

The Presidential Nominating Process and the National Party Conventions, 2016: Frequently Asked Questions

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Summary

This report provides answers to frequently asked questions about the presidential nominating process, including how the delegates to the national conventions are chosen, the differences between a caucus and a primary, national party rules changes for 2016, and the national conventions themselves. It is not a comprehensive report on all aspects of the presidential nominating process.

The Nominating Process

The presidential nominating process is a subject of enduring congressional and national interest. Presidential elections are the only nationwide elections held in the United States and the initial phase of primaries and caucuses is subject to change every four years. Congress has a legislative, as well as a practical and political, interest in the presidential nominating process. Presidential nominees lead the party ticket in the fall election; the elected President will set many policy and political goals in the ensuing four years; and many Members of Congress will serve as delegates to the major party conventions. No legislation has been introduced in the 114th Congress to reform the presidential nominating process; taxpayer financing of the national party conventions was eliminated with the enactment of P.L. 113-94 in April 2014.

The Rules

Republican Party rules changes for 2012 set the background for the 2016 presidential primary season. The 2012 election featured a protracted contest for Republicans that began in January and continued until the end of May, partly due to two new Republican Party rules that led to a comparatively long primary battle. In an effort to decrease the large cluster of contests at the beginning of the primary and caucus calendar—the phenomenon known as front-loading—the Republican Party adopted two important changes to national party rules for 2012:

- delegate selection events could not be held before the first Tuesday in March, with exceptions for Iowa, Nevada, New Hampshire, and South Carolina, which could hold their events on or after February 1 (regardless, Iowa, New Hampshire, and South Carolina scheduled January events for 2012); and
- states that held contests before April 1 were required to allocate delegates on a proportional basis, according to primary or caucus results. Many state parties had used winner-take-all in the past, but the new rule required that delegates be awarded to presidential candidates in proportion to their primary vote totals, in some fashion.

The rules changes reduced front-loading, but they also prolonged the contest in comparison to past primary cycles and led to speculation that the Republican convention might need more than one ballot to choose the nominee, an unprecedented occurrence in recent decades. That possibility did not occur. Republicans made additional revisions to party rules for 2016 that might impact the contest for the nomination. The proportional allocation of delegates is required for events held between March 1 and 14, rather than for the entire month, as was done in 2012. Delegates are bound according to the results, either on a proportional or winner-take-all basis (permitted after March 14). Finally, the calendar window imposed for only the second time by Republicans (Democrats have imposed a window for many years) appears to have contained efforts by some state parties to “front-load” the calendar by scheduling events early in the year in order to attract media and candidate attention.

The National Conventions

The national party conventions have evolved over the past half century and now serve as the forum for officially ratifying the results of the primary season, rather than the place where the nominee is actually chosen. The last time more than one ballot was required to nominate a presidential candidate—a so-called “brokered” convention—occurred in 1952. Even so, the conventions remain important as media events that launch each major party’s general election campaign. In 2016, the major parties’ nominations will be officially conferred when Republicans meet in Cleveland from July 18-21 and Democrats meet in Philadelphia from July 26-28.

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Background and Context

This report answers frequently asked questions about presidential primaries and caucuses, and the national party nominating conventions that follow them. The nominating process elicits questions because it relies on a dense combination of national and state party rules and state election laws to conduct the primaries and caucuses, and it proceeds according to a seemingly haphazard calendar of events. Furthermore, the conventions officially select the presidential candidates, but the nominating contest is almost always resolved earlier, during the primary season, as soon as one candidate can claim a majority of delegates. The role of the modern conventions is to officially ratify the primary season results.

Despite its complicated nature, the presidential nominating process is simply a race among presidential candidates to accumulate a majority of delegates, in order to claim the nomination at the national convention. This report discusses selected aspects of the convoluted process of choosing delegates in the primaries and caucuses and the national conventions that officially mark the end of the nominating season.

Selecting the Delegates

State parties use two basic methods to select the national convention delegates, the caucus and the primary. Some state parties combine the two to select delegates. A caucus is a local meeting, usually at the precinct level, where participants register their presidential candidate preference in a public way by joining a group of supporters for that candidate. In some caucuses, participants simply write their presidential candidate preference on a slip of paper. The presidential candidate supporters then elect delegates from the group to the next level, usually county conventions, where the same process is repeated. The national convention delegates are usually elected at the congressional district and state conventions. In contrast to primary elections, the caucuses are run by the political parties.

A presidential primary is run by elections officials in the state, and the voter goes to his or her regular polling place to cast a ballot. The voter may mark the ballot for a presidential candidate only, called a preference primary, or may mark it for a presidential candidate and for a certain number of delegates pledged to that candidate, called a direct election primary. In the latter case, the delegates are elected in the primary based on individual delegate vote tallies. In both types of primaries, the national delegate slots are assigned to presidential candidates according to the primary results. The primary and caucus processes are discussed in greater detail in the body of this report.

Winning the Nomination

Until recent decades, the national party conventions played the key role in choosing the presidential nominees. In the era of “party bosses,” state and local party leaders often controlled blocs of delegates or entire state delegations, because the delegates were chosen in closed party meetings or conventions. Presidential candidates needed the support of the party leaders and bosses to win the nomination, and deal-making was crucial to the process. The focal point of this activity was the national convention itself, where the outcome was often unknown until the convention conferred the nomination, following a roll call vote of the state delegations. Some conventions required repeated voting by the delegates before one candidate emerged with a

majority of support.¹ These multiple ballot, or brokered, conventions were fairly common, but the last one occurred in 1952, when Democrats needed three ballots to nominate Governor Adlai Stevenson to face General Dwight D. Eisenhower in the general election. The last Republican convention to require multiple ballots was in 1948, when Governor Thomas Dewey claimed the nomination on the third ballot over Senator Robert Taft and former Governor Harold Stassen.² There has been speculation that no candidate will secure a majority of support from delegates to the 2016 Republican convention, which could result in pre-nomination maneuvering or even multiple ballots to declare a nominee.³

Since the 1970s, reform of the nominating process has diminished the importance of the conventions and increased the importance of primaries in choosing the nominees (discussed in the following section entitled “The Contemporary Nominating Process”). Although the conventions no longer select the candidates, but simply ratify the results from the primary season, they perform an important political function by showcasing the political parties, their presidential and vice presidential candidates, and kicking off the general election campaign.

