

Fusion, Spoilers, and New York's Many Ballot Lines

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Gov. Cuomo voting (photo: Governor's Office)

New York's unique fusion voting system is again in the spotlight this year, with renewed attention in the wake of Cynthia Nixon's insurgent challenge for the Democratic gubernatorial nomination against Governor Andrew Cuomo, with the potential for vote-splitting on the left leading to a Republican victory in November. Cuomo and Nixon have each now been endorsed by a minor party with automatic general election ballot access, even as they vie for the big prize of the Democratic nomination.

Fusion voting, which allows candidates to combine the votes they receive from appearing on multiple ballot lines, is used in only eight states. But it takes its highest profile in New York, where numerous minor parties can cross-endorse rather than all having to run their own nominees, and still keep their own line on the ballot. Parties can secure a ballot line by having their gubernatorial nominee secure 50,000 votes statewide in the general election.

In New York, fusion voting has often led to individual candidates appearing on

multiple ballot lines, whereby the minor parties do not threaten to play a spoiler role by costing a major party nominee victory by siphoning a determinative number of votes. For example, the Republican and Conservative parties often back the same candidates for various offices, and they appear set to do so again in this year's gubernatorial race, behind Dutchess County Executive Marc Molinaro.

Governor Cuomo has appeared on several ballots lines in his runs for office over the years, including on the Democratic, Working Families, Women's Equality, and Independence Party lines during his 2014 reelection. This year, however, the Working Families Party has backed Cynthia Nixon, who hopes to defeat Cuomo in the Democratic primary, but may appear on the general election ballot regardless and therefore risk pulling a decisive number of votes from Cuomo in the general election. Having earned the backing of the Independence Party this year, Cuomo could do similarly if Nixon has the Democratic Party nomination.

The Green Party, which typically fields its own candidates, could also play a role, pulling some voters on the left. It is nominating Howie Hawkins again this year in the gubernatorial race. The Reform Party and Women's Equality Party have yet to settle on a nominee.

The practice of fusion voting was common in the 19th and early 20th centuries, as a means for minor organizing arms to defeat powerful Tammany Hall machine candidates. These tickets sometimes worked: the second mayor of the consolidated City of New York, Seth Low, [defeated](#) Tammany Hall Democrat Edward Shepard on a fusion Republican-Citizens Union ticket in 1901.

The Wilson-Pakula Law of 1947, passed allegedly to disempower the American Labor Party, which was accused of having ties to communists, prevented candidates from running in the primaries for different parties; instead, a candidate must gain permission from the minor party that they're not registered with in order to run on their ballot line. The alleged ties to communists caused ALP members to flock to the newer Liberal Party, which did not face the same allegations; the Democrats and Republicans did not want to grant their line to members of the ALP.

Cuomo [criticized](#) the Wilson-Pakula Law in 2013 after it came under scrutiny following Senator Malcolm Smith's alleged attempt to bribe his way onto the Republican line. Some have called for repeal of the law, but so far efforts at repeal have gone nowhere in Albany.

The minor parties gain prominence unseen in most other states due to their ability to influence the major parties, and often act more like advocacy organizations than vast political organizing machines, though some have party infrastructure. According to Gerald Benjamin, a political scientist and the Director of SUNY New Paltz's Benjamin Center, this has made New York's politics more ideological and polarized.

"There are people who believe that periphery-oriented politics is desirable," Benjamin said. "Pulling to the left and right is desirable. I think pulling to the center is desirable, having a two-party system that contains the conflict within that system is centrist." He said that the system, in a way, is "mischievous" in empowering a minority of ideologically-inclined voters to have outsized influence on the process. As

such, instead of allowing for more representation on the ballot, the third parties give their lines to major candidates and influence the platform and positions of the major parties and candidates.

Benjamin also says that the parties have become more prominent over time, though not to the degree they were in the 19th century.

“Their significance is higher than in the recent past,” Benjamin said, though he noted that the parties often have disparate periods of high significance, such as when James Buckley was elected to the U.S. Senate on only the Conservative line in 1970 or when John Lindsay won the New York City mayoralty on the Liberal line in 1969. “There have been peak moments. But systemically, and through politics at all levels, I think they’re at a pretty high level of significance relatively to history.”

Though there have been minor party successes for New York City mayor and U.S. senator, none has ever alone elected a governor of New York. The Democrats and Republicans have controlled the governorship exclusively since Whig Party member Myron Clark left office in 1856. The Whigs were one of the two major parties in the U.S. before being replaced by the Republicans in the 1850s.

The liberal Working Families Party (WFP), a coalition of left-wing activist groups and labor unions, is one of the more prominent minor parties in New York. The WFP typically cross-endorses the Democratic nominee and attempts to pull its nominees to the left. Cuomo and the WFP recently split dramatically after several activist groups involved with the party endorsed Nixon for governor, which led to unions leaving the party to side with Cuomo, reportedly [at his behest](#). The unions have provided key funding to those activist groups, whose futures are at risk, along with the larger WFP, which is taking a significant gamble on Nixon.

Cuomo and the WFP have a rocky history. Cuomo initially declined the WFP endorsement in 2010 but eventually agreed to take the line, despite their platforms not being [wholly aligned](#), especially on the issue of taxation. As such, the WFP won 50,000 votes and retained statewide ballot access.

