

THE NEW CENTER

Policy Paper



Think Centered

American Primary Reform

CLEARING THE PATH FOR NEW PARTIES

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ABOUT THE NEW CENTER

American politics is broken, with the far left and far right making it increasingly impossible to govern. This will not change until a viable center emerges that can create an agenda that appeals to the vast majority of the American people. This is the mission of The New Center, which aims to establish the intellectual basis for a viable political center in today's America.

THE NEW CENTER

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Executive Summary

NEW CENTER SOLUTION:

Clearing the Path for New Parties

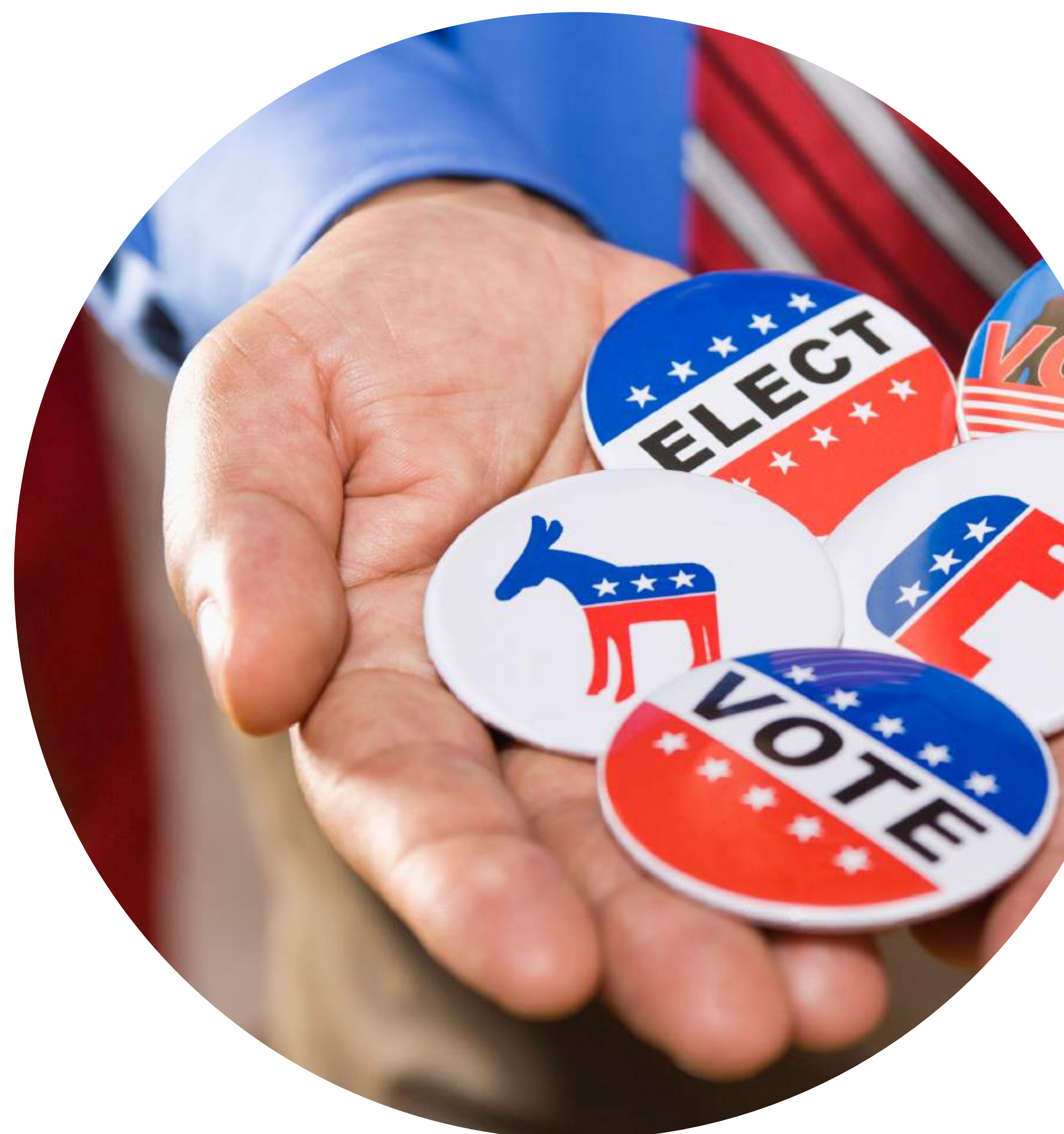
**This is part two of a three-part series on fixing America's dysfunctional primary election system.*

America's democracy is dysfunctional, and our primary election system is a major contributor to the problem. Across every level of government and nearly every U.S. state, primary rules punish small parties and independents, contribute to low voter turnout, and enable the election of unqualified or extreme candidates. Presidential primaries stand up against these issues and more, with the Democratic National Committee in particular struggling to balance party and popular control in 2020.

In an age of intensifying political antipathy, primaries could be the most urgent of electoral issues. With more and more areas of the country reliably Democratic or Republican, primary elections were the only races that mattered in 40% of state House and Assembly races in 2016, with 4,700 seats up for election but 998 Democrats and 963 Republicans running without contest from the opposing party.¹

Primaries will also be the only races that matter for 78% of seats in the U.S. House of Representatives in the 2020 elections, with The Cook Political report pegging 343 of 435 seats as safe for one party.²

With such a powerful impact, primaries amplify the voices of the few who turn out. In the 2016 presidential primaries, only 57.6 million people in a country of 200 million registered voters went to the voting booths, effectively making the choice for everyone to nominate Hillary Clinton and Donald Trump—the two most unpopular presidential candidates in recent U.S. history.³



Reforming American primaries will be difficult. It will require significant efforts on behalf of parties, state governments, and the American people alike, and will demand counterintuitive solutions. Reducing political polarization, for example, might require party vetting that lends more control of the primary process to leaders in the Democratic and Republican Parties.