The Contemporary Nominating Process

In the turbulent decade of the 1960s, various reform movements focused attention on perceived inequities in society and on the political process in particular. Within the Democratic Party, the 1968 national convention in Chicago gave rise to a reform effort after the convention erupted in controversy and violence. Inside the convention hall, disputes arose because of the boss-controlled selection process while, outside the hall, police and anti-war protesters clashed repeatedly over a six day period. When the convention ended, the party appointed a group to examine the nomination process. The Commission on Party Structure and Delegate Selection, better known as the McGovern-Fraser Commission, made various recommendations to democratize the delegate selection process that were subsequently adopted by the Democratic National Committee.⁴ The new rules, first in effect for the 1972 election, transformed the process by making it more open and responsive to rank and file party voters, and by reducing the power of party leaders and bosses to control delegations to the national conventions.

One result of the rules changes was that many state parties, both Democratic and Republican, adopted the primary to elect the delegates, rather than choosing them in caucuses, conventions, or meetings of party officials and leaders. The primary was perceived as more open and transparent. The rising number of primaries shifted the suspense of choosing the nominee from the convention to the primary season, because the delegate count was now public. A candidate could publicly claim the nomination as soon as he or she won a majority of the delegates, as every candidate in both major parties has done in recent decades, with one exception. In 1976, President Gerald Ford and Governor Ronald Reagan competed for delegate support until the start of the national convention, with Ford prevailing.

¹ Stephen J. Wayne, *The Road to the White House* (Boston: Wadsworth, 2012), pp. 8-9.

² *Congressional Quarterly's Guide to U.S. Elections*, ed. (name redacted), Jon P. Preimesberger, David R. Tarr, Fourth ed., vol. I (Washington, DC: CQ Press, 2001), p. 511.

³ Robert Costa and Tom Hamburger, “GOP Preparing for Contested Convention,” *The Washington Post*, December 14, 2015 available at https://www.washingtonpost.com/politics/gop-preparing-for-contested-convention/2015/12/10/d72574bc-9f73-11e5-8728-1af6af208198_story.html.

⁴ Elaine C. Kamarck, *Primary Politics: How Presidential Candidates Have Shaped the Modern Nominating System* (Washington: Brookings Institution Press, 2009), pp. 13-15.

Some candidates in recent primary seasons have claimed the nomination as early as March,⁵ after just a few weeks of voting, because of the trend known as “front-loading.” Over the past 25 years, an increasing number of states and state parties scheduled events at the beginning of the primary season to attract candidate and media attention, resulting in a calendar that featured a large cluster of early primaries and caucuses. On the positive side, front-loading has often meant that the nomination was resolved early in the primary season, allowing the presumptive nominee to begin campaigning for the general election. Two criticisms of the front-loading trend were that the contest could be resolved only weeks after its start, without much of a testing period for the candidates, and that the contest was usually over before voters in states with later primaries and caucuses could cast their ballots. The calendar for 2012 was less front-loaded than at any time in recent decades, which contributed to a more prolonged contest on the Republican side but also generated complaints as a result.⁶ The 2016 calendar is even less front-loaded and features the latest start since 1996, with the Iowa caucuses on February 1 and the New Hampshire primary on February 9, nearly a month later than in 2012.

The contemporary nominating system is only a few decades old, having grown out of the 1970s reforms that replaced the boss-dominated convention system with a process that emphasized rank and file participation. Among the concepts that define the current system is that primaries are the dominant method for selecting the delegates, front-loading of the calendar has been prevalent for most of the past three decades, and the national conventions are largely symbolic with respect to conferring the nomination. Perhaps the most important result of the reform era is that, despite the system’s complexities, the contest for delegates among the presidential candidates is now a mostly transparent, democratic process.

How This Report is Organized

The report is organized into two sections. The first section includes questions that pertain to the primary season and the second section includes questions about the national party conventions. The section on the primary season includes basic questions about caucuses and primaries; the calendar; the rules for selecting the delegates, including new Republican Party rules for 2016; and questions about the delegates, such as their bound or unbound status, and the disposition of delegates who support a candidate who has left the race.

The second section provides answers to questions about the national party conventions, including questions about how they are financed, what transpires once they convene, and a brief history of brokered, or multi-ballot, conventions.

The Primary Season

How Does the Caucus Process Work?

A conventional caucus system relies on a tiered series of meetings to choose national convention delegates. Rank-and-file voters participate in precinct caucuses or local mass meetings (where a presidential preference vote is taken and delegates are elected to the next level based on those

⁵ For example, Senator John McCain claimed the 2008 Republican nomination on March 4. Wayne, *The Road to the White House*, p. 119.

⁶ David M. Drucker, “Senate Republicans Dread Drawn-Out GOP Primary,” *Roll Call*, March 14, 2012, available at http://www.rollcall.com/issues/57_109/Senate_Republicans_Dread_Long_GOP_Primary-213096-1.html.

preferences), followed by county conventions, congressional district (or perhaps state legislative district) conventions, and a state convention. The national convention delegates are usually chosen at the congressional district and state conventions.

As with other elements of the delegate selection process, there is a great deal of variation in how state parties employ the caucus/convention system and, therefore, few generalizations can be made about it. The key to understanding a particular state party's caucus/convention system is whether the preferences of rank-and-file voters at the first stage of the process are or are not the determining factor in choosing national convention delegates. If the preferences of rank-and-file voters are not the determining factor, the system is more likely a meeting or series of meetings of party activists and leaders who, as "free agents," choose the national convention delegates. One generalization that applies, however, is that the caucus/convention system is party-run, whereas a primary election is conducted and paid for by the state (with rare exception). As a result, although some precinct voting places might be used for caucuses, other unofficial election venues could include schools, fire stations, government buildings, private businesses, community centers, and private residences.

From a participant's point of view, a conventional caucus is different from a primary because the voting may be public, rather than by secret ballot, and may require a time investment of a few hours, often on a weekday evening. The rules for participating in a caucus are also more complicated than those for participating in a primary, in which a voter simply marks the ballot to record his or her choice.

In a precinct caucus, a voter would typically check in upon arrival to verify his or her eligibility and to facilitate a count of all attendees. Once the caucus begins, supporters of the various presidential campaigns might make short speeches in favor of the candidates, after which voters would be asked to separate into groups according to their presidential candidate or uncommitted preference. To be eligible to elect delegates to the next stage, a group may need to constitute a certain percentage of all attendees—the minimum threshold for viability—such as 15%, which Democrats require under national party rules. The viability threshold at this level might be higher than 15%, depending on the total number of delegates to be elected from the particular precinct. Republicans do not mandate a specific viability threshold, although the party advises states to establish a threshold that is no higher than 20%.⁷

Once the viable groups have been determined, participants from non-viable groups are given an opportunity to join a viable group or leave. Members of a viable group may try to persuade them to join the group on the basis of candidate traits or positions, or even by offering delegate or alternate slots at the next level, in order to increase the size of the viable group. When the time period for re-caucusing has expired, a count of the members of each of the viable groups is taken to determine the number of delegates and alternates to be elected to the next level, usually county caucuses, within each preference group.

