance Party has 2,700 signatures in Alabama. No other third party is petitioning already for 1992.

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