The WFP had more leverage over Cuomo in 2014, when the party agreed to endorse him over liberal challenger Zephyr Teachout in exchange for a pledge to unify the Senate Democrats and support a more progressive platform. Cuomo did not follow through on the agreement, and also created the Women’s Equality Party, whose acronym, WEP, is very similar to WFP. His campaign urged supporters to vote for him on the Democratic or WEP lines, omitting the WFP from get-out-the-vote emails.

Having endorsed Nixon over Cuomo this year, some have raised the possibility of a vote split on the left that could land Molinaro in the Governor’s Mansion. WFP Political Director Bill Lipton, in response, declared that the party didn’t intend to act as a spoiler, [telling the Associated Press](#) that in the event Nixon loses the primary, she would “meet with our leaders, and we will make a decision that puts the interests of working families first.” However, Lipton does not think that will happen anyway.

“The more voters learn about Cynthia’s progressive values, the more they like her,” Lipton told Gotham Gazette in an email. “Working Families feels confident Cynthia

will win the Democratic Primary in September and go on to be both the Working Families and Democratic Nominees in November. The real problem is Andrew Cuomo being a spoiler. It looks like he will have the WEP and Independence Party lines - what happens when he loses the Democratic primary - is he willing to be a spoiler and elect a Republican Governor?"

The Independence Party has indeed endorsed Cuomo for the third election in a row, landing him on the November ballot no matter what. He is also likely to receive the nomination of the WEP, with the new party leader [telling Politico](#) that it's "very likely the party will support Cuomo's reelection bid." Neither the Independence Party nor the WEP responded to requests for comment for this story.

Nixon has taken notice of Cuomo's Independence Party endorsement. When asked about being a potential spoiler in Buffalo, she flipped the script, [according](#) to the Buffalo News.

"Why is nobody asking Andrew Cuomo that question, who is running on the Independence line and the Women's Equality line he created," Nixon said.

The Cuomo campaign did not respond to requests for comment from Gotham Gazette.

"Could he win without the Democrat line? Maybe," Professor Benjamin said, while noting that the governor losing the Democratic primary would be an unlikely scenario and that a continued run would be based on a future calculation by Cuomo. The most recent [poll](#), from Quinnipiac University, has Cuomo leading Nixon by 28 points. However, Benjamin conceded that Donald Trump winning the Republican nomination for president was also initially seen as exceedingly unlikely.

The Independence Party has had significant showings in both of Cuomo's elections: in 2010, it received 146,576 votes statewide, while in 2014 it received 77,762, according to the State Board of Elections. In both instances, however, it was bested by the Working Families Party in vote count.

The Independence Party is, however, by far the largest third party in New York State based on enrollment. According to the State Board of Elections' [Annual Report for 2016](#), the most recent year available, the Independence Party had 501,738 registered voters in the state, outnumbering the second largest, the Conservative Party, by almost 340,000 voters. WFP had 50,039 registered voters. The Independence Party's high membership, despite a relatively low electoral profile, is due in no small part to people mistakenly registering as Independence when meaning to register as unaffiliated, or "independent," [as shown by the Daily News in 2012](#).

Meanwhile, the [New York Times](#) has derided the Independence Party as a "bizarre and fractious political group" that "survives on confusion" of people thinking they're registering as independent. The editorial board urged Cuomo to reject its endorsement in 2014 in order to cause the party to lose its automatic place on the ballot; Cuomo did not do that.

Unlike the WFP, the Independence Party has not committed to endorsing either the Democratic or Republican nominee in the event that Cuomo loses the primary; as

such, Cuomo could theoretically continue his campaign as the Independence nominee if he loses the Democratic primary. However, like a potential Nixon campaign as the WFP nominee, a Cuomo Independence campaign against Nixon and Molinaro would allow the possibility of a vote split that would likely send Molinaro to Albany.

Cuomo's stormy history with minor parties goes back a long way. In 2002, he was endorsed for governor by the Liberal Party, but dropped out of the race before the Democratic primary. He remained on the party's line for the general election, where he failed to receive 50,000 votes and thus the Liberal Party lost its automatic place on the ballot. Historically a vehicle for candidates with the backing of labor unions, the party ceded that ground to the WFP and has not appeared on the gubernatorial ballot since Cuomo's 2002 run.

Things are looking less tense on the Republican side. Molinaro appears to have consolidated support among the state's GOP establishment; he recently won the endorsement of the Conservative Party, and his main competition for that and the Republican nomination, State Senator John DeFrancisco, recently pulled out of the race.

There's also the Reform Party, which has a history of maverick actions and public stunts by its founder and leader, Curtis Sliwa. Last year, the party publicly urged Preet Bharara to run for either mayor or governor; Bharara, the former U.S. Attorney who was fired by President Donald Trump, has instead become a renowned podcaster.

[Now, the party is apparently split](#) on endorsing either Molinaro or former Erie County Executive Joel Giambra, who mounted a brief campaign for the Republican nomination before dropping out. According to the Daily News, the party has "punted" the decision to its May 19 party convention in Queens; if the party can't make a decision there, it will hold a primary in September. In late April, it was [reported](#) that Sliwa himself was considering a run, saying he had "no other choice" if doctors give him a "clean bill of health." Democrats and Republicans will hold their nominating conventions the weekend of May 23 and 24.

"There was a motion made to table consideration of the Governor's race until the state convention so that all of the state committee members could speak with the candidates," Frank Morano, a spokesman for the Reform Party, told Gotham Gazette.

The party has its own outsized role in New York politics compared to its membership; according to the 2016 BOE report, the Reform Party has only 900 registered members in all of New York State.