A similar process occurs at the county caucuses, where viable preference groups elect delegates to the next *two* levels, the congressional district conventions and the state convention, where the national convention delegates and alternates are chosen. Procedures to determine viability and elect the delegates and alternates by preference group at the congressional district and state conventions are similar to those used at earlier stages, although delegate and alternate candidates may require approval at this level from a representative of the respective presidential campaigns or someone designated as such.

⁷ Rule No. 16(c)(3)(i), Republican National Committee, *The Rules of the Republican Party, As Adopted by the 2012 Republican National Convention*, Tampa, FL, August 27, 2012.

The caucus/convention process typically takes several months to complete, from the date of the initial caucuses until the state convention. For example, this year's Iowa Republican caucuses will be held on February 1; county conventions will be held on March 12; congressional district caucuses will be held on April 9; and the state convention will be held on May 21.

Voter turnout in caucuses tends to be lower than in presidential primaries. In 2012, there were 25,000 Democratic voters and 121,354 Republican voters in the Iowa caucuses, for a combined turnout rate of 6.5% of eligible voters.⁸ Turnout in the other prominent early contest, the New Hampshire primary, was 31.1%.⁹ The turnout range for other (two party) primaries was 3.0% (Rhode Island) to 31.5% (Ohio).¹⁰

The Iowa Example

To illustrate how varied the caucus system is, Iowa is the best-known caucus state, but Democrats and Republicans do not use the same design to elect national convention delegates. For Republicans, the February 1, 2016, precinct caucuses involve taking a simple presidential preference vote using blank ballots handed out to participants. Delegates are elected to the next stage county caucuses on March 10, but their selection is not connected to the presidential preference vote. At the county conventions, delegates are elected to the congressional district conventions on April 21 and the state convention on June 16, where the national convention delegates will be chosen. All of the national convention delegates are unbound. Consequently, the premier event of the presidential primary season features a presidential preference “straw” vote for Republicans, but the state's delegation was chosen in a separate and unconnected process.

Democrats use a conventional caucus system as described previously in this section, with precinct caucuses, followed by county, congressional district, and state conventions.¹¹

What Are the Different Types of Primaries?

Generally, there are two types of primaries: a preference primary and a direct election primary. A preference primary simply allows a voter to mark his or her ballot for a presidential candidate or uncommitted preference. A direct election primary includes a presidential preference vote and instructs the voter to mark the ballot for a certain number of delegates (and alternates, possibly) pledged to a presidential candidate. In a preference primary that uses winner-take-all rules, the presidential candidate with the highest vote total statewide wins the at-large delegates, and the winner in each congressional district is awarded the congressional district delegates. In a direct primary election, the delegates may be awarded on a proportional basis, according to the vote for presidential candidates, and elected within each presidential candidate preference according to their own individual vote totals.

Some state parties have both a primary and a caucus event, although the two events do not always work together when choosing national convention delegates. Some states have a “beauty contest” primary in which voters mark their presidential preferences, but the results have no effect on the selection of national convention delegates. Kentucky Republicans, for example, will vote in a

⁸ *United States Election Project*, George Mason University, “2012 Presidential Nomination Contest Turnout Rates,” available at <http://www.electproject.org/2012p>.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Iowa Democratic Party, *2012 Iowa Delegate Selection Plan*, updated November 2011, available at <http://iowademocrats.org/wp-content/uploads/2011/11/delegate-selection-plan-updated.pdf>.

presidential primary on May 17, 2016, but the national convention delegates will be selected in a separate caucus/convention process that begins with precinct caucuses on March 5. In preference primary states, the primary results usually determine the number of delegates each presidential candidate receives. The delegates may be slated in pre-primary caucuses and awarded according to the results or chosen in post-primary caucuses, based on the presidential vote in the primary.

What Is Front-loading?

Front-loading is the decades-long trend among the states or state parties to schedule primaries and caucuses near the beginning of the nominating season, resulting in a crowded calendar of events in the first several weeks of the contest. Front-loading came about largely because of the prominence of the New Hampshire primary and the Iowa caucuses in the nominating process. The trend was reversed to an extent in 2012 and even more so for 2016—as the result of cooperation between the two major parties regarding the calendar, as shown in **Figure 1**.

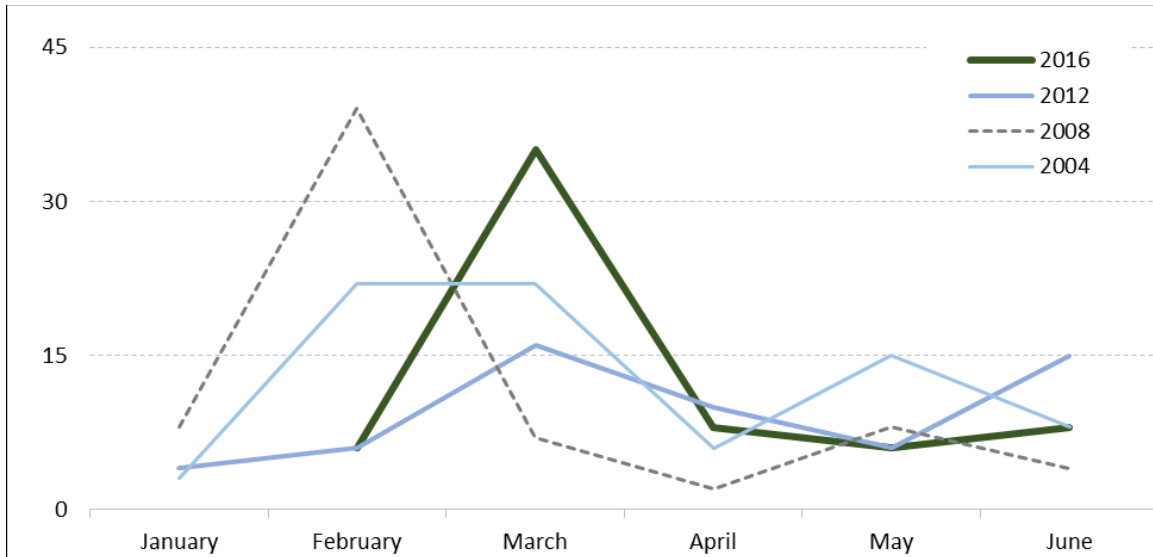
The era of rules changes that Democrats initiated after the 1968 national convention encouraged state parties to adopt primaries, but the subsequent rise in the number of primaries did not initially result in a more front-loaded calendar. Scattered efforts to schedule early events in other states to attract candidate attention or promote a “native son,” either individually or as part of a regional effort, only resulted in Iowa and New Hampshire scheduling even earlier events over time to protect their “first-in-the-nation” status. (The New Hampshire primary was held at the end of February in 1976, 1980, and 1984, and it was held on January 8 in 2008 and January 10, 2012; the Iowa caucuses were held in late January and February between 1976 and 1984; they were held on January 3 in 2008 and 2012.) In addition to being the first to assess the candidates, the two states benefit economically from hosting the various presidential campaigns in the months before the voting begins. One estimate in 2012 noted that New Hampshire could reap \$264 million because of its early date.¹²

