

# Will States Fall in Line for 2012? Coordinating on the Timing and Order of the Presidential Nominating Calendar

By Kay Stimson

*As the national political parties work to overhaul the presidential nominating process for 2012, states are a vital part of this complex undertaking. Even with a tentative agreement to produce a later starting date and curb front-loading on the calendar, there are no guarantees that all of the states will be able—or willing—to comply with new rules.*

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More than two years before the next presidential election cycle is set to begin, state legislators and party officials are looking to the national parties, which are consulting with each other on the calendar and hoping to add some order to the next primary season. Leaders are hoping to avoid a repeat of the 2008 cycle, which began earlier than ever before, but there is no guarantee that states will adhere to their recommendations. The bipartisan effort by the Republican National Committee (RNC) and the Democratic National Committee (DNC) to push back the start date and curb front-loading activity ahead of 2012 could also result in other challenges, including a situation in which a number of states will have to change their legislature-mandated primary laws or party caucus dates to comply with the party schedule.

Secretaries of state and other election officials, who have long called for reforming the process, say there is an urgent need to take up the issue. They note that if any rationality is to be restored to the process for 2012, reforms must be adopted soon, and state legislatures must have enough time to approve changes. They also warn that a lack of bipartisan cooperation will seriously hamper these efforts.

“In the absence of any major agreements between the RNC and DNC, states will start moving ahead with setting their primary dates in order to strategically position themselves on the calendar,” noted Kentucky Secretary of State Trey Grayson, who has worked with national party leaders on presidential primary reform. “It is important for the national parties to engage state legislators, who often need to approve funding for primaries and tweak laws when party rules change.”

The National Association of Secretaries of State, known as NASS, which Grayson currently leads as

president, has a regional primaries plan it would like both parties to adopt. Some general aspects of the plan have support from DNC and RNC members. The reforms that will ultimately be adopted, however, remain up in the air. Only one thing is certain: The two parties are working hard to make changes before state delegate selection plans begin emerging in 2011 and their window of opportunity closes.

## National Parties Coordinating on Calendar Timing

If national party leaders have anything to do with it, voters will have seen the last of holiday campaigning and presidential nominating contests right after the New Year.

“It puts an extreme burden on everybody,” said Iowa Secretary of State Michael Mauro, whose 2008 state caucuses took place earlier than ever before. “It draws out the process. I don’t think the candidates want it. I know the states don’t want it.” Election officials face numerous challenges in staffing, ballot preparation, polling site selection and poll worker recruitment when the calendar is heavily front-loaded, Mauro added.

Both the Democratic and Republican national committees have established bodies to set the schedule and make recommendations for next time around. They have different parameters to follow in carrying out their work and their timetables are different, but for the first time ever, the parties are consulting with each other about their decision making.

The Democratic Change Commission, a 36 member panel headed by U.S. Sen. Claire McCaskill of Missouri and U.S. Rep. James Clyburn of South Carolina, released its initial recommendations in December 2009. They have been sent to the DNC’s

Rules and Bylaws Committee for further review, with the final recommendations to be presented for adoption sometime in late 2010 or early 2011.<sup>1</sup>

The RNC Temporary Delegate Selection Committee is a 15-member panel chaired by RNC Chairman Michael Steele. The commission's final recommendations are due for presentation at the party's 2010 summer meeting. An up-or-down vote must take place at that time, with no amendments allowed and a two-thirds majority vote of RNC members required for passage.

There is tentative agreement that the beginning dates for each party's nominating schedule should be in sync. They want to move the general starting date for delegate selection events from February to March, pushing the presidential campaigning out of the busy period between Thanksgiving and New Year's Day. Traditional "pre-window" states like Iowa and New Hampshire would still vote first, but their early events would also take place later than they did last time around. The Democratic Change Commission recommended these two states should, along with Nevada and South Carolina, be granted exceptions to hold their contests in February 2012. The RNC Temporary Delegate Selection Committee is expected to closely follow suit.

The parties also want to spread out state contests and avoid another "Tsunami Tuesday," when nearly two dozen states held their 2008 delegate selection events on the first allowable date. Both groups are considering options that would incentivize states to minimize front-loading and keep them from leapfrogging ahead of each other to gain attention from the media and the presidential campaigns. The DNC plan offers bonus delegates and extra convention perks to those states that do their part to space out primaries and caucuses by clustering their contests by region or sub-region; the RNC is considering similar proposals, as well as stronger penalties for violating party rules.

