

# Fusion Voting: An Analysis

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## Introduction

At the request of state legislators in Maine and other states, Dēmos – a non-partisan public policy research and advocacy organization – has conducted extensive research on the implications of re-legalizing fusion voting in states across the nation. This research included:

- Interviews with election administration officials in states where fusion is currently legal.
- Legal analyses prepared by election lawyers in both fusion-legal states and in states where fusion revival bills now sit before legislative committees.
- On-the-ground examination of voting technology in states that currently have fusion voting.

In this briefing paper, we address the following issues regarding the revival of fusion voting:

- I. Fusion: Is It Good For Democracy?
- II. Technical Considerations
- III. Financial Costs
- IV. Public Education

Our research has examined a number of technical concerns raised about fusion voting and found that each can be addressed easily and at relatively low cost. In addition, in the course of conducting this project, we have come to believe that the re-introduction of fusion voting is likely to have beneficial effects on the democratic process in any state where such legislation is enacted.

We hope this paper is useful to you. We wish to thank lead author and researcher Ben Healey of our Massachusetts partner organization, the Public Policy Institute; and Myriah Pahl of Dēmos for her important interviewing and research contributions. Readers with any technical, fiscal or other questions or concerns about fusion voting should feel free to contact Ben Healey at (617) 275-2855.

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## I. Fusion: Is It Good For Democracy?

### What is Fusion Voting?

Fusion is a simple reform that gives candidates for elected office the freedom to run with the endorsement of more than one political party.

Throughout the 19<sup>th</sup> and into the early 20<sup>th</sup> century, fusion was legal in nearly every state of the union. Today, fusion voting remains technically legal in seven states, though only still implemented in a few. It is part of common electoral practice in New York, and is enjoying a revival in Connecticut and South Carolina. Fusion proponents argue that legislators should consider fusion voting as a tool for invigorating our elections and as an antidote to sinking levels of voter participation and citizens' increasing alienation from the political process.

As an election reform, fusion voting is straightforward to understand and implement: voters get a choice of candidate *and* a choice of party – and costs and technological changes – based on our survey of fusion states – are extremely modest.

The mechanics are simple. Parties gain ballot status and nominate candidates exactly as they do now. But candidates are no longer limited to seeking the nomination of the party in which they are enrolled, and may gain the nomination of more than one political party if they wish and if members of other parties support them. Candidates appear on the ballot once for each party that nominates them, and voters may choose to vote for their candidate of choice on any one of those party lines. Votes for each party are tallied separately, but all of a candidate's votes are added together to determine the winner of the election.

### How Fusion Strengthens Democracy

There are several advantages to fusion voting.

*First, fusion makes for a more informative ballot.* Today, voters do not always know where candidates stand, especially with regard to down-ballot races. With fusion, a candidate will typically have one major party endorsement, just as today, but may also have one or more minor-party lines. An endorsement from a minor party can clarify a candidate's positions and allow voters to cast a more informed vote. While it is true that organizational endorsements convey the same information, endorsements which appear right on the ballot are accessible to every voter, making the job of casting an informed vote much easier.

*Second, it gives a greater voice to citizens who feel alienated from the political process.* Other voters may be better informed but don't vote because they don't feel well-represented by either of the major parties. In addition, a significant minority of voters choose to support independent third party candidates instead of the Democrats or Republicans in many elections. Today, those votes only rarely—if ever—help to elect candidates or influence policy. Minor party supporters are a smaller group, it is true, but many of them are highly motivated and engaged, and may have valuable ideas that would enrich our public life. Moreover, all are citizens who deserve a voice in government. By allowing minor parties to support candidates who have a real chance

of winning, and allowing all voters to vote on their own party's line for their candidate of choice, fusion voting gives them a more constructive role to play in state and local politics.

*And third, it solves the “spoiler” problem facing minor parties and their supporters under the system that most states currently have in place.* Under the current (non-fusion) system, minor parties sometimes become “spoilers,” allowing a candidate to win even when they're opposed by the majority of the electorate. Obviously, this is bad for democracy. Fusion voting solves this problem, because it allows everyone to vote for the party they believe in and for a candidate with a real chance of winning.