With a few exceptions, other states did not challenge Iowa and New Hampshire’s claim to being first. Democrats continued to revise their rules after each election and the party eventually adopted its current timing rule in 1980, which provided an exemption from the party’s sanctioned “window” for delegate selection events for Iowa and New Hampshire.¹³

¹² Gerald D. Skoning, “Commentary: Why should Iowa and New Hampshire always go first?” *Palm Beach Post*, October 6, 2011, available at <http://www.palmbeachpost.com/opinion/commentary/commentary-why-should-iowa-and-new-hampshire-always-1900137.html?printArticle=y>.

¹³ Elaine C. Kamarck, *Primary Politics: How Presidential Candidates Have Shaped the Modern Nominating System* (Washington: Brookings Institution Press, 2009), pp. 55-56.

Figure I. Number of Democratic and Republican Primaries and Caucuses by Month, 2004-2016



Source: CRS figure based data from the Federal Election Commission and the blog Frontloading HQ.

Note: Data include primaries and caucuses held for one or both parties on a single date.

In 1988, when Iowa voted on February 8 and New Hampshire voted on February 16, the creation of the southern Super Tuesday regional primary on March 8 accelerated the “front-loading” phenomenon. The Super Tuesday event was organized by the Southern Legislative Conference (SLC), a group of southern and border state legislators, and included primaries in 14 states on a single date.¹⁴ It was designed to increase the impact of southern voters in the nominating process and to possibly encourage and promote southern candidates who might enter the race. In the presidential election cycles that followed, Iowa and New Hampshire continued to vote in February until the 2000 election, when Iowa held caucuses on January 24 and New Hampshire held its primary on February 1.¹⁵ In the meantime, however, large numbers of states that were not exempt from the Democratic Party window began scheduling primaries or caucuses at the beginning of the window. This accelerated the nominating season because so many delegates were at stake within the first few weeks of voting. The last primaries traditionally have been held in early June.

The front-loading phenomenon meant that clusters of state contests on a single date dominated the early part of the calendar, but the length of the nominating season was not shortened. This, in turn, reinforced the view that the contest was over before voters in later state contests had cast their ballots. A front-loaded primary season also limited the testing period during which voters in different parts of the country could evaluate the candidates once the campaign was in full swing. Conventional wisdom also suggests that a strongly contested primary better prepares the nominee for the general election. On the positive side, front-loading has often meant that the nomination

¹⁴ The Southern Legislative Conference states that held primaries on March 8 included Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Tennessee, Texas, and Virginia. In South Carolina, Democrats held caucuses on March 5, and Republicans held a primary on March 12. A precursor southern event took place on March 13, 1984, with primaries in Alabama, Florida, and Georgia, in addition to two primaries in the Northeast and Democratic caucuses in four other scattered states.

¹⁵ In the years between 1988 and 2008, various state parties scheduled caucus events in January and February before Iowa or New Hampshire or both, but did not eclipse either state’s status in the presidential nominating season.

was resolved early in the primary season, allowing the presumptive nominee to begin campaigning for the general election.

The effort to reduce front-loading for the 2012 election was largely successful. The early part of the calendar was very similar to 2008's, with Iowa on January 3, followed by New Hampshire (January 10), South Carolina (January 21), and Nevada (February 4). However, while the 2008 calendar featured more contests in February than in any other month—including 15 primaries and four caucuses for both parties on the first Tuesday—there were only a handful in 2012. The new timing rule adopted by both parties that established March as the starting point for nonexempt states partly explains this shift. The 2016 calendar features a February start for the first time since 1996, with Iowa on February 1 and New Hampshire on February 9, and a comparatively orderly format thereafter, in contrast to 2012. The largest number of contests held on a single day will occur on March 1, the first day that nonexempt states are permitted to hold contests. As a result, the front-loading problem that has characterized the primary process for many election cycles has been reduced for 2016 and, except for the exempt states, primary and caucus contests have been contained within the calendar design that the two parties have agreed to follow.

Why Do Iowa and New Hampshire Go First?

The New Hampshire primary has been an important event since 1952, when the primary ballot allowed a voter to mark his or her presidential candidate preference for the first time. The preference vote was not connected to the selection of delegates, but the results boosted the candidacies of General Dwight D. Eisenhower and Senator Estes Kefauver at the expense of favorites Senator Robert Taft and President Harry Truman, for the Republican and Democratic nominations, respectively, and captured the attention of the media because they provided an early gauge of candidate strength or weakness. Although New Hampshire had first adopted its presidential primary in 1913—eventually moved in 1915 to the second Tuesday in March to coincide with town meetings—voters in the primary cast their ballots for unpledged delegates. The primary rose to prominence because of the preference vote that debuted in 1952.¹⁶ New Hampshire has protected its “first-in-the-nation” primary status by legislating that it be held on the second Tuesday in March, but gives the secretary of state the power to change the date so that it precedes any similar contest by seven days.¹⁷ The national Democratic Party has protected, in effect, New Hampshire's frontrunner primary status since 1980 by restricting the period during which state parties may hold contests (and exempting Iowa and New Hampshire), and the national Republican Party recently formalized that arrangement as well.

The Iowa caucuses rose to prominence largely as the result of events in 1972, when Democrats first held their caucuses in January (Republican caucuses were in April). Democrats were operating under entirely new nominating rules designed to democratize the delegate selection process. The reforms had been implemented as a result of the violence and upheaval at the 1968 Democratic National Convention in Chicago. The reforms were based on subsequent

¹⁶ William G. Mayer, “The New Hampshire Primary: A Historical Overview” in Gary R. Orren and Nelson W. Polsby, eds., *Media and Momentum: The New Hampshire Primary and Nomination Politics* (Chatham, NJ: Chatham House, 1987), pp. 10-11.