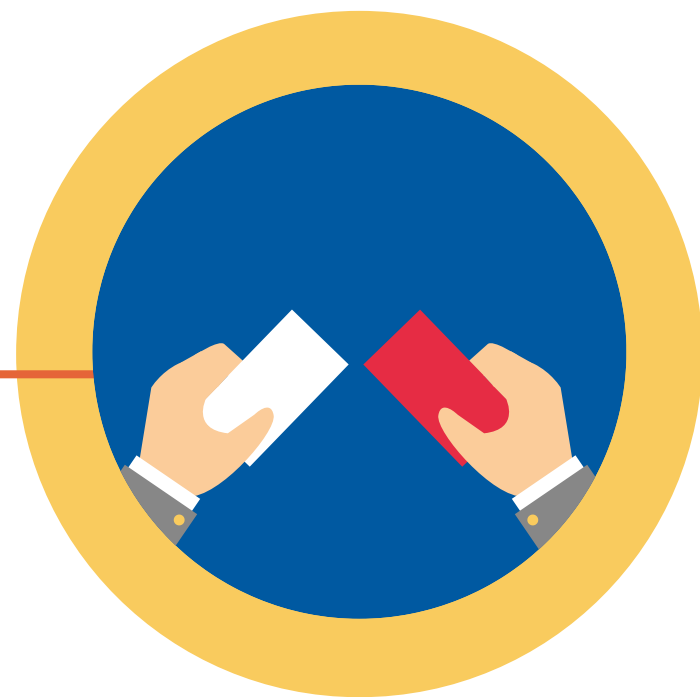
Despite these challenges, now is the time to act.

And while there's no silver bullet, The New Center suggests three avenues for reform that are likely to make our elections more representative and responsive to the needs of voters:



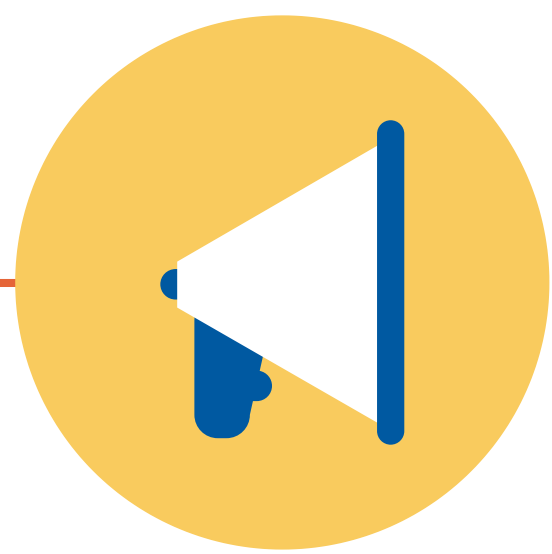
1. LETTING THE PARTIES DECIDE WHO REPRESENTS THEM

- Bring back superdelegate influence to Democratic presidential primaries
- Consider different methods for balancing superdelegate and delegate power



2. CLEARING THE PATH FOR NEW PARTIES

- Remove ballot red tape for new parties, minor parties, and independents
- Bring back "fusion" candidacies



3. INCREASING VOTER PARTICIPATION

- Eliminate caucuses
- Establish a national primary day for congressional primaries
- Create a rotating system for first primary states
- Establish a Bipartisan Board for Voter Registration
- Establish universal early voting, same-day registration, and accessible absentee voting



Clearing the Path for New Parties

Introduction: Third Parties, Third Wheel

In retrospect, the 2016 presidential election seemed ripe for the emergence of a third-party candidate.

Never before in modern U.S. history had voters so universally disliked both major-party candidates, and never before had conditions so precisely aligned for a fresh voice to woo the public.

According to Gallup, which has tracked the popularity of 26 different presidential nominees since 1956, candidates Hillary Clinton and Donald Trump scored highest of all in election-eve unfavorability.⁴

The 2016 political setting couldn't have been more perfect for an independent dark horse to gallop in and steal the race.

But it didn't. There were only two third-party candidates in 2016. Voters fancied neither. Green Party candidate Jill Stein and Libertarian Gary Johnson struggled to attract votes as they blundered through political gaffes—Stein plagued by anti-vaxxer accusations, Johnson by backlash from off-color comments.⁵ But there were technical issues, too.

Ballot access red tape meant that Jill Stein didn't even make the ballot in all 50 states and D.C.⁶ And though Gary Johnson, with a stroke of luck, managed to become the first third-party candidate since 1996 to get on all the state ballots, he still failed to land a spot in the nationally televised presidential debates: the much-coveted gateway to exposure, legitimacy, and influence.⁷

Final Pre-Election "Scalometer" Favorable Ratings of Major-Party Presidential Nominees, 1956-2016

Based on U.S. adults; ranked by % total unfavorable

Date	Nominee	Total Unfavorable % (-1 to -5)
2016 Nov 2-5	D. Trump	61
2016 Nov 2-5	H. Clinton	52
1964 Oct 8-13	B. Goldwater	47
2012 Oct 27-28	M. Romney	43
1972 Oct 13-16	G. McGovern	41
2004 Oct 22-24	J. Kerry	40
1992 Oct 23-25	G.H.W. Bush	40
2004 Oct 22-24	G.W. Bush	39
2012 Oct 27-28	B. Obama	37
1980 Oct 10-13	R. Reagan	37
2008 Oct 23-26	B. Obama	35
2008 Oct 23-26	J. McCain	35
1984 Sep 21-24	W. Mondale	34
1992 Oct 23-25	B. Clinton	33

