

Spoilers? Evaluating the Logic Behind Partisan Disaffiliation Requirements for Independent and Third-Party Candidates

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ABSTRACT

In this article, we evaluate the rationale behind partisan disaffiliation laws, which prevent a candidate from running as an independent or from switching parties if they have not adequately severed their ties to an existing party. One prominent justification for these laws is that they help prevent voter confusion, which may result in the most preferred candidate losing. Utilizing a database of state legislative elections from 1968 to 2014, we categorize independent and third-party candidates into two groups: those who have run in the past as a Democrat or Republican, whom we refer to as former major-party candidates (FMPs), and those who have always run as a non-major party candidate (ANMs). The findings reveal that the latter appear less strategic about where to run, and they are unlikely to run again. In contrast, FMPs are much more likely to have held state legislative office and are more likely to have run multiple times; they are also more strategic, running under conditions that are advantageous for non-major party candidates. Voters react to this, giving ANMs far fewer votes than FMPs and being more apt to vote for them when “spoiling” an election is less likely. As a result, ANMs rarely deny winning candidates majorities, while FMPs who have won office in the past do so more than half the time. Our findings regarding “vote stealing” do not indicate a systematic tendency for FMPs to take substantially more votes from the party they recently left in comparison to the other major party. Overall, our findings indicate that partisan disaffiliation laws achieve the objectives they are designed to promote.

Keywords: independent, partisan disaffiliation, third party, election law

I wish I had run in the Democratic Primary.

—Statement by independent mayoral candidate Thomas M. Bernabei
at Stark County Election Board hearing, July 6, 2015

But if I leave, if I go, regardless of independent, which I may do—I mean, may or may not. But if I go, I will tell you, these millions of people that joined, they’re all coming with me.

—Donald Trump, March 3, 2016

THE UNITED STATES FEDERAL AND STATE governments generally have loose regulations concerning our nation’s elections, but some minimal regulations exist to avoid outright corruption and situations where elections produce winners who

are widely disliked by the public.¹ For the former, there is a general consensus that politicians should

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¹The danger of a candidate winning office in the United States without a majority or a very strong plurality (say, greater than 48% of the vote) is quite small, but in first-past-the-post systems with multiple parties, candidates often win seats with well under 50% of the vote. This can create a situation where the public is not happy with the victors, which led to reform in New Zealand (e.g., Nagel 1994) and failed efforts at reform in Canada (e.g., LeDuc 2009) and the UK (e.g., Curtice 2013).

not be able to bribe voters with actual payments, stuff ballot boxes, and allow people to vote twice. But for the latter, not all would agree with how far regulations should go to safeguard against the public choosing candidates they “don’t really like.”

A situation where this is more likely involves what we label FMPs, or former major-party candidates, who run as independents or on third-party labels. States do, though, have provisions in place that restrict this behavior. Many have sore loser laws, which prevent candidates who lose in a primary from jumping onto an independent or third-party line to run in the general election; others also have disaffiliation requirements, where one must leave a party well in advance of the primary to be an independent (or be associated with a party for a period of time, if one chooses to switch to a minor party). These latter laws have been upheld by courts as constitutional limits that help sustain the viability and integrity of the electoral process (*Storer v. Brown* 1974; *Curry v. Buescher* 2010). Judges have ruled in favor of such laws by referring to the compelling state interest of preventing “splintered parties” and avoiding “voter confusion.”

Yet, no study has systematically evaluated the role recent major-party defectors, running as non-major party candidates, have on elections. If these types of candidacies create electoral confusion, leading to candidates winning with weak pluralities and major-party candidates winning in districts traditionally won by the other party, then there is evidence that the legal reasoning behind these decisions carries some weight. If, however, these types of candidates do not create these issues when they run for office, then one might question the value of maintaining such restrictions. Therefore, this study is interested in the *use* of non-major party labels by FMPs, with the understanding that the term “non-major party” is inclusive enough to refer to both third parties and independents. The use of these labels, by FMPs, is studied in contrast to those candidates who use these labels but were always non-major party candidates, or what we label ANMs.