¹⁷ The New Hampshire Election Code, Chapter 653:9 states, “The presidential primary election shall be held on the second Tuesday in March or on a date selected by the secretary of state which is 7 days or more immediately preceding the date on which any other state shall hold a similar election, whichever is earlier, of each year when a president of the United States is to be elected or the year previous. Said primary shall be held in connection with the regular March town meeting or election or, if held on any other day, at a special election called by the secretary of state for that purpose.”

recommendations from the party's Commission on Party Structure and Delegate Selection,¹⁸ also known as the McGovern/Fraser Commission. Iowa was the first event of the nominating season under the new rules.

Although the results of the January 24, 1972, precinct caucuses were imprecise, presumed frontrunner Senator Edmund Muskie was unexpectedly challenged by Senator George McGovern (of the McGovern/Fraser Commission), who finished third behind Muskie. "Uncommitted" was first. Although Muskie was the leading candidate in Iowa, his campaign had performed below so-called media expectations, to some extent, which damaged his frontrunner status. For his part, McGovern had recognized both the importance of the new rules and Iowa's January 24 caucuses and had begun organizing in the state months before other candidates.¹⁹ A closer than expected result in the New Hampshire primary that followed on March 7, which Muskie won with McGovern second, further slowed Muskie's campaign.²⁰ McGovern eventually prevailed in winning the nomination, only to lose to President Richard Nixon in the general election (520 to 17 in the electoral college).

Who Has Authority Over the Rules for Delegate Selection?

The presidential nominating process is the single most complicated feature of the nation's electoral system, because it relies on national and state political party rules and practices, as well as aspects of federal and state election laws. Consequently, there are overlapping authorities for different aspects of delegate selection primaries and caucuses.

Democrats

Democrats rely on the *Delegate Selection Rules for the 2016 Democratic National Convention* and the *Call for the 2016 Democratic National Convention* to set national rules. State Democratic parties are required to submit delegate selection plans to the Democratic National Committee Rules and Bylaws Committee to determine compliance with national party rules and receive approval in the year before the presidential election.²¹ The Rules and Bylaws Committee is required to act on proposed delegate selection plans by September of the year preceding the election, or four months before the state's first determining step, whichever is earlier.

Republicans

For Republicans, the national party sets certain general parameters for the nominating process in *The Rules of the Republican Party* and the *Call of the Convention*, but leaves many of the details of delegate selection to the state parties. Consequently, there is a great deal of variation in how each state party elects its delegates to the national convention.

Various aspects of state and territory election laws apply to presidential primaries, and some caucuses as well, such as whether they are open to all voters or closed, meaning participation is restricted to registered party voters only. Minnesota and Iowa, two states with a long-standing

¹⁸ Democratic National Committee, "Mandate for Reform: A Report of the Commission on Party Structure and Delegate Selection to the Democratic National Committee," April, 1970.

¹⁹ Hugh Winebrenner, *The Iowa Precinct Caucuses: The Making of a Media Event* (Ames: Iowa University Press, 1987), pp. 53-64.

²⁰ Bill Kovach, "Balloting Heavy," *New York Times*, March 8, 1972, p. 1.

²¹ That date was May 2, 2011.

caucus tradition, codified many of the rules in state election law, although this is likely the exception and most caucus procedures depend on state party rules rather than state election law.²²

What Rules Are Different for 2016?

A number of new Republican party rules changes were adopted for the 2012 presidential primary season that may also impact the 2016 election. These changes included a timing rule for when primaries and caucuses could be held and a rule that required the use of proportional allocation of delegates under certain conditions, rather than the winner-take-all system preferred by state parties. The changes shaped the contest for the first three months and led to pronouncements that the nomination would be unresolved until the national convention in September. Ultimately, Governor Romney was able to claim a majority of delegates needed for the nomination once the May 29 Texas primary results were tallied.²³

Timing

Republicans began evaluating the performance of the nominating process before the primaries and caucuses had concluded in 2008. The 2008 convention created the “Temporary Delegate Selection Committee” to review delegate selection procedures and make recommendations to the RNC. Subsequently, at its 2010 summer meeting the RNC approved a window for holding delegate selection events that was similar to the Democratic Party’s long-standing rule on the timing of delegate selection events. As the result of a revision to Rule 16 of *The Rules of the Republican Party*,²⁴ delegate selection events cannot be held before the first Tuesday in March, with exceptions for Iowa, Nevada, New Hampshire, and South Carolina, which can hold their events on or after February 1.²⁵ The change imposed a timing rule for the first time for Republican delegate selection events.

Proportional Allocation

A related change to Rule 16 requires states that hold contests before March 16 to allocate delegates on a proportional basis, but it does not impose a specific proportional system (although the threshold to receive delegates may not be higher than 20%). The party did not previously require the use of a specific allocation method, and the new requirement is intended to further decompress the calendar by delaying the use of a winner-take-all system until the second half of March. Many state parties used winner-take-all in the past. In guidance that was provided to the state parties, the RNC counsel’s office outlined a number of ways to implement proportional allocation. The requirement to award delegates proportionally applied in general, but the guidance left open the possibility that district level delegates could be awarded on a winner-take-all basis,

²² Many of Iowa’s applicable laws may be found here: <https://www.legis.iowa.gov/docs/code/2015/43.4.pdf>. Minnesota’s applicable laws for caucuses may be found here at <http://www.sos.state.mn.us/index.aspx?page=592>.

²³ Paul West and Seema Mehta, “Romney locks up GOP nomination; With big win in Texas, candidate now can turn full attention to Obama,” *Baltimore Sun*, May 30, 2012, p. 6A.

²⁴ The official rules of the Republican National Committee may be found at <https://cdn.gop.com/docs/Rules-of-the-Republican-Party.pdf>.

²⁵ Rule 16(c)(1), The Republican National Committee, *The Rules of the Republican Party, As Adopted by the 2012 Republican National Convention*, Tampa, FL, August 27, 2012, amended by the Republican National Committee on April 12, 2013, January 24, 2014, May 9, 2014, and August 8, 2014, https://s3.amazonaws.com/prod-static-ngop-pbl/docs/Rules_of_the_Republican+Party_FINAL_S14090314.pdf.

with only the at-large delegates awarded on a proportional basis. The four states that are exempt from the timing rule are also exempt from this requirement.

What Are the Methods for Determining Number of Delegates and Alternates from the States and Territories?