"The outcomes of these review commissions aren't yet clear, but the effort by the national parties to work concurrently on timing issues is certainly encouraging," said Kentucky's Grayson. "Moving primaries out of January and prompting states to curb front-loading through a regional approach are excellent first steps, as long as the changes are made soon and states can react accordingly."

Yet even if the parties are successful in their attempt to coordinate on certain aspects of the 2012 presidential nominating process, the states are a wild card.

## States Mulling Their Options for 2012

Remember Michigan and Florida in 2008? Both states went rogue, violating party rules and pushing up their primaries to have a greater stake in the selection of the presidential nominees. The decision by the Florida state legislature to move the Sunshine State's primary from March to late January—ahead of all but four states that year—illustrates a glaring reality of the presidential selection process: Many of the issues surrounding the timing of the nomination calendar are made even more complex because of state laws and state party decision-making that govern the process.

In New Hampshire, a state that steadfastly guards its first-in-the-nation presidential primary, leaders are taking no chances for next time around. The legislature has already taken up a bill to strengthen the law that requires the state's contest to be scheduled seven days or more before a similar election.<sup>2</sup> Designed to stifle any renegade states that may be jockeying for position ahead of the Granite State, lawmakers want to give the secretary of state more latitude in interpreting other contests—including caucuses and nominating conventions—as potential threats to New Hampshire's traditional front-runner status.

"Every state wants to be relevant in this process, with its voters having the chance to make a real impact on the nominations," said Washington Secretary of State Sam Reed, who testified before the RNC Temporary Delegate Selection Committee in November 2009. "The states that determine the nominees receive an enormous amount of attention from the media and the candidates, and the states that go first have normally had a big impact on who wins. That's why, in 2008, 37 states and the District of Columbia decided to hold their nominating contests by the end of February. It won't be easy to convince them to slow it down and wait their turn."

Then there is the more pragmatic aspect of scheduling primaries and caucuses. If March is the opening window for contests in 2012, many of the states that moved their nominating contests into February last time around will have to make changes to bring them into compliance with party rules.<sup>3</sup> Caucus dates are set by parties and can be switched without much resistance. But in states with primaries, legislatures usually have to incorporate the changes into state law and governors have to approve them.<sup>4</sup>

So far, only Arkansas and Illinois have pushed back their presidential primary dates for 2012.<sup>5</sup>

Georgia, Florida, and New Jersey are currently considering similar bills.<sup>6</sup>

The “back-loading” movement by states could also be further complicated by the results of the 2010 elections. With gubernatorial races in 37 states and state legislative contests in 46 states this November, there are sure to be some new decision-makers entering the picture by next year.<sup>7</sup> It could also mean changes in state legislative majorities. Depending on who holds the power in state capitols and governor’s mansions, partisan discrepancies could result. Some states may find themselves in a situation where there is a state mandated primary date that does not comply with the party schedule, and resolving such dilemmas may not be easy or fair to everyone.

“At the end of the day each party will work to do what’s best for their candidates,” said Montana Secretary of State Linda McCulloch, a member of the Democratic Change Commission and co-chair of the NASS Presidential Primaries Subcommittee. “And, each state legislature will work to do what’s best for their individual state. If the DNC and RNC recommendations are similar, state legislatures are more likely to work in a bipartisan manner to establish their state’s primary dates.”

### Conclusion

While many issues are still undecided, the Republican and Democratic parties are working to address some mutually recognized problems from the 2008 presidential nominating process: The race for the White House began too early, and the calendar was extremely front-loaded. The national parties have established bodies to examine the process and make recommendations for improvements, so the process is more orderly and rational. Both the Democratic Change Commission and the RNC Temporary Delegate Selection Committee want to push back the starting date of the calendar and do more to stagger the timing of state contests, something they seem willing to work on concurrently, but secretaries of state say reforms must be adopted soon if states are to comply with any rules changes.

Meanwhile states are an important—and unpredictable—part of the equation. Even with adequate time to change their contest dates and get up to par with rules changes for 2012, there is no guarantee that states will go along with the changes. Some states may be willing to take a gamble and violate party rules to jump ahead on the calendar, as states like Florida and Michigan did in 2008. Or, states

may face legislative and partisan hurdles to adopting new primary dates for 2012. Throw in the mid-term elections this year, and the next calendar is rife with uncertainty.