Source: Gallup



Problems Faced by New Parties and Independents

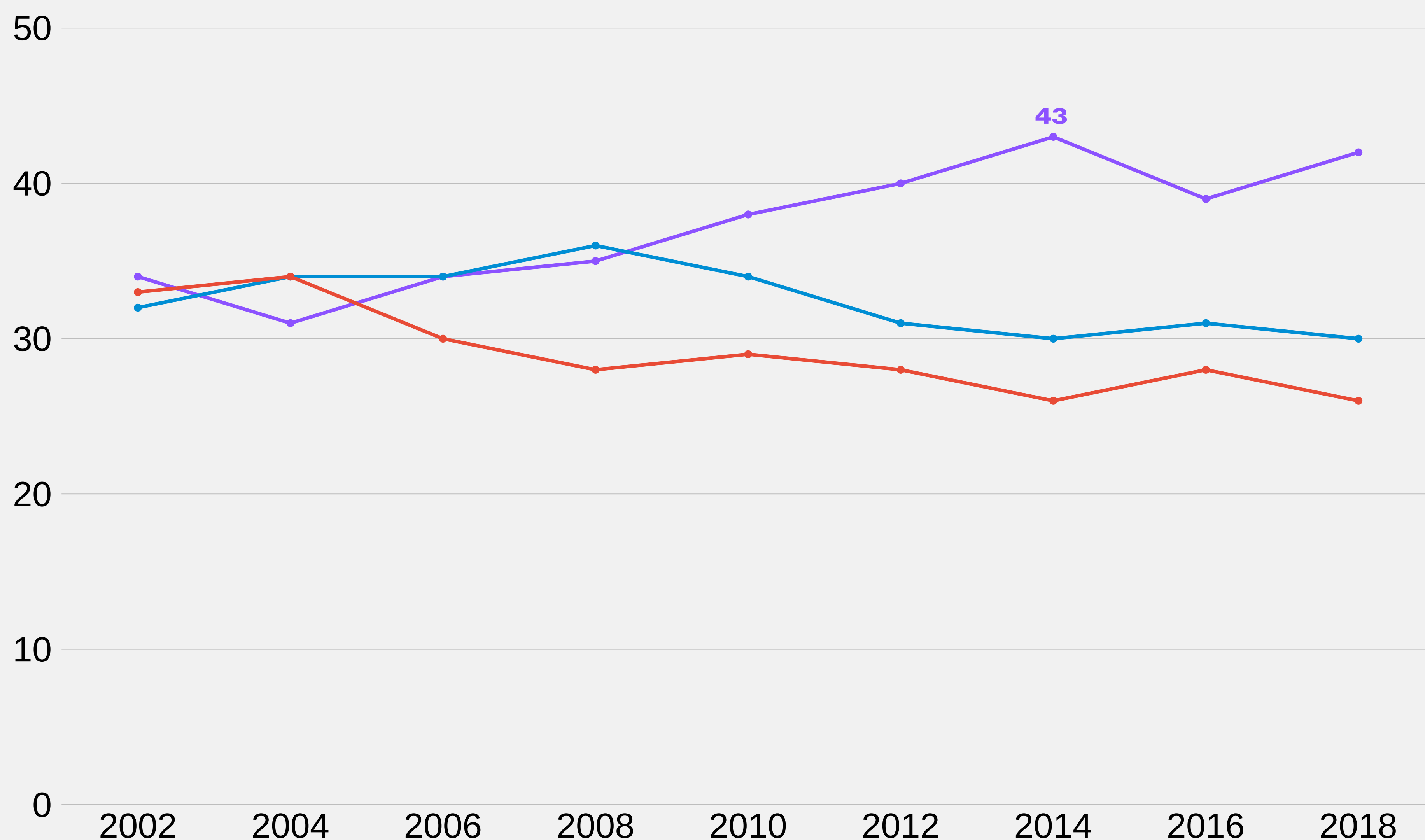
Americans Say They Want a Third Party... but Don't Want to Vote for One

Since 2013, more than half of Americans, including three quarters of independents and half of Democrats and Republicans, have said they want to see a major third party.⁹ And the share of independent voters, who reject affiliation with either party, recently reached 42%—one of the highest shares recorded.¹⁰

Despite this public support, third-party voting is on the decline, and a third-party candidate has not won a single electoral vote since 1968.

US PARTY IDENTIFICATION, YEARLY AVERAGES, 1988-2018

■ % Democrats ■ % Independents ■ % Republicans



Based on multiple-day polls conducted by telephone

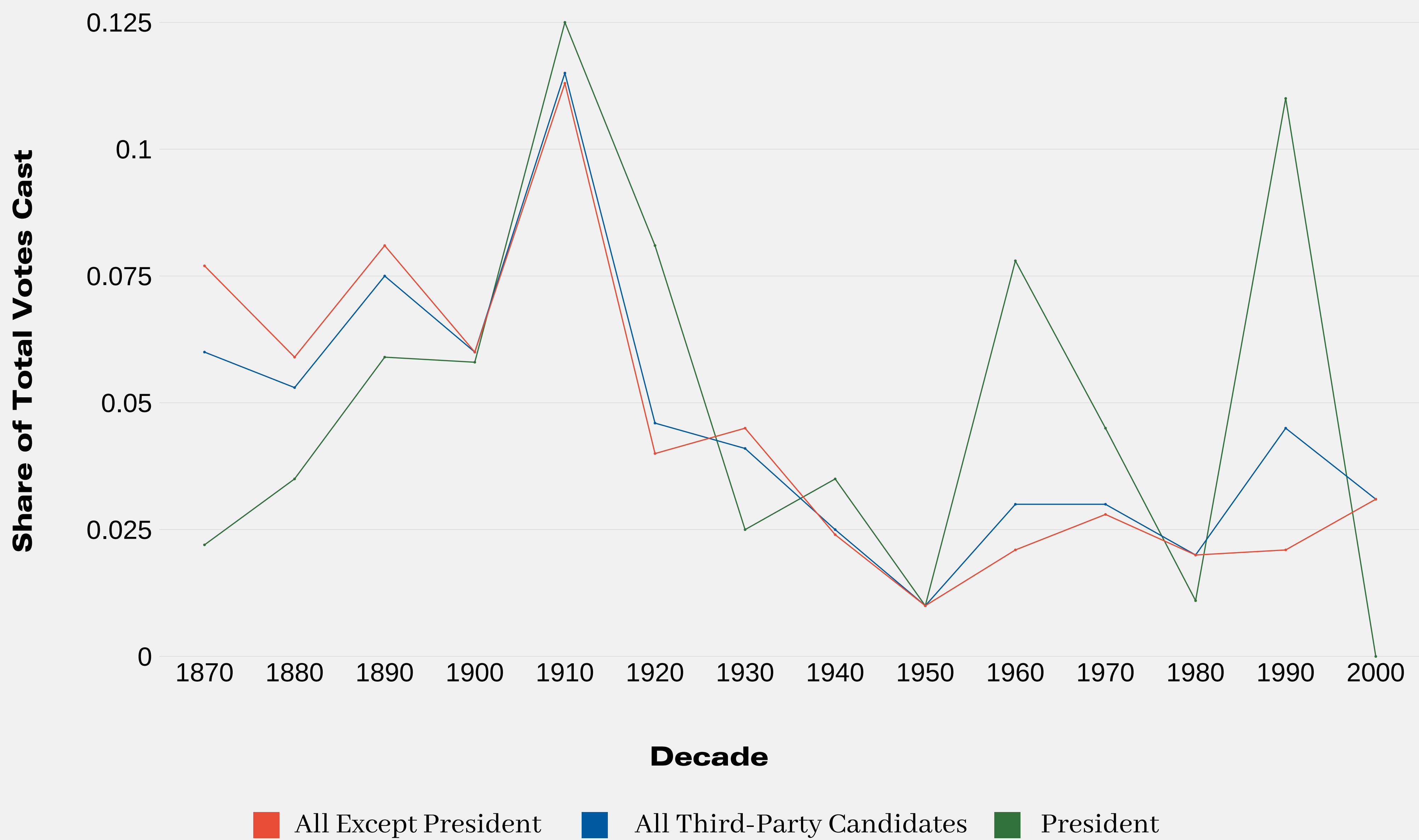
Minor parties today face two major challenges: ballot access red tape, and the tricky task of assuring Americans that third-party candidates are truly electable. While ballot access hurdles make up a significant part of the problem, they're not the biggest barrier.