Democrats

Democrats have two categories of delegates, pledged and unpledged. Delegates in the pledged category are required to express a presidential candidate or an uncommitted preference as a condition of election. Pledged district delegates are allocated and elected at a district level (usually the congressional district, but sometimes by state legislative district), and at-large delegates are allocated and elected at the statewide level. A third type of pledged delegate is called an “Add-on” delegate, which allows for representation by party leaders and elected officials within the state. The number of such delegates is calculated by multiplying the number of total base delegates for a state by 15%, so it is also based on the allocation factor. The add-on delegates are usually chosen in the same manner as the at-large delegates.

Democrats begin the allocation process with a base of 3,200 delegate votes, which are assigned to the states and the District of Columbia based on the allocation factor. The allocation factor is a formula that relies on the state’s Democratic vote in the previous three presidential elections and the assigned number of electoral college votes, divided by the corresponding national totals, to assign the delegates. The formula is expressed as follows:²⁶

$$A = \frac{1}{2} \left(\frac{SDV\ 2004 + SDV\ 2008 + SDV\ 2012}{TDV\ 2004 + TDV\ 2008 + TDV\ 2012} + \frac{SEV}{538} \right)$$

A = allocation factor

SDV = state vote for Democratic candidate in the year indicated

TDV = total vote for Democratic candidate in the year indicated

SEV = state electoral college vote

For example, South Dakota’s allocation factor is .00399, so its base number of delegates is: .00399 x 3,200 = 12.76, or 13 delegates. The base delegates are assigned as district level delegates (75% of the base, or 10 delegates) and at-large delegates (25% of the base, or 3 delegates). South Dakota is also entitled to two add-on delegate slots for party leaders and elected officials in the state. Delegates in these three categories are pledged delegates and required to express a presidential candidate or uncommitted preference as a condition of election. The state is also allocated a number of unpledged delegates, including four for its members of the Democratic National Committee and one for the former Senate majority leader as a Distinguished Party Leader delegate. These are the superdelegates (discussed in greater detail in the next section). Thus, the total number of delegates for South Dakota is 20, with 2 alternates, for a total delegation of 22.

²⁶ Democratic National Committee, *Call For the 2012 Democratic National Convention*, as adopted by the Democratic National Committee, August 20, 2010, p. 1.

Democrats also allocate delegates for six entities for which the allocation factor cannot be computed because they do not participate in presidential elections: American Samoa, Democrats Abroad, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. The party assigns at-large delegates to each entity, which also receives delegate slots for its members of the DNC, Members of Congress, and Democratic Governors.

Republicans

Republicans use a simpler delegate allocation method than Democrats. The party assigns 10 at-large delegates to each state, as well as 3 delegates per congressional district. In addition, the party assigns bonus delegates to a state that cast its electoral votes (or a majority thereof) for the Republican nominee in the preceding election, and also assigns a single at-large delegate to states in which Republicans were elected to the following: the governor's office, at least one half of the seats in the U.S. House of Representatives, a majority of the members of a chamber of the state legislature (if the presiding officer is a Republican elected by the chamber), a majority of members in all chambers of a state legislature (if the presiding officers are Republicans elected by each chamber), or a U.S. Senate seat (in the six-year period preceding the presidential election year). Republicans assign one alternate for each delegate.

Republicans assign at-large delegates to American Samoa, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. The District of Columbia is also eligible for bonus delegates if it cast its electoral vote (or a majority thereof) for the Republican nominee in the preceding election.

There will be 4,763 delegates and 319 alternates to the Democratic National Convention and 2,470 delegates and 2,302 alternates to the Republican National Convention in 2016. A candidate needs 2,382 Democratic delegates to secure the nomination and 1,236 delegates to secure the Republican nomination.

How Do Primary and Caucus Results Determine the Election of National Convention Delegates?

Democrats

For Democrats, the preferences of rank-and-file voters in primary or caucus events always translate into the selection of pledged delegates (the superdelegates are unpledged):

Delegates shall be allocated in a fashion that fairly reflects the expressed presidential preference or uncommitted status of the primary voters or, if there is no binding primary, the convention and/or caucus participants.²⁷

Furthermore, those who wish to be elected as delegates at any level of the process must make known their presidential candidate preference:

All candidates for delegate and alternate in caucuses, conventions, committees and on primary ballots shall be identified as to presidential preference or uncommitted status at all levels of a process which determines presidential preference.²⁸

²⁷ Rule 13 (A) of the *Delegate Selection Rules for the 2016 Democratic National Convention*, p. 13.

²⁸ *Ibid.*, Rule 12 (A), p. 11.

Finally, the national party mandates the use of a proportional allocation of delegates according to the presidential candidate and uncommitted preferences of voters in primaries and caucuses, with a minimum threshold of 15% to be eligible to receive delegates. Consequently, the caucus and primary results determine the allocation of delegates according to presidential candidate or uncommitted preferences.

Republicans

Republican rules for translating 2016 primary and caucus results into the selection of national convention delegates vary considerably. In some contests, the preferences of rank-and-file voters in a primary or caucus have no effect on choosing the delegates, while in others, the outcome results in a proportional or winner-take-all allocation of delegates at the congressional district and statewide levels.

One measure to gauge the effect of primary and caucus results on the elected delegates is whether the delegation is “bound” to reflect those results when voting at the national convention, and for how long (discussed in greater detail in the next section of this report below).²⁹ Some state parties bind the national convention delegation for one ballot or more. Delegates who are unbound presumably are free to vote for any candidate, regardless of the caucus or primary results in the state. Furthermore, national Republican Party rules state that:

Any statewide presidential preference vote that permits a choice among candidates for the Republican nomination for President of the United States in a primary, caucuses, or a state convention must be used to allocate and bind the state’s delegation to the national convention in either a proportional or winner-take-all manner, except for delegates and alternate delegates who appear on a ballot in a statewide election and are elected directly by primary voters.

Further instructions say that:

Delegates at large and their alternate delegates and delegates from Congressional districts and their alternate delegates to the national convention shall be elected, selected, allocated, or bound in the following manner:

- (1) In accordance with any applicable Republican Party rules of a state, insofar as the same are not inconsistent with these rules; or
- (2) To the extent not provided for in the applicable Republican Party rules of a state, in accordance with any applicable laws of a state, insofar as the same are not inconsistent with these rules; or
- (3) By a combination of the methods set forth in paragraphs (b)(1) or (b)(2) of this rule; or
- (4) To the extent not provided by state law or party rules, as set forth in paragraph (e) of this rule (which outlines the national party rules for electing national convention delegates in congressional district and state conventions).

The category of automatic delegates to the national convention—who are the three members of the Republican National Committee from each state—are usually bound along with the rest of the delegates.