To study the degree to which FMPs are different from other non-major party candidates, we utilize state legislative returns from 1968–2014, often restricting the analyses to 1978–2014, as appropriate. In terms of differentiating the types of candidates, we find clear evidence that FMPs run under different conditions than other non-major party candidates, which suggests that there is a tendency for the motivations

behind FMP and ANM campaigns to differ. FMPs also receive much higher percentages of the vote; voters are sophisticated enough to refrain from giving many votes to ANMs. Because of this, FMPs are more likely to deny a winning candidate a majority of the vote than are ANMs. This means that their potential to “spoil” elections, and cause the most preferred candidate to lose, is much greater. However, we do not find that FMPs consistently take substantially more votes from the party they just left than the other major party.

Overall, the results signal that the rationale behind partisan disaffiliation laws is supported, when considering how FMPs often deny candidates majorities. In the process of assessing the rationale behind partisan disaffiliation laws, we also find evidence that scholars should pay more attention to non-major party candidates’ past experiences when studying such campaigns, as FMPs are clearly different than ANMs in important ways. We also provide several insights for the study of non-major party candidates generally, that have not been systematically evaluated in prior research.

REGULATING NON-MAJOR PARTY CANDIDACIES

Since the adoption of the Australian ballot, and even previous to this, political parties and state governments sought to regulate who is, and who is not, a candidate for office. Prior to governments taking control of the ballot, political parties and candidates could produce ballots themselves. Needless to say, this led to a wide array of techniques to advantage one party or candidate over another, including the circulation of party ballots with the wrong party name at the top of the ballot and efforts by rogue partisans who created ballots with their own names in place of official party nominees.

Starting in the late 1800s and early 1900s, much to the advantage of the major parties (Argersinger 1980; Reynolds and McCormick 1986; Ware 2000), ballots fell under government rules and regulations. Third parties now faced barriers to entry, such as signature requirements, payments, and vote totals that must be reached in order to keep the party on the ballot. Independent candidates, or those running without party labels, were also subject to such restrictions. And, while the decline in third-party voting from its peak in the late 1800s and early 1900s to today is not caused, at least

directly, by these ballot restrictions (see Hirano and Snyder 2007; Tamas and Hindman 2014), it clearly changed how third parties and independents engaged in elections.

These rules and restrictions remain, and have been found to limit the number of non-major party candidacies, especially through signature requirements (Lem and Dowling 2006) but also filing fees (Smith 2014). This does not mean, though, that they ultimately affect outcomes for candidates who make it on the ballot. Burden (2007) found that higher signature requirements for ballot access decrease the number of third-party candidates but do not significantly affect their vote totals; Lee's (2012a) research agrees with the first part but finds evidence that higher signature requirements lead to increased vote totals for those who get on the ballot. In Florida, where a 1998 voter-approved amendment made ballot access easier, Schraufnagel and Milita (2010) find evidence of more non-major party candidates but no effect on performance at the polls. Thus, despite variations in ballot access, success is limited in terms of voting.²

Still, these ballot restrictions do not merely hinder outsider candidates; they limit the actions of partisan politicians, angered by their own parties. Prior to the Australian ballot, these politicians could simply produce their own ballots or circulate "pasters" to add their name to a regular party ballot. But in modern elections, this is not possible; they need to find other ways onto the ballot. This requires winning a third-party nomination, but there needs to be a party with ballot access that is also amenable to their goals. Otherwise, launching an independent campaign, without party support, makes sense. However, "sore loser laws," in the vast majority of states, bar candidates who lose in primary elections from entering the general election on another ballot line. Decisions to run without party support, then, must often be made well in advance of an election year.