In reality, the American voting system might be the toughest roadblock, as noted by business leader Katherine Gehl and competition expert Michael Porter in "Why Competition in the Politics Industry Is Failing America."¹² First-past-the-post voting or "winner-take-all" means that candidates who win over 50% of the vote win elections—a system that has rapidly evolved party incentives over time.

By creating an all-or-nothing reward system that makes the broader electorate king, it has all but extinguished the power of small parties.¹³ The result is a textbook duopoly: one that incentivizes Republicans and Democrats to cooperate to quash rivals.

By planting anti-competitive booby traps like sore loser laws and arduous petition requirements, our two major parties have constructed a political architecture that works for them uniquely.

Vote Shares for Third Party Presidential Candidates, Third Party Gubernatorial, Senator, House, and Statewide Office Candidates, and Third Party Candidates for All Five Types of Offices Between 1870 and 2000 Aggregated by Decade



This figure shows that the third party presidential candidates followed a slightly different pattern than the pattern for other offices in this study. This reflects the popularity of particular personalities that ran as third party presidential candidates.

INFORMATION



Sore Loser laws bar a candidate who failed to win a partisan primary from appearing on the general ballot as an independent.

Even if third parties build their own political structures, they won't win if Americans don't believe they can. The very name "third party" bears a subtle stigma; third parties are third place. By definition, they're tertiary to first and second. They come in third, overshadowed by two other players—and coming in third simply won't do in U.S. elections.

Americans who are dissatisfied with the duopoly should stop thinking in terms of third parties and think instead of new parties. This could empower minor parties as they strive to demonstrate the same legitimacy, clout, and winning potential as their more established peers.

THE MYTH OF THE MODERATE INDEPENDENTS

It's tempting to peg American independents, identifying as neither Republican nor Democrat, as moderates protesting two parties that have stretched too extreme over time. After all, why else would they reject the left and the right if not for want of a proper middle ground? In reality, the picture is more complex.

According to an analysis of the prospective 2020 electorate from FiveThirtyEight, self-identified independents scatter all across the political ideological spectrum, overlapping only halfway with the self-pegged moderate bloc.

Only half of independents identified as moderate, and they made up only 23% of the moderate group overall. This could pose challenges for new parties, which could struggle to capture enough votes from such a diverse independent constituency.¹⁵



Petitioning, Funding, and Sore Loser Laws



In presidential primaries, there's a slew of discriminatory hurdles for independents and new parties that differ state by state. Primary registration deadlines are one of them.

The earlier the primary registration deadline, the tougher for new parties to enter races. While Democrats and Republicans file far in advance, many voters don't become interested in new parties until after the larger players have selected candidates. By then, it's too late for minor parties to step in to meet a last-minute demand, even when the major contenders are unpopular.¹⁶

Petitioning requirements only exacerbate the timing issue. Minor parties don't all automatically have ballot slots reserved in all 50 states and D.C. like the Republicans and Democrats do. Acquiring these slots demands an extraordinary amount of time, money, and human resources sunk into scoring signatures from the registered voters of each state. Independents encounter a similar challenge, often facing formidable odds.

In Indiana, for example, Democrats and Republicans running for statewide office or president must collect only 4,500 signatures to appear on the ballot. Minor party candidates, however, need 44,935.¹⁷

The same astronomical gap occurs in Arizona, which requires Republicans and Democrats running for statewide offices to win minimums of 6,223 and 5,801 signatures, respectively—but 36,697 for independents.¹⁸

Other impediments like funding barriers and sore loser laws act like tripwires for political-hopefuls. In Colorado, political parties can give up to \$25,000 to a partisan candidate but only \$400 to an independent.¹⁹ Approximately 44 U.S. states have sore loser laws.²⁰

“Barriers to new competition include economies of scale; a well-developed infrastructure; brand recognition; deep and growing expertise and relationships; privileged access to funding; election rules and practices favoring parties; and governing rules creating party control of the legislative process.”²¹ -Gehl and Porter

The Presidential Debate Hurdle

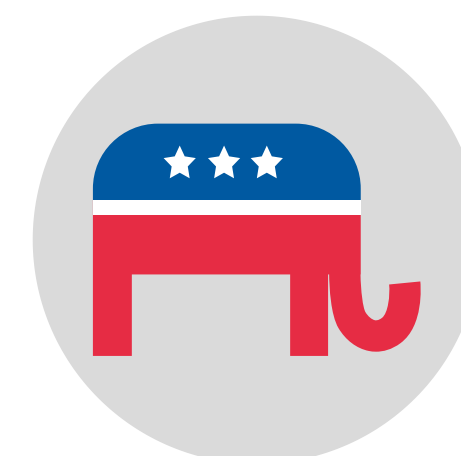


For those running for president, independents and trailblazers from new parties face a media disadvantage in the form of the nationally televised debates. The spectacle, hosted by the Commission on Presidential Debates (CPD), requires a 15% polling minimum for candidates to participate. Non-Republicans and non-Democrats who struggle to meet this standard fail to participate in what former Americans Elect chairman Peter Ackerman dubs “the key to unlocking truly competitive elections.”²²