## II. Technical Considerations

### How Fusion Votes Are Counted

We spoke to officials in three states that currently have fusion voting in place, and each assured us that counting votes for a single candidate who enjoys support from more than one party has not required significantly more work in their offices. Because voting technology varies in different states, these three responses do not address all eventualities. What is clear, however, is that the addition of fusion voting does not necessarily include additional work or expense.

**New York:** Anna Sivicro, Director of Election Operations for New York State, described the election-reporting process as requiring no more work on the part of the local or state election agencies in New York. Local election inspectors fill in a canvass report with spaces for the total under each party and office (as of the 2006 election, voting was still done on mechanical lever machines, with emergency paper ballots used in cases of machine malfunction). The reports are sent to the county board of elections where they are entered into a computer and tabulated. She can be reached at (518) 473-5086 and would be happy to answer any questions and/or share any of their materials.

**Connecticut:** Michael Kozik, the Managing Attorney for the Legislation and Elections Administration Division of the Secretary of State's office, said that there has been no additional cost to the state resulting from the recent reemergence of fusion candidacies. Although fusion was never outlawed in Connecticut, it had been used infrequently until 2002. In 2006, the State began switching from mechanical lever to AccuVote optical scan machines, which were used in 36 municipalities. According to Kozik, fusion candidacies did not cause any additional cost or hardship in any municipality. Their machines produced subtotals for each cross-endorsed candidate by party as well as totals for each candidate. Kozik can be reached at (860) 509-6100.

**South Carolina:** In South Carolina, fusion had rarely been used until last year, when five candidates ran with two party endorsements. Garry Baum, the Public Information Director at the State Elections Commission, reports that South Carolina began using ES&S iVotronic machines in every precinct in the state in 2006. Absentee voters that vote by mail used optical scan ballots. Baum says there was no additional cost or difficulty in counting votes. The machines automatically count the votes that are cast for each party. Both Baum and Chris Whitmire, the Public Information Officer, are available to discuss this issue further at (803) 734-9060.

## Double Votes

As we all know, people do not always read instructions. Voters occasionally try to vote more than once for the same office, and if their preferred candidate shows up multiple times, you might expect them to make that mistake with greater frequency.

Officials in the three states where fusion voting is now used report that double-voting does not happen frequently. Nevertheless, the question of how to count double-votes when they do occur remains a concern. There are three ways these states have dealt with the double-vote issue.

- In New York, a ballot that has two votes for the same candidate gets recorded as a vote for the candidate but for no party.
- In Connecticut, the Secretary of State this year instructed clerks to count double-votes as votes for the candidate under the smaller party, on the assumption that the voter intended to vote for the smaller party.
- In South Carolina, the new machines do not permit double votes. The machine requires the voter to cast but one vote, or to not vote at all.

In all three states, the current systems ensure that the voter's choice of candidate is counted.

Furthermore, it is worth relating here the views of John Silvestro, President of LHS Associates. Mr. Silvestro's company, based in Methuen, Massachusetts, is the largest provider of automated election services in the Northeast, serving over 400 municipalities across Maine, New Hampshire, Vermont, Massachusetts and Connecticut. When asked to comment on the problem of double-votes with the optical scan machines he now provides, Mr. Silvestro offered this comment: "The way the system is designed, the way the software is written, the individual only gets one vote. Using the technology we have, double-voting is not a problem."

Mr. Silvestro, whose company was universally praised by every town clerk and state election official with whom we spoke, offered to make himself available to anyone with further concerns at (888) 547-8683.

It should be noted that while election administrators can address double voting by pointing out to the voter that he has voted twice and asking the voter to make a correction before leaving the polling place, clear guidelines and policies need to be addressed where voting is done through absentee ballots or vote-by-mail systems.

## Upgrading Machines

We also addressed concerns about the perceived need to upgrade machines.