These laws signal that states believe a balance is needed between competitiveness and freedom of association on the one hand, and the danger of ballot manipulation and voter confusion on the other. While there is a need to allow candidates and politicians some flexibility in choosing which parties to align with, or no party affiliation if they so choose, it seems prudent to prevent efforts by politicians to obfuscate voters—intentionally or not—by changing or abandoning a party. In those cases, the health

of a democracy is at risk; the public expects that elections be run fairly and without efforts to confuse, and this is one way that could chip away at perceptions of electoral legitimacy.

High profile cases, where major-party candidates switch to an independent label to maintain ballot access, have occurred. Charlie Crist, the Republican governor of Florida, left his party in 2010 in his bid for Senate when it became clear he would not win the primary against Marco Rubio (Cillizza 2014). He did not disassociate with the Republican Party until 12 days after he entered the race as a no party affiliation, or NPA, candidate (Florida Senate Interim Report 2011-119 2010).

To limit such maneuvering, some states have adopted disaffiliation requirements to require that candidates are not affiliated with a party before running as an independent. The rationale put forth to defend disaffiliation requirements has relied quite heavily on the state's ability to maintain the integrity of the process. This rationale was espoused in *Storer v. Brown* (1974), when the Supreme Court ruled in favor of the state of California's partisan disaffiliation laws. Those writing the Court's majority opinion argued that states had the option of limiting the associational rights of candidates in order to protect the primary process and the potential use of independent lines by disgruntled party members:

It [the law in question] protects the direct primary process by refusing to recognize independent candidates who do not make early plans to leave a party and take the alternative course to the ballot. It works against independent candidacies prompted by short-range political goals, pique, or personal quarrel. It is also a substantial barrier to a party fielding an "independent" candidate to capture and bleed off votes in the general election that might well go to another party. (*Storer v. Brown* 1974, 725)

Even the dissenting opinion agreed there were "compelling state interests" (*Storer v. Brown* 1974, 760) in regulating the ballot. The dissent itself was focused on the burden placed on potential

²Nevertheless, third-party and independent campaigns are important despite rarely winning (Gillespie 1993, 2012; Rosentone et al. 1996; Rapoport and Stone 2008; Schraufnagel 2011; Lee 2012b).

candidates; it was suggested that twelve months in advance is much too far away from the primary elections which the state seeks to keep protected. But, even in the dissent, there was agreement that the state's use of partisan disaffiliation laws was one method for helping to retain electoral integrity. Political parties do retain some say over candidate selection, though. The *Tashjian v. Republican Party of Connecticut* (1986) decision allows political party by-laws to specify when other candidates may be invited to run under their party banner, regardless of length of affiliation/disaffiliation.

Even with this ability, cases involving partisan disaffiliation persist. And, in these other court cases, at various levels of the judicial system, the main thrust of the *Storer* decision has been upheld (*Davis v. State Election Board of Oklahoma* 1988; *Van Susteren v. Jones* 2003; *South Dakota Libertarian Party v. Gant* 2014; but see *Anderson v. Celebrezze* 1980 on presidential ballot access).

One recent example is in *Curry v. Buescher* (2010), where the U.S. Court of Appeals for the Tenth Circuit sided with the secretary of state of Colorado, who denied state legislative candidate Kathleen Curry access to the ballot because she had not disaffiliated with the Democratic Party far enough in advance to qualify for an independent line. The justices cited much of the logic from the *Storer* case in upholding the partisan disaffiliation law, also noting similar challenges in the state that found these laws to be constitutional (see *Thournir v. Meyer* 1986; *Colorado Libertarian Party v. Secretary of State of Colorado* 1991). Furthermore, the decision mentions the *Tashjian* (1986) case, as the Democratic Party of Colorado has different provisions for running under its party label than the Republican Party. Ultimately, the court's decision stated, "Thus, we conclude that Colorado's compelling interest in political stability... outweighs her [Curry's] interest in pursuing an independent candidacy after the statutory deadline" (*Curry v. Buescher* 2010).