In fact, there is no guarantee the national parties will ultimately act in unison. Not only are the RNC and DNC commissions facing different deadlines for adoption of their recommendations, the parties have different procedures for approving them. The Republicans also have a much higher threshold for the approval of rules changes, and because it is likely that only their party will have an active contest for their 2012 nomination, it is a shaky alliance at best. Anything can happen between now and next year, when states will begin submitting their delegate selection plans.

Yet if either party takes a go-it-alone strategy, the end result could be another presidential primary cycle that is more confusing and chaotic than the last one. For that reason alone, officials are hoping that states are giving weight to the efforts taking place at party headquarters.

“It’s my hope that the decision makers will take into consideration all the work done by the national parties—in the end, it’s about the voters,” said Michigan Secretary of State Terri Lynn Land, co-chair of the NASS Presidential Primaries Subcommittee.

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### Notes

<sup>1</sup>Linda McCulloch, “DNC Democratic Change Commission,” PowerPoint presentation to the NASS Subcommittee on Presidential Primaries, JW Marriott Hotel, Washington, D.C., January 29, 2010.

<sup>2</sup>Adam D. Krauss, “Bill Aims to Stress Primary’s Status,” *The Citizen* of Laconia, December 14, 2009, available at <http://www.citizen.com/apps/pbes.dll/article?AID=/20091214/GJNEWS02/712149932/-1/citnews>.

<sup>3</sup>Examining the 2008 calendar, 33 states held their primary or caucus in January or February.

<sup>4</sup>In 2008, most states that moved their primaries did so permanently through legislative means according to Josh Putnam’s Frontloading HQ Blog, “The 2012 Presidential Primary Calendar,” December 9, 2009, available at <http://frontloading.blogspot.com/2008/12/2012-presidential-primary-calendar.html>.

<sup>5</sup>Kevin McDermott, “Illinois Pushes Back Primaries, After Moving Them Up for Obama,” *St. Louis Post-Dispatch*, March 17, 2010, available at <http://interact.stltoday.com/blogzone/political-fix/political-fix/2010/03/illinois-pushes-back-primaries-after-moving-them-up-for-obama/>.

<sup>6</sup>New Jersey is considering legislation that would push its presidential primary back by combining it with primary elections for statewide office in June, which could become more of a trend as cash-strapped states look for ways to cut

election costs. In 2008, 16 states plus the District of Columbia held their presidential primary and state primary elections concurrently. Perhaps not surprisingly, most of these states had later dates on the primary calendar; only four states and the District held their contests in February, while six states held their contests in May.

<sup>7</sup>Pam Prah, "2010 Elections: New Faces, Daunting Problems," Stateline.org, February 11, 2010, available at <http://www.stateline.org/live/details/story?contentId=455378>.

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### About the Author

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As funny as Yang's line may have been, he was highlighting a real problem: Our process for selecting presidential nominees is badly flawed. It is, as Jonathan Rauch and Ray La Raja recently wrote in *The Atlantic*, "a spectacle that would have struck earlier generations as ludicrous." No wonder the current president is a reality-television star, not to mention the most unfit occupant of the office in our country's history. "The victory of Donald Trump in 2016 is best understood as a failure of the process," the political scientist Jonathan Bernstein has written, "and a failure of the Republican Party to prevent an outsider from taking its presidential nomination" the most important thing that U.S. political parties have.

DATE: February 11, 2016 RE: New Timing Rules for 2016 Republican Presidential Nominating Schedule. 3 v. A state may establish a minimum threshold of the percentage of votes received by a candidate that must be reached above which the candidate may receive all the delegates, provided such threshold is no lower than 50%. vi. The decision to move the entire presidential nominating calendar later to begin in February was a joint recommendation by both the Republican and Democratic committees tasked with revising the 2016 presidential nominating schedule. While some states will have to move their established presidential primary date, the RNC believes that it is

About a month ago, we here at *The Fix* wrote a primer on the calendar for the Republican presidential nominating contest, looking at which states will go when. Today, with the Saturday deadline for states to set their primaries fast approaching, we thought it worthwhile to revisit that primer. Below is an updated version, including the questions that will be answered in the coming days.

\* What are the basics? Four states have the permission of the national committees to hold their primaries and caucuses before March 6: Iowa, New Hampshire, South Carolina and Nevada. The RNC has said that any state that infringes on that quartet's early status and holds its primary before March 6 will forfeit half of its delegates at the 2016 Republican National Convention in Tampa.