²⁹ In some states, the delegates might be bound to reflect the preferences of delegates to the congressional district or state conventions, state committee members, or some other group, rather than rank-and-file voters in first stage primaries and caucuses.

What Happens to Delegates Pledged to a Presidential Candidate Who Drops Out of the Race?

As noted, Republican rules for binding or not binding the delegates to vote for a certain candidate at the convention vary from state to state. Consequently, in some states, the entire delegation is bound for one or more ballots at the national convention, whereas in other states, some delegates are bound and some are not, or the entire delegation is unbound. Some states specify that delegates are bound unless released by a presidential candidate or when the candidate has dropped out of the race, or by a vote of the delegation.

For Democrats, the relevant national party rule states that “[d]elegates elected to the national convention pledged to a presidential candidate shall in all good conscience reflect the sentiments of those who elected them.”³⁰ A related provision states that “[n]o delegate at any level of the delegate selection process shall be mandated by law or Party rule to vote contrary to that person’s presidential choice as expressed at the time the delegate is elected.”³¹

Who Are the Superdelegates?

Among the many differences between the parties in delegate selection is the number of automatic delegate slots each party reserves for party or elected officials. Although the Republican Party designates as automatic delegates the three members of the Republican National Committee from each state, the term “superdelegate” has generally been used in reference to a group of unpledged Democratic Party delegates. During the 2012 election cycle, the media referred to the automatic RNC delegates to the convention as superdelegates as well.

The Democratic Party superdelegates are designated automatically and are not required to make known their presidential candidate or uncommitted preference, in contrast to all the other elected delegates. They include all Democratic Party Members of Congress and governors; members of the Democratic National Committee; distinguished party members, who include former Presidents and Vice Presidents, former Democratic leaders of the Senate, Speakers of the House, and minority leaders; and former chairs of the Democratic National Committee.

The superdelegates were added after the 1980 election when incumbent President James E. Carter lost to Governor Ronald Reagan in a 489-49 electoral vote landslide. The belief was that superdelegates, as party and elected leaders, could serve as a counterweight to rank and file party voters in evaluating presidential candidates.³² In this way, the superdelegates represented an effort to reduce somewhat the effect of the 1970s reforms that diminished the influence of “party elders.” Democrats increased the number of such delegates every four years since they were introduced in 1984 until the 2012 convention, for which they were slightly reduced. They made up nearly 20% of all delegates in 2008, were 14% of all delegates in 2012,³³ and will be a little more than 16% of the total delegates to the Democratic convention. For Republicans, the automatic delegates to the convention make up slightly less than 7% of the total national

³⁰ Rule 12 (J), Democratic National Committee, *Delegate Selection Rules for the 2012 Democratic National Convention*, issued by the Democratic Party of the United States (recommended for adoption by the full DNC at its meeting August 20, 2010), p. 12.

³¹ *Ibid.*, Rule 12 (I).

³² William G. Mayer, *In Pursuit of the White House: How We Choose Our Presidential Nominees* (Chatham, NJ: Chatham House Publishers, Inc., 1996), pp. 123-124.

³³ Democratic National Committee, *Call for the 2012 Democratic National Convention*, p. 31.

convention. They are unbound in most states, but a few state parties bind them to vote as part of the whole delegation at the national convention.

For most of their existence, the superdelegates attracted little attention,³⁴ but in 2008, it appeared that they might decide the contest. By February, Senator Hillary Clinton and Senator Barack Obama were so evenly matched in the fight to win delegates that the campaigns courted individually many of the 796 superdelegates, who were nearly 20% of the convention total.³⁵ The contest was not resolved until the last events on the calendar, the June 3 primaries in South Dakota and Montana. Obama claimed victory with 1,764 pledged delegates and 438 superdelegates (2,201), as compared to 1,640 pledged delegates and 256 superdelegates for Clinton (1,896).³⁶ A candidate needed 2,118 to win the nomination.

The National Party Conventions

How Are the Primaries, Caucuses, and National Party Conventions Financed?

Presidential primaries are paid for by each state, or more specifically, by local election jurisdictions within each state, as are other federal elections. On rare occasions, a state party will conduct its own primary, sometimes called a “firehouse” primary, but generally presidential primaries are financed by the state. A state party might hold a firehouse primary to exert greater control over the delegate selection process. An issue that emerged for the 2012 election cycle was the additional cost of a separate presidential primary in some states, if the regular state primary was held on a different date, which caused a few to cancel the presidential primary altogether.³⁷ Caucuses are conducted and paid for by the state parties.

Between 1976 and 2012, the two major parties and qualifying minor parties received funds from the taxpayer checkoff program³⁸ to finance the national nominating conventions, as part of the presidential public financing system—the Presidential Election Campaign Fund (PECF).³⁹ The amount for the major parties was initially set at \$2 million, with an inflation adjustment for future elections. The program provided \$17.7 million each to the Democratic and Republican

³⁴ Vice President Walter Mondale needed 323 (out of 1,937) superdelegates to claim the nomination over Senator Gary Hart in 1984. Mondale declared victory on the date of the last primaries, June 5, but would not have had a majority without the superdelegates, a fact that was largely obscured because of the timing of his victory announcement. Elaine C. Kamarck, *Primary Politics: How Presidential Candidates Have Shaped the Modern Nominating System* (Washington: Brookings Institution Press, 2009), pp. 158-160.

³⁵ Julie Bosman, “Wooing With Charm and PACS,” *New York Times*, February 15, 2008, p. 19.

³⁶ CNNPolitics.com, available at <http://www.cnn.com/ELECTION/2008/primaries/results/scorecard/>.

³⁷ Utah and Washington cancelled their presidential primaries for 2012; see Lisa Riley Roche, *Deseret News*, “Huntsman, Romney both say they’d be competitive in earlier Utah primary,” June 28, 2011, available at <http://www.deseretnews.com/article/705375352/Huntsman-Romney-both-say-theyd-becompetitive-in-earlier-Utah-primary.html> and Washington Secretary of State Sam Reed, “Washington suspends 2012 presidential primary; regular state primary still on,” press release, May 12, 2011, available at http://www.sos.wa.gov/office/osos_news.aspx?i=zwm8zI6TS07Z8OKbW30dOw%3D%3D.

³⁸ The presidential public financing system was established under the 1971 Revenue Act and the 1974 Federal Election Campaign Act. For a detailed discussion of the public financing system, see CRS Report RL34534, *Public Financing of Presidential Campaigns: Overview and Analysis*, by (name redacted)

³⁹ See CRS Report R43976, *Funding of Presidential Nominating Conventions: An Overview*, by (name redacted) and (name redacted)

convention committees for 2012. The program was eliminated with the enactment of P.L. 113-94 in April 2014.