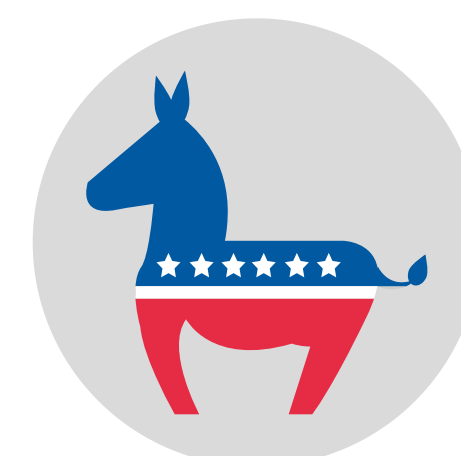
Although the CPD is a private nonprofit overseen by the Federal Election Commission (FEC), and is expected to behave in a nonpartisan fashion, CPD co-chairs have donated thousands to the Republican and Democratic Parties.

New-party evangelizer and venture capital firm manager Peter Ackerman sued the FEC over the debate rules and lost in 2019.²³

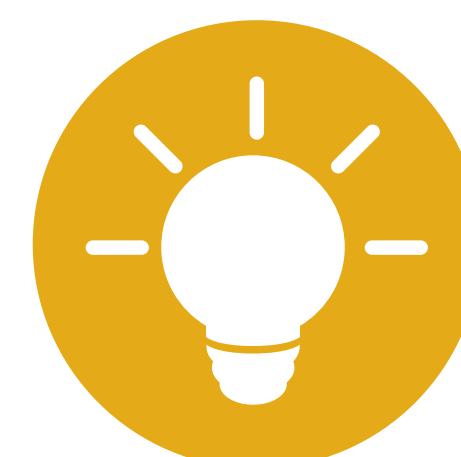
Former co-chairs of the CPD donated approximately:



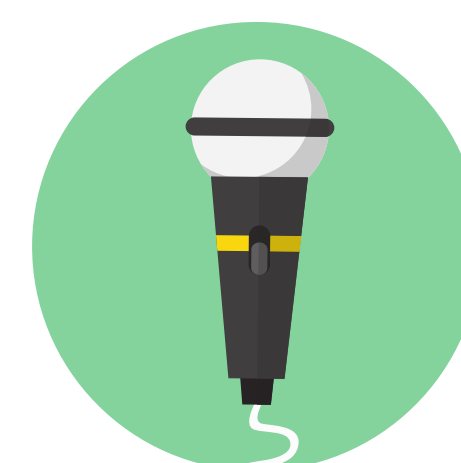
\$58,000 to the Republican Party between 2008 and 2014



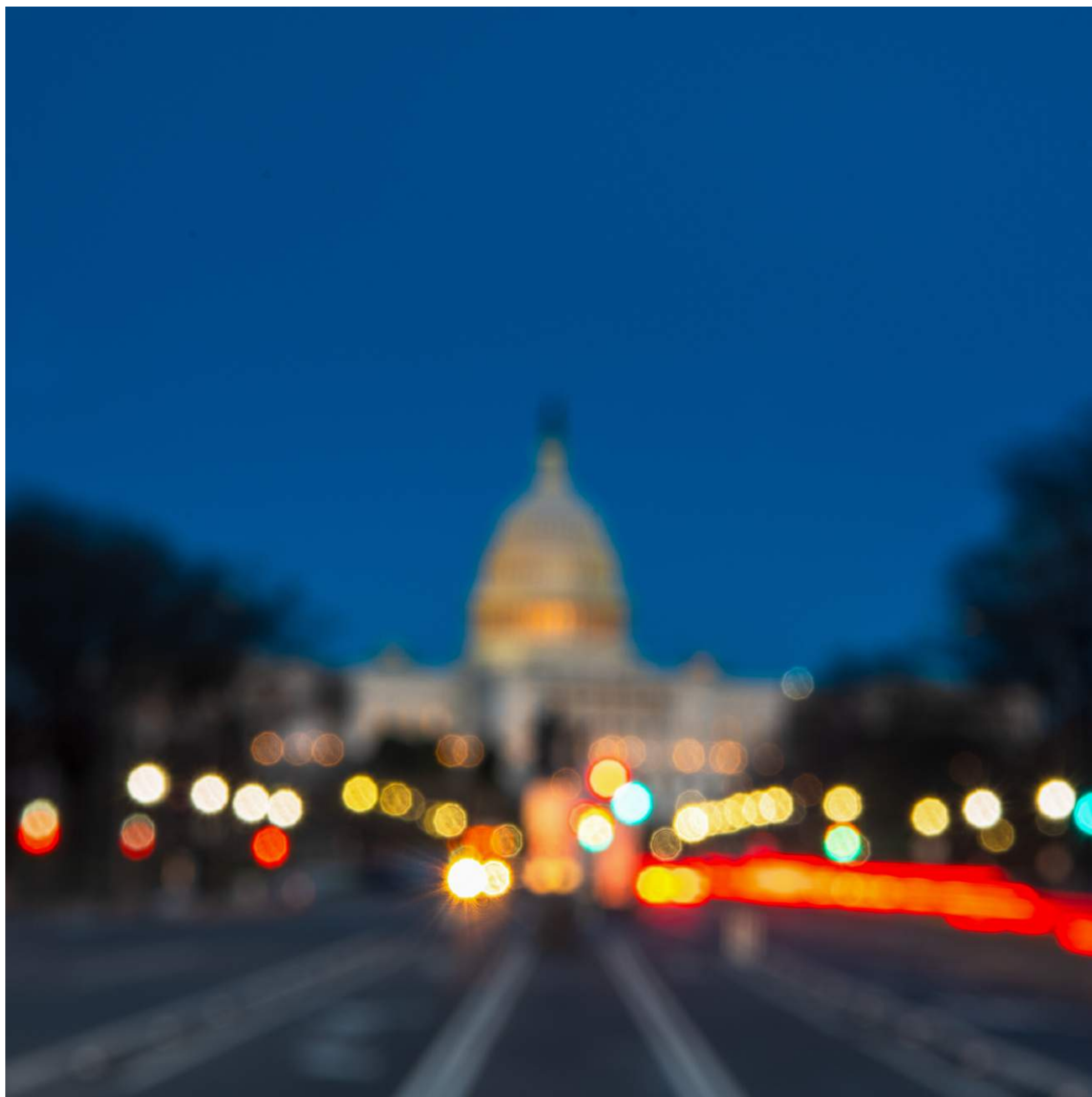
\$85,000 to Democrats between 2008 and 2012²⁴