As Demos staff has already testified before the Maine legislature, the legalization of fusion presents no reason for precincts that currently count votes by hand to switch to electronic machines. Also, adopting this reform would not require the machines to accept multiple votes for a candidate if they currently do not; any provision in any piece of legislation for counting double-votes would only refer to hand-counted paper ballots (or other ballot types) where such double-voting cannot be prevented.

In this survey of fusion states, we came across no machines that prevent a candidate's name from being listed under more than one party. Connecticut and South Carolina have had no problems with AccuVote Optical Scan or with ES&S iVotronic machines. Likewise, in New York's exploration of electronic voting machines for HAVA compliance, they have not found any that are incompatible with fusion voting.

#### How Parties Nominate Candidates

Another concern articulated has been about the procedure for nominating candidates from different parties, and whether it would greatly increase the workload of clerks. Different states handle nominations of candidates from different parties in distinct ways, but in every fusion state, fusion voting adds no more work for local or state agencies or clerks than that which accompanies any independent or third-party candidate nomination.

- In New York, candidates must file petitions signed by five percent of the voters in the nominating party who reside in the relevant district. A candidate nominated by more than one party must file separate petitions signed by registrants in each party. Also, in order for candidates to appear on the ballot line of a party in which they are not registered, they must also file a "certificate of authorization" signed by the officers of the other party.
- In Connecticut, minor parties must hold a publicly announced meeting and file a statement of nomination with the Secretary of State's office by a certain deadline. There is no special paperwork that the party needs to fill out when nominating a candidate from a different party.
- In South Carolina, candidates file statements of intention of candidacy for each of the parties by which they wish to be nominated. Parties hold publicly announced nominating conventions, and each party files its certificate of candidates with county and state election commissions by the required dates. There is no party registration in South Carolina.

In all three states, fusion nominations are entirely voluntary—that is, the candidate must want the minor party nomination, just as the minor party must want the candidate to be its standard-bearer. This protects both the candidates and the parties, be they major or minor.

### **Fusion and Nominations: Does Fusion Increase Electoral Administrative Burdens?**

A final technical concern is whether the legalization of fusion would create many more candidacies, thereby increasing the costs of printing ballots and the workloads of local clerks. When we raised this concern to the elections officials in New York and South Carolina, both thought that any such cost increase would be negligible.

In South Carolina, where a new party recently began using fusion, the state added a space to the ballots for the new party, just as they would for any other new party, but the cost of doing so was miniscule.

In New York, election officials explain that most of the burden is on candidates, who need to collect many more petition signatures to qualify as the nominee of more than one party. “It’s more work for the candidates, but not for the Board of Elections,” said one Board of Elections official. Of course, candidates undertake this work voluntarily as a means of communicating their issue positions and breadth of support to the electorate.

### III. Financial Costs

Election officials are understandably concerned about any legislative changes that could increase public costs in any significant way. We investigated how a fusion voting system affects:

- the cost of printing ballots,
- the cost of arranging ballot layouts,
- printing longer ballots,
- tallying the votes, and
- the cost of programming machines that tally the votes.

Each official with whom we spoke during the course of our research said that the costs relating to fusion voting were minimal, and in some cases a one-time only expense.

Gary Baum of the State Election Commission in South Carolina suggested that the primary cost would be the programming of the machines to count fusion ballots. However, he immediately noted that there are ballots with independent candidacies whether there is fusion or not, and he therefore believes the additional cost of allowing fusion voting is negligible.

Michael Kozik of the Legislation and Election Administration Division in the Connecticut Secretary of State’s office discussed the costs associated with fusion in a similar way, suggesting that it was hard to pinpoint any actual costs because they were so small. Nonetheless, the primary cost he could think of would be the possibility of longer ballots increasing printing costs slightly. Because machines do the tallying, he made clear that there would not be an additional cost associated with that phase of the election.

Also in Connecticut, Al Lenge of the State Election Enforcement Commission discounted the prospect of any major costs associated with fusion. He thought that a more complicated ballot layout might increase the printing costs. Furthermore, he guessed that the cost of programming the machines so that a single name could appear in multiple places but not get counted twice *could* be greater than the cost of an election in states without fusion.