This logic has also been adopted elsewhere. For example, a 1999 analysis from the Minnesota State House Research Department described how a partisan disaffiliation law would help in "protecting the integrity of the political party process," in part to stop the possibility of a subversive independent candidate, pushed by one political party over another, and for "protecting the integrity of the electoral process," so that one could ascertain whether or not "a candidate is truly independent" (McKnight 1999).

Similar sentiments are found in a Florida Senate report on partisan disaffiliation, too (Florida Senate Interim Report 2011-119 2010). And, while neither state has made these changes to date, the logic used by these state government services, and relied on by politicians, is a direct descendent of the logic presented in the *Storer* decision.

Thus, while one can debate the merits of these requirements and the proper period of time for disaffiliation, the courts have upheld these provisions in numerous cases. Yet, some states have chosen not to implement these requirements; candidates can move from party to party, or from party to unaffiliated, with ease. But, the reason consistently given for sore loser laws and disaffiliation requirements is that the presence of independent or third-party candidates who are choosing these options for electoral reasons is potentially putting the integrity of the process at risk.

Table 1 displays partisan disaffiliation requirements in place, as of 2015, for both independent and minor-party candidates. States that do not have partisan disaffiliation laws are excluded from the table. Fifteen states have disaffiliation requirements for independent candidates, while twelve have disaffiliation requirements for minor-party candidates.³ While a few states simply require that an independent candidate must be non-affiliated by the time they submit petitions for nomination, a number require much longer periods. For example, Kentucky law says that a potential candidate must be disaffiliated from a political party before January 1 of an election year or not be eligible to run as an independent. Additionally, a few states have special provisions. For example, Montana's partisan disaffiliation law appears only to apply to those who have held, or did hold, public office or a position of power in a party; just having been a party member, and perhaps an active member, is not enough. Needless to say, the landscape varies considerably for those states with disaffiliation requirements.

Partisan disaffiliation laws are obviously similar to sore loser provisions. Today, only three states (New York, Connecticut, and Iowa) do not have

³It should be noted that the landscape for minor parties is more problematic than the chart shows, due to the various laws in place regulating party status. Thus, depending on statutes in place, and based on a party's performance or number of members, a non-major party could find itself forced to adhere to the restrictions in the major, minor, or independent columns listed in Table 1.

TABLE 1. PARTISAN DISAFFILIATION LAWS, BY STATE

| <i>State</i> | <i>Major-Party?</i> | <i>Minor-Party?</i> | <i>Independent?</i> |
|----------------|--|---|---|
| Arizona | N | N | Cannot be a registered party member when filing |
| California | 1 year prior to filing | 1 year prior to filing | N |
| Colorado | 1st business day of January of election year (petition for primary) | 1st business day of January of election year | 1st business day of January of election year |
| Delaware | N | N | 3 months prior to filing |
| Florida | 1 year before the beginning of qualifying | 1 year before the beginning of qualifying | N |
| Idaho | N | N | Cannot be a registered party member when filing |
| Indiana | Depends, but one condition requires that the candidate voted, in his most recent primary vote, in the party's primary he seeks to affiliate with | N | N |
| Kansas | N | N | Cannot be affiliated with a political party |
| Kentucky | December 31st preceding primary | January 1st of election year | January 1st of election year |
| Maine | On or before March 15th of election year | On or before March 15th of election year | On or before March 1st of election year |
| Maryland | N | N | Must not be affiliated with a party |
| Maryland | 1 year prior to last day for filing for primary | 1 year prior to last day for filing for primary | 90 days prior to last day for filing for primary |
| Massachusetts | N | N | 1 year prior to submitting nomination petition ^a |
| Montana | N | N | N |
| Nevada | December 31st of year preceding filing date | N | No affiliation with qualified political party on date of governor's proclamation for the primary election |
| New Mexico | N | N | N |
| North Carolina | At least 90 days before filing | At least 90 days before filing | N |
| Ohio | Must not have voted as a member of a different party at any primary within the current year and the immediately preceding 2 years | Must not have voted as a member of a different party at any primary within the current year and the immediately preceding 2 years | Must make a "good faith" effort to disaffiliate from party prior to submitting nomination petition. |
| Oklahoma | 6 months preceding the first day of the filing period | 6 months preceding the first day of the filing period | 6 months preceding the first day of the filing period |
| Oregon | 180 days before the deadline for filing nomination/declaring candidacy | N | 180 days before the deadline for filing certificate of nomination |
| Pennsylvania | N | 30 days before the primary, if a "political body" | 30 days before the primary |
| Rhode Island | 90 days before filing | 90 days before filing | N |
| West Virginia | 60 days before filing | 60 days before filing (if an official party) | N |