1987: the year that former RNC Chairman Frank Fahrenkopf and former DNC Chairman Paul Kirk founded the CPD



2: the number of third-party or independent candidates to ever participate in a CPD debate (Ross Perot and running mate James Stockdale)²⁵



The Solutions



1.

ESTABLISH A SHARED FINANCIAL INFRASTRUCTURE FOR INDEPENDENTS

According to Gehl and Porter, the prescription is clear. Besides tearing down red tape, new parties and independents can only stand a chance by “establish[ing] a shared election and financing infrastructure.” This involves building organizations with resources such as staffers, campaign experts, capital, and organizational rules. For independents specifically, Americans dissatisfied with the status quo could found an organization akin to the RNC or DNC that supports, endorses, and funds independent candidates across the U.S.

Americans will only recognize the legitimacy of nontraditional candidates when they appear at all levels of government, and a shared infrastructure can make this happen.

A political framework for independents could also have the sorely-needed benefit of easing gridlock. Given this new option, Democrats and Republicans could enjoy it as a sort of back-up, knowing that failure to conform to Democratic- or Republican-touted values won't lead to total political expulsion. A fail-safe like this could encourage partisans to reach more frequently across the aisle, and free them to stray more comfortably from strict party norms. As Bill Galston and others write in a 2019 paper from the Maxwell School of Syracuse University, “If lawmakers can survive after inching away from today's partisan tribalism (even if they don't intend to leave their party), it would dramatically change the congressional dynamics that now fail our country.”²⁶

2.

BRING BACK FUSION CANDIDATES

Another solution entails jointly sponsored or “fusion” candidacies. These are commonplace in the U.K., which sees small political parties team up in order to win more seats in parliament. Once upon a time, these candidacies were also commonplace in the U.S.

Back in the 1800s, minor parties used to cooperate with major ones to form fusion candidacies that advantaged both players. In 1872, for example, the newly formed Liberal Republican party broke off from the Republicans to nominate Horace Greeley as its presidential candidate. Democrats, afraid to fracture the anti-Republican vote, nominated Greeley too. The mechanism also works for teams of multiple small parties; in 1854 in New York, no fewer than 11 political parties (“Strong Minded Women,” “Anti Rent,” “Negro,” etc.) together backed the Whigs’ pick for governor. There were hundreds of such candidacies in the 1800s and early 1900s, with over 30 states allowing them in 1890, the peak of its adoption.²⁷

Reviving this system today would ensure voters that new-party votes won’t siphon off power from the more like-minded of the two major players, paving the opponent’s path to victory.



3. REFORM BALLOT FORMATS TO SUPPORT FUSION CANDIDACIES

According to Howard Scarrow from the State University of New York at Stony Brook, sponsored candidacies would require ballot reforms. If the fusion candidate’s name appears next to a list of all the parties strung together, no one knows which one most attracted the voter—thus preventing a major party from appreciating the value of a minor party’s votes. The fusion candidate’s name would need to appear multiple times, each time next to just one party, so that tallies can demonstrate how many votes each party reined in.

Scarrow explains this with the example of New York’s fusion candidacies at the turn of the 20th century. After the state switched to the group name format in 1914, its fusion candidacies nearly vanished. The period represented a pivot point on a national scale, as anti-fusion laws cropped up state by state and extinguished the practice.²⁸

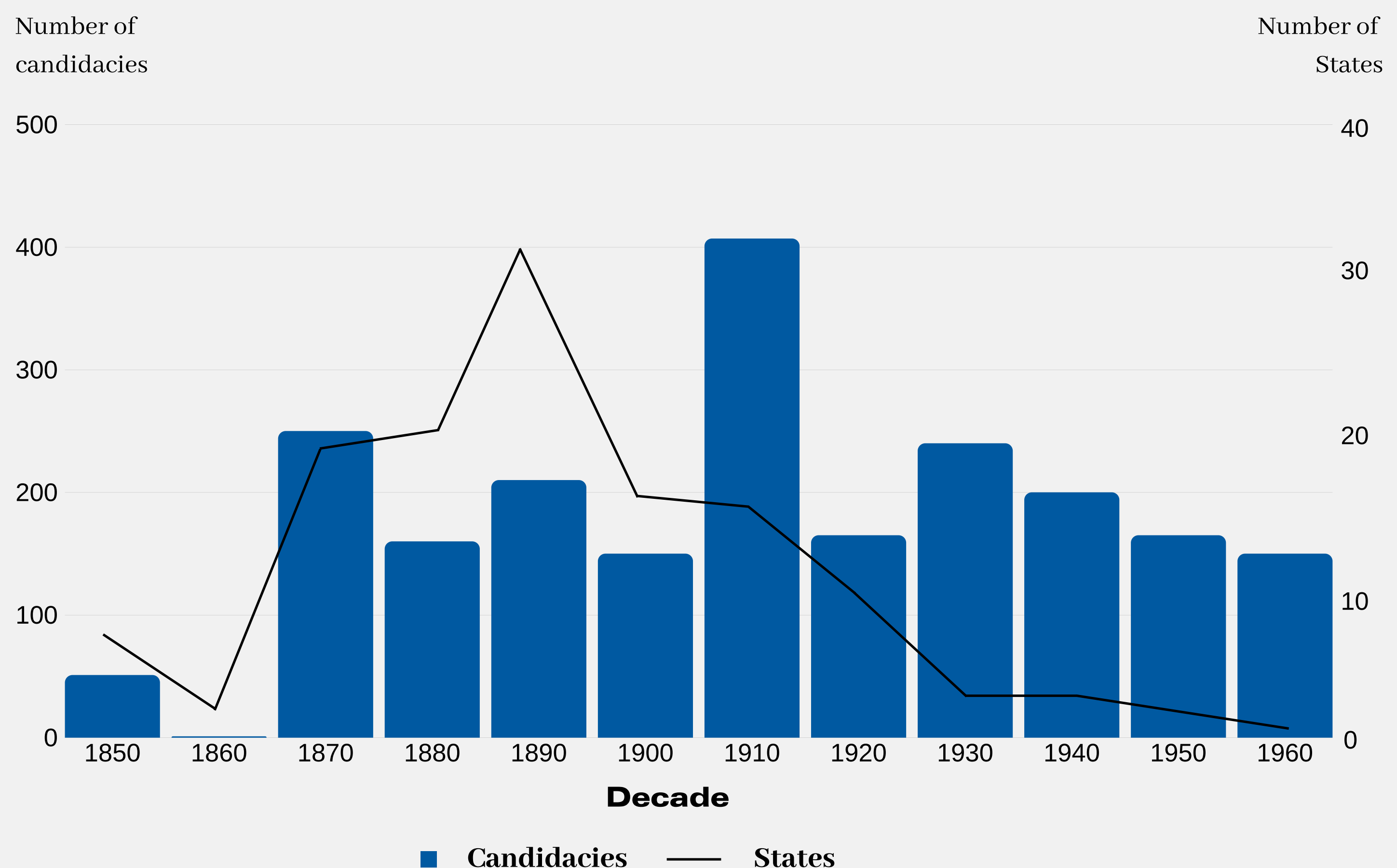
“[With visible cosponsor influence], a minor party will be able to bargain for concessions in return for it nominating the major party’s candidate as its own. These concessions may take the form of policy, patronage, or candidate choice.”