Additional federal funds have been provided since 2004 for convention security, coordinated by the U.S. Secret Service in conjunction with state and local law enforcement in jurisdictions where the conventions were held. Congress appropriated \$100 million for convention security in 2004, 2008, and 2012, of which \$50 million was for each convention in each year.⁴⁰

What Occurs at the National Nominating Conventions?

Contemporary national nominating conventions give the parties a rare opportunity to showcase nominees, party leaders, and positions before a national television audience, but they are no longer the venue in which the nominee is chosen. Although some observers speculated that a contested convention could occur at the 2012 Republican national convention, that did not occur. There has been speculation that the 2016 Republican nomination could be contested in some fashion, if a candidate does not emerge from the primary season with a majority of delegates. If that does not occur, the 2016 conventions will again be largely ceremonial, campaign driven events.

In recent decades, the role of the national conventions has been to ratify, rather than select, the party nominees. Elections without an incumbent President running, even if they are competitive, are usually resolved early in the primary season, well before the convention meets. Elections that include an incumbent President are usually concluded without much drama as well, and the delegates are elected in primaries and caucuses that attract little attention because of the lack of competition (i.e., President Reagan in 1984, President Clinton in 1996, President Bush in 2004, and President Obama in 2012). Both the 1976 Republican and 1980 Democratic conventions provided a reminder that incumbents *can* be endangered under certain conditions, but Presidents Ford and Carter ultimately prevailed in 1976 and 1980, respectively, despite strong challenges from Governor Ronald Reagan⁴¹ and Senator Edward Kennedy.⁴²

As the conventions have evolved into media events, the traditional format of past years has been replaced by a television-friendly script designed for a prime time audience each night. As in the past, delegates ratify the choice of nominee in a roll call vote and various party leaders and rising stars give speeches, but the action is targeted to viewers, rather than the delegates inside the convention venue. Finally, the party may have a traditional keynote speaker or multiple keynote speakers address the convention, followed by a vice presidential candidate speech on the second to last night and, on the last night, a speech by the nominee to kick off the general election campaign.⁴³

Could There Be a Brokered or Multi-ballot National Convention in 2016?

A brokered, or multi-ballot, convention was a phenomenon of the mid-20th century and earlier, when the convention delegates were sometimes required to vote multiple times before a candidate could achieve a majority of vote to claim the nomination. For the past 60 years, the major party

⁴⁰ Ibid.

⁴¹ Congressional Quarterly, *National Party Conventions, 1831-2000*, (Washington: CQ Press, 2001), pp. 136-137.

⁴² Ibid., pp. 140-141.

⁴³ Barbara Norrander, *The Imperfect Primary*, pp. 23-24.

nominees have always accumulated a majority of delegate votes before the convention, with one exception (discussed in the following section).

The competitive results of 2012 Republican primaries and caucuses through the first three months of the contest and rules changes that were adopted—particularly the requirement until April 1 for the proportional division of delegates based on the results—raised speculation that no candidate would amass a majority of delegates before the convention. That possibility did not come to pass, as the presumed nominee, Governor Willard M. Romney, claimed a majority of the delegates following the results from the Texas primary on May 19.⁴⁴

One phenomenon that fuels speculation in 2016 about an extended primary season and a brokered Republican convention is the fact that the state parties do not have uniform rules for whether the delegations are “bound” to vote a certain way at the national convention, and that the results of some contests have no effect on the selection of delegates. In several of the primaries and caucuses, the results will not determine which candidates receive delegates or how many they receive, which makes the process somewhat unpredictable. To win the nomination, a candidate needs 1,236 of 2,470 total delegates to secure the Republican nomination. There has been on similar speculation regarding the Democratic convention; a candidate needs 2,382 of 4,763 total delegates to secure the nomination.

When Was the Last Brokered or Multi-ballot Convention?

In the years since the nominating reforms of the late 1960s were adopted, the party nominees have usually been decided before the conventions. The principal reason for this phenomenon was the widespread adoption of the primary to choose delegates, allowing one of the candidates to secure a majority publicly, before the convention met. An exception was the 1976 Republican convention, when President Gerald Ford and Governor Ronald Reagan personally lobbied for support among delegates in the days before the convention began; President Ford eventually won on the first ballot.⁴⁵

The primary was perceived to be more democratic than the previously popular caucus/convention method, in which party leaders and bosses controlled the nomination, occasionally “brokering” the outcome at the convention itself. Rank-and-file voters had little say in choosing the delegates to the conventions. The reforms sought to democratize the nominating process in the aftermath of the Democrats’ violent 1968 national convention in Chicago. The Democratic Party subsequently convened in 1969 the Commission on Party Structure and Delegate Selection, also known as the McGovern/Fraser Commission, which made recommendations to democratize the process. Democrats continued to revise delegate selection rules every four years throughout the 1970s and up to the present, while Republicans made few changes to their rules.⁴⁶ The new rules encouraged the use of the primary to achieve compliance and, as a result, the rising number of presidential primaries shifted the setting for selecting the nominees from the national conventions to the primary season itself.

Even before the reforms of the 1960s and 1970s, multi-ballot conventions had become somewhat rare. The last major party convention to require more than one ballot to choose the nominee was

⁴⁴ Richard S. Dunham and Emily Wilkins, “Presidential Nominee; Texas vote puts Romney over the top,” *Houston Chronicle*, May 30, 2012, p. A1.

⁴⁵ Congressional Quarterly, *National Party Conventions: 1831-2000* (Washington: CQ Press, 2001), p. 136.

⁴⁶ William J. Crotty, *Political Reform & the American Experiment* (New York: Thomas Y. Crowell Company, 1977), pp. 255-260.

in 1952, when Democrats needed three ballots to nominate Illinois Governor Adlai Stevenson.⁴⁷ Prior to that, the 1948 Republican and 1932 Democratic conventions took multiple ballots to choose the nominees. Deadlocked conventions were more common in the 19th and early 20th centuries and often required multiple votes to choose the nominee. The longest in history was the 1924 Democratic convention that famously took 103 ballots and 17 days to nominate John W. Davis of New York.

Where and When Are the 2016 National Conventions?

Republicans will meet in Cleveland, OH, from July 18-21, and Democrats will meet in Philadelphia, PA from July 26-28.

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⁴⁷ Congressional Quarterly, *National Party Conventions, 1831-2000* (Washington: CQ Press, 2001), p. 211.

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