Based on most recent available law codes from each state.

^aIn Montana, an independent cannot be "associated" with a political party one year prior to filing, and the section of code of law defines "associated" as "... having run for office in Montana as a partisan candidate or having held a public office in Montana or a precinct committee representative office in Montana with a political party designation" (Montana Code Ann. § 13-10-507[2]).

sore loser provisions (Kang 2010; Burden et al. 2014), and the systems used in California, Washington, and Louisiana do not require such laws. In these six states, only California has a partisan disaffiliation law on its books. And of course, partisan disaffiliation laws are more wide reaching in their scope than sore loser laws, so a state with both a sore loser *and* a disaffiliation provision will place more limits on candidates than a state with just the former.

NON-MAJOR PARTY CANDIDATES IN STATE LEGISLATIVE RACES: THE BASICS

Despite these barriers, non-major party candidates remain a common feature of elections at all levels of government, and no research to date has provided a comprehensive accounting of non-major party candidates in state legislative elections. To begin this exploration, as a means of judging the rationale behind partisan disaffiliation laws, we want to create a simple baseline by establishing under what conditions non-major party candidates run for office and how successful, on average, they are. This is done in Table 2. We focus on state legislative elections because a comprehensive database of local elections has not yet been developed. For this study, we utilize the State Legislative Election Returns (SLERs) database, a publicly available database of state legislative elections (Klarner et al. 2010; Klarner 2013).⁴ It covers all 50 states for the 1968 to 2014 period and includes almost all general elections held in those years, although the first ten years of this period are excluded from the analyses displayed in Tables 3 through 7, as will be explained below.

We eliminate Connecticut and New York from the sample, as fusion ballots play a significant role in the elections of these states. The availability of potential fusion between non-major and major parties in the future changes the decision calculus of voters when confronted with the choice of whether to vote for a non-major party that is not fused with a major party in the current election. This is especially true for New York, where the political system maintains several minor parties that rely heavily on cross-nominating major-party candidates to survive (Scarrow 1986), thus increasing third-party voting in the process. For the 1978 to 2014 period, SLERs reports 5,864 candidates in New York who ran both on a major-party label and

on a non-major party label in the same election, and 741 such candidates in Connecticut.⁵

To further isolate the impact of non-major party candidates on elections, we restrict our analyses to elections with one seat to be won, such as in single-member districts and post-multimember districts. Free-for-all multimember districts, a practice not uncommon early in the dataset, have different dynamics than single-member districts and are excluded.

Last, write-in candidates were excluded from all of the following analyses. Such “candidates” may not be candidates, in the sense that they were not actively campaigning for office, or may not be actual people (i.e., “Mickey Mouse”). People especially appear to have a tendency to write in the names of incumbents in neighboring districts or after an incumbent retires. Most importantly, because substantially more effort has to be made to write in a candidate’s name, write-in candidates receive far fewer votes than other non-major party candidates. Despite all this, some write-in candidacies are “legitimate” campaigns, and 46 in SLERs even win. To ensure that findings are not contaminated by “legitimate” write-ins, we exclude the 138 elections in which the total write-in vote was more than five percent. In other words, all write-in candidates were excluded, but the elections they ran in were retained unless the write-in obtained more than five percent of the vote.⁶ Thus, even with the exclusions of

⁴We use the most recent version, updated through 2014 and extensively cleaned. The 2013–2014 addendum has not been made public yet and was obtained from Klarner.