-Howard Scarrow, 1986

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In an interesting take, Howard Scarrow also suggests that America’s winner-take-all system could advantage small parties because of the elevated level of risk. If a major party loses, it loses completely—meaning it might be more willing to make concessions to muster support. As Scarrow writes, “the single-member-district-plurality system of election now becomes positively beneficial to a minor party; it is only because there is only one winner under this system that a major party may be willing to pay the price demanded.”

MINOR PARTY FUSION CANDIDACIES: CONGRESSIONAL, GUBERNATORIAL, AND SENATORIAL OFFICE, 1850s-1960s



WHAT DO FUSION BALLOTS LOOK LIKE?

To Vote a Straight Party Ticket Place a Cross (X) with Ink in the Square Opposite Your Party Emblem.

Republican Ticket.		For President, WILLIAM McKINLEY, Jr. For Vice-President, GARRET A. HOBART.
Independent Republican Ticket.		For President, WILLIAM J. BRYAN. For Vice-President, ARTHUR SEWALL.
Democratic Ticket.		For President, WILLIAM J. BRYAN. For Vice-President, ARTHUR SEWALL.
People's Party Ticket.		For President, WILLIAM J. BRYAN. For Vice-President, THOS. E. WATSON.

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In this cropped sample presidential fusion ballot published in The Salt Lake Herald in 1896, the Democratic Party and the People's Party teamed up to co-sponsor William Jennings Bryan for the Democratic presidential nomination (though with different vice presidents). Because the ballot showed both party names before William Jennings Bryan's name rather than listing Bryan's name only once, it was possible to tell how many voters went to Bryan from either the Democratic or Populist side.

STATE TICKET.		Mark in this column.
For Electors of President and Vice-President of the United States. (Vote for Three.)		
Charles W. Bennett,	Republican.	
J. D. Page,	Republican.	
Joseph A. Smith,	Republican.	
John J. Daly,	Democrat, Independent Republican.	
Henry W. Lawrence,	Democrat, People's Party, Independent Republican.	
Robert C. Lund,	Democrat, People's Party, Independent Republican.	

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In the same cropped ballot for state offices, three different parties' names appear next to two of the candidates. With the Democrats, People's Party, and Independent Republicans lumped together after candidate Henry W. Lawrence's name, the final vote count for Mr. Lawrence would fail to reveal how many votes were reined in by each of them. This ballot format disproportionately hurt small parties, eroding their power by obscuring their influence.

Summary

If new parties, minor parties, and independents hope to make a meaningful dent in our duopoly, they need to think creatively —and take a gander at the history books.

The U.S. has only recently become the rigid two-party system that it is. Duopoly-disruptors should understand this, and think strategically (and historically) about solutions.