Given that state officials could give us no accurate dollar figure on costs—because they appeared so very minor—we asked John Silvestro of LHS Associates if he could give us an actual dollar figure.

According to Silvestro, each new candidate “key” associated with a fusion candidacy costs only \$6.50 per town. However, he insisted that we understand that if an independent third party was going to run its own candidate anyway, this would not represent a new cost at all.

For clarity's sake, it is important to note that the costs Silvestro cites apply to his business specifically, and their use of certain optical scan voting machines that his company provides (chiefly the Optech IIIp and the AccuVote OS Model D). There seems to be no reason to assume that those costs would be different for any other companies, though states contemplating fusion would want to discuss the matter with their machine provider, and/or raise the question before purchasing new voting machines.

## IV. Voter Education

Beyond the costs of technology, implementation of fusion voting seems remarkably inexpensive on the implementation side. Neither Connecticut nor South Carolina has incurred any fusion-related expenses that officials could identify in terms of either additional staff training or voter education.

Last year in South Carolina, after fusion candidacies occurred for the first time in some years, the State Elections Commission received calls from voters who wondered why some candidates were appearing more than once on the ballot, whether it was legal, and whether the votes from two ballot lines would be added together to get the candidate's total. In each case they were able to explain it, but officials agree that it would help to publish a fact sheet that informs voters and candidates about the new law at the outset—perhaps for inclusion in existing voter guide materials.

Therefore, in response to inquiries about how hard it might be to educate voters about fusion voting, we have worked with a small group of election lawyers to come up with some basic language. What follows below is, of course, simply draft language, but it does convey the ease with which voter education on this subject could be conducted.

### *1. Sample Public Education Language*

The following, or a version thereof, could easily appear as instructions to voters at polling places, on a postcard mailed to every household, or as part of a larger package such as a state voter guide:

**“A state law passed in 2007 allows candidates for public office to accept the nomination of more than one political party. This means that some candidates' names might appear on the ballot multiple times, once for each party nomination that they have received. The votes that the candidate receives on each party's ballot line are tallied separately but then added together to determine the outcome of the election.**

**IN EACH RACE, YOU SHOULD VOTE ONCE FOR THE CANDIDATE OF YOUR CHOICE ON THE BALLOT LINE OF YOUR CHOICE.”**

### *2. Sample Ballot Instructions*

Furthermore, the following, or a version thereof, could easily appear as instructions to voters on the ballot itself (for an optical scan voting machine, for example):

**“Completely fill in ONE circle to indicate the candidate of your choice, on the ballot line of your choice. If your preferred candidate appears on the ballot multiple times, still fill in only ONE circle, which will indicate both your candidate and your party of choice.”**

## CONCLUSION

The question of electoral reform is by now a constant in American political life. This is a healthy development, as it demonstrates that elected officials, election administrators and the voting public now appreciate, as never before, how the very rules of democracy are important.

Fusion Voting is a simple and inexpensive reform that state legislators should consider as they try to improve electoral rules in their states. This year, legislators in several states are examining the possibility of reviving fusion voting. We hope this report aids in that process.

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### Related Resources



A Demos briefing book, with state- and federal-level application, to help elected officials advance new policies that promote electoral participation



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### About Dēmos

Dēmos: A Network for Ideas & Action is a non-partisan public policy research and advocacy organization committed to building an America that achieves its highest democratic ideals. We believe this requires a democracy that is robust and inclusive, with high levels of electoral participation and civic engagement; an economy where prosperity and opportunity are broadly shared and disparity is reduced; and a strong and effective public sector with the capacity to plan for the future and provide for the common good. Founded in 2000, Dēmos' work combines research with advocacy—melding the commitment to ideas of a think tank with the organizing strategies of an advocacy group. *As with all Dēmos publications, the views expressed in this briefing paper do not necessarily reflect the views of the Dēmos Board of Trustees.*

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