⁵We also exclude elections from Nebraska, Virginia before 2000, and Minnesota before 1973 because of the non-partisan state legislative elections used in these states at those times. We also exclude Louisiana because of its unique balloting system. We also exclude California for 2012 and 2014, and Washington for 2008 through 2014, after their adoption of top-two primaries. In California, there were an average of .60 non-major party candidates in elections, while after the adoption of the top-two primary, this average was .04. The average in Washington went from .11 to .07. Additionally, Washington candidates can use whatever party label they choose after getting on the ballot under the new system, making it difficult to code non-major party status.

⁶There are many instances of candidates who are designated as a non-major party candidate of one type or another in SLERs who are probably write-ins. The SLERs codebook documents some of the methods used to identify write-ins the last time it was cleaned. Still, more write-ins were identified because of greater access to returns than the authors of the last edition of SLERs possessed, and mistakes made in a few of their decision rules. We considered any non-major party candidate who received both less than 50 votes and less than one percent of the overall vote to be a write-in.

TABLE 2. ELECTORAL SUCCESS AND FREQUENCY OF NON-MAJOR PARTY STATE LEGISLATIVE CANDIDATES UNDER DIFFERENT CONDITIONS, 1968–2014

| <i>Numerator of percentage in column three</i> | <i>Percent of elections with attribute</i> | <i>Average percent of vote obtained by non-major party candidates</i> |
|--|--|---|
| % of elections with non-major party candidates | 10.8 (111,678) | 10.9 (13,114) |
| % of elections with two major-party candidates with non-major party candidates | 11.7 (68,466) | 5.7 (8,691) |
| % of elections with only one major-party candidate with non-major party candidates | 9.4 (43,171) | 20.3 (4,370) |
| % of elections with just one non-major party candidate | 10.0 (111,678) | 11.4 (11,144) |
| % of elections with two or more non-major party candidates | .9 (111,678) | 8.0 (1,970) |
| % of elections with independent candidates | 3.0 (111,678) | 18.8 (3,518) |
| % of elections with third-party candidates | 8.1 (111,678) | 8.0 (9,596) |

Note: Numbers in parentheses indicate number of cases with attribute. Sample only includes elections involving one seat. All states are included, with the exception of CA (2012 and later), CT, LA, MN (to 1972), NE, NY, VT (to 1984), VA (to 1999), and WA (2008 and later).

various types of cases, the dataset used here covers 46 states, over 91,808 elections, and 37 years (for analyses that are limited to 1978 to 2014).

The electoral success and frequency of non-major party candidates in the dataset is presented in Table 2. It indicates that only 10.8 percent of elections have non-major party candidates in them, and that when these candidates run, they only obtain an average of 10.9 percent of the vote. In fact, the success of non-major party candidates in state legislative elections is so low that they only won 210 of the 111,678 elections examined (one-fifth of one percent). Rows two and three of the table indicate that the propensity for non-major party candidates to run is roughly the same whether an election is fully contested by the two major parties or whether there is only one Democrat or one Republican. However, column two of rows two and three indicates that non-major party candidates receive far more votes when they oppose just one major-party candidate. The average non-major party candidate running against one Democrat and one Republican obtains merely 5.7 percent of the vote. However, those who run against just one Democrat or one Republican can expect 20.3 percent of the vote.⁷ The explanation from a wasted vote perspective is obvious. Casting a vote for a non-major party candidate in such a situation cannot cause your most preferred major-party candidate to lose. Studies of the impact of ballot access requirements on the percentage of votes non-major party candidates obtain should therefore take the extent of contestation into account.