- 1 Lieb, D. (2017, June 25). Democracy with no choices: many candidates run unopposed. Retrieved from <https://www.denverpost.com/2017/06/25/candidates-run-unopposed-voting/>
- 2 2020 House Race Ratings (2019, December 20). Retrieved from <https://cookpolitical.com/ratings/house-race-ratings>
- 3 Saad, K. (2016, November 8). Trump and Clinton finish with historically poor images. Retrieved from <https://news.gallup.com/poll/197231/trump-clinton-finish-historically-poor-images.aspx>
- Goldmacher, S. (2016, October 19). America hits new landmark: 200 million registered voters. Retrieved from <https://www.politico.com/story/2016/10/how-many-registered-voters-are-in-america-2016-229993>
- Desilver, D. (2016, June 10). Turnout was high in the 2016 primary season, but just short of 2008 record. Retrieved from <https://www.pewresearch.org/fact-tank/2016/06/10/turnout-was-high-in-the-2016-primary-season-but-just-short-of-2008-record/>
- 4 Saad, K. (2016, November 8). Trump and Clinton finish with historically poor images. Retrieved from <https://news.gallup.com/poll/197231/trump-clinton-finish-historically-poor-images.aspx>
- 5 Blake, A. (2016, October 28). Gary Johnson's cringe-worthy interview about the big Hillary Clinton email news. Retrieved from <https://www.washingtonpost.com/news/the-fix/wp/2016/10/28/gary-johnsons-criinge-worthy-interview-about-the-big-hillary-clinton-email-news/>
- Strauss, D. (2016, November 8). Jill Stein: calling be 'anti-vaxxer' is like calling Obama a secret Kenyan. Retrieved from <https://www.politico.com/story/2016/11/jill-stein-not-anti-vaccine-230941>
- 6 Americans in 48 states can cast a vote for Stein/Baraka. Retrieved from https://www.jill2016.com/ballot_access
- 7 Tau, B. (2016, September 14). Libertarian Party's Gary Johnson to appear on election ballots in all 50 states. Retrieved from <https://www.wsj.com/articles/libertarian-partys-gary-johnson-to-appear-on-election-ballots-in-all-50-states-1473828567>
- Rappeport, A. (2016, September 16). Gary Johnson and Jill Stein fail to make cut for first debate. Retrieved from <https://www.nytimes.com/2016/09/17/us/politics/gary-johnson-jill-stein-debate.html>
- 8 Saad, L. (2017, September 27). Perceived need for third major party remains high in U.S. Retrieved from <https://news.gallup.com/poll/219953/perceived-need-third-major-party-remains-high.aspx>
- 9 Saad, L. (2017, September 27). Perceived need for third major party remains high in U.S. Retrieved from <https://news.gallup.com/poll/219953/perceived-need-third-major-party-remains-high.aspx>
- 10 Jones, J. (2019, January 7). Americans continue to embrace political independence. Retrieved from <https://news.gallup.com/poll/245801/americans-continue-embrace-political-independence.aspx>
- 11 Jones, J. (2019, January 7). Americans continue to embrace political independence. Retrieved from <https://news.gallup.com/poll/245801/americans-continue-embrace-political-independence.aspx>
- 12 Gehl, K. & Porter, M. (2017, September). Why competition in the politics industry is failing America: a strategy for reinvigorating our democracy. Retrieved from <https://www.hbs.edu/competitiveness/Documents/why-competition-in-the-politics-industry-is-failing-america.pdf>
- 13 Blake, A. (2016, April 27). Why are there only two parties in American politics? Retrieved from <https://www.washingtonpost.com/news/the-fix/wp/2016/04/27/why-are-there-only-two-parties-in-american-politics/>
- 14 Hirano, S. & Snyder, J. (2006, May 12). The Decline of Third Party Voting in the United States. *The Journal of Politics*, 69(1), 1-16. <https://doi.org/10.1111/j.1468-2508.2007.00490.x>
- 15 Mercer, M. (2019, July 1). Progress stalls for minor parties to get on state ballots. Retrieved from <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/07/01/progress-stalls-for-minor-parties-to-get-on-state-ballots>
- 16 Indiana election results. (2018, November 6). Retrieved from <https://indianaenr.blob.core.usgovcloudapi.net/archive/2018General/index.html>
- Ballot access requirements for political candidates in Indiana. Retrieved from https://ballotpedia.org/Ballot_access_requirements_for_political_candidates_in_Indiana
- 2019 Election Administrator's Manual. Retrieved from <http://www.state.in.us/sos/elections/files/2019%20Election%20Administrator%27s%20Manual.Final.pdf>

- 18 Running for statewide office. Retrieved from <https://azsos.gov/elections/running-office/running-statewide-office>
- 19 Troiano, N. (2017, July 3). Why there are so few independents in office. And what we can do about it. Retrieved from <https://medium.com/@NickTroiano/why-there-are-so-few-independents-in-office-and-what-we-can-do-about-it-6143e3989579>
- 20 Galen, R. (2018, April 17). How Republicans and Democrats prevent independent candidates from getting on the ballot. Retrieved from <https://www.nbcnews.com/think/opinion/how-republicans-democrats-prevent-independent-candidates-getting-ballot-ncna866466>
- 21 Gehl, K. & Porter, M. (2017, September). Why competition in the politics industry is failing America: a strategy for reinvigorating our democracy. Retrieved from <https://www.hbs.edu/competitiveness/Documents/why-competition-in-the-politics-industry-is-failing-america.pdf>
- 22 Ackerman, P. & Shapiro, A. (2017, February 12). A victory in the battle to open presidential elections. Retrieved from https://www.realclearpolitics.com/articles/2017/02/12/a_victory_in_the_battle_to_open_presidential_elections_133060.html
- 23 Court grants FEC summary judgment in *Level the Playing Field, et al. v. FEC.* (2019, April 9). Retrieved from <https://www.fec.gov/updates/district-court-grants-fec-summary-judgment-level-the-playing-field-v-fec/>
- 24 Ackerman, P. & Shapiro, A. (2017, February 12). A victory in the battle to open presidential elections. Retrieved from https://www.realclearpolitics.com/articles/2017/02/12/a_victory_in_the_battle_to_open_presidential_elections_133060.html
- 25 Commission on presidential debates. Retrieved from https://ballotpedia.org/Commission_on_Presidential_Debates
- 26 Galston, W., Reeher, G., et al. (2019). Beyond redistricting and campaign finance: six bold ideas to rebuild our democracy. Retrieved from <https://www.maxwell.syr.edu/uploadedFiles/campbell/campbell-policy-brief-beyond-redistricting-and-campaign-finance-accessible.pdf>
- 27 Scarrow, H. (1986, December 1). Duverger's Law, Fusion, and the Decline of American "Third" Parties. *Political Research Quarterly*, 39(4), 634-647. <https://doi.org/10.1177/106591298603900405>
- 28 Scarrow, H. (1986, December 1). Duverger's Law, Fusion, and the Decline of American "Third" Parties. *Political Research Quarterly*, 39(4), 634-647. <https://doi.org/10.1177/106591298603900405>
- 29 Scarrow, H. (1986, December 1). Duverger's Law, Fusion, and the Decline of American "Third" Parties. *Political Research Quarterly*, 39(4), 634-647. <https://doi.org/10.1177/106591298603900405>
- 30 Sample ballot. (1896, October 25). *The Salt Lake Herald*. Retrieved from <https://chroniclingamerica.loc.gov/lccn/sn85058130/1896-10-25/ed-1/seq-14/>
- 31 Sample ballot. (1896, October 25). *The Salt Lake Herald*. Retrieved from <https://chroniclingamerica.loc.gov/lccn/sn85058130/1896-10-25/ed-1/seq-14/>