But this is also a theoretically important contribution. The fact that non-major party candidates are not particularly more likely to run when only one major-party candidate is running in contrast to a situation

with two major-party candidates running is a potential sign that many, though clearly not all, non-major party candidates are running for expressive purposes. If the goal of running was to win elections, such easily assessed and consequential conditions would figure prominently in the decisions of non-major party candidates on whether to run or not.

Table 2 displays more patterns that will become relevant later in this analysis. Only about one percent of elections have two or more non-major party candidates. When this occurs, non-major party candidates can expect to obtain about three percent less in the election (8.0 versus 11.4 percent). This is consistent with the idea that there is a limit to the number of voters who prefer to vote for non-major party candidates, and if more run at the same time, the votes of this block of people will be split to an extent.

Row six of Table 2 indicates that only 3.0 percent of elections have independent candidates running in them, while 8.0 percent have some manner of third-party candidate. Furthermore, it should be noted that many “third-party” candidates are legally independent candidates. Twenty-five states allow independent candidates to put a “political party designation” of their choosing next to their name on the ballot. Our classification, then, does not indicate the legal status of non-major party candidates but the face that such candidates present to voters. This is critical, as the choice to label oneself as independent in these states, versus some other designation with an expressive meaning, is key to the differentiation.

⁷Lee (2012) mentions this pattern for 1994 U.S. House elections.

These independent candidates obtain 18.8 percent of the vote on average, while third-party candidates average 8.0 percent. The fact that independent candidates receive more votes is consistent with the widespread finding that moderate candidates receive more votes than more extreme candidates (Erikson and Wright [2005], but see Rogers' [2014] work that implies these findings may not apply to state legislatures), although what drives this tendency is not important for our larger argument.⁸ Although there is doubtlessly a great deal of diversity in the motives of the candidates, the fact that nearly three out of four non-major party candidates run on a third-party label, despite independent candidates obtaining more than twice as many votes on average, is more evidence that suggests many non-major party candidates are running for expressive purposes. Third-party labels encompass both well-established parties—such as the Libertarian and Green Parties—and labels that are made up by candidates and only appear once on ballots. Examples include “Ethical Efficient Government,” “Get a Grip,” and “Putting People First.”

A logistic regression which examined the probability a non-major party candidate would run in a future election was conducted to supplement the findings in Table 2. Among those who did not win, non-major party candidates are actually more likely to run the smaller the percentage of votes they receive ($p < .01$).⁹ If many of these candidates ran solely to win office, it follows that they would likely be discouraged from running again by obtaining so few votes.

FORMER MAJOR-PARTY CANDIDATES

Not all non-major party candidates are the same. Some are potentially FMPs, which we noted earlier are major-party candidates who launch campaigns on a non-major party label. These individuals could be motivated to win office, or desire to upset a member of their former major party to gain leverage within the party. Regardless of the specifics of each possible reason, we argue that FMPs can create an electoral coordination problem. This is not the first time races with three or more candidates have been studied from the standpoint of voter coordination; in fact, there is a rich literature in comparative politics (see Crisp et al. 2012 for a review of the literature), sometimes connected to the United States (e.g., Chhibber and Kollman

2004).¹⁰ But what makes this scenario different is that the non-major party candidate is a partisan running without the major-party label, thus creating a situation where one party has essentially two candidates on the ballot.

Let us consider a hypothetical mayoral election in a strongly Democratic city. Two Democrats appear on the ballot, one with the official party designation and one as an independent; both are relatively well-known politicians. These two face off against a Republican in the general election. Now, for Democratic voters, this could create a problem. If voters have preferences for one Democrat over another, yet are unsure of the preferences of other Democratic voters, it will be hard for them to organize their support behind one candidate. This opens up the possibility for the Republican candidate, who is clearly not favored in this district, to gain a plurality of the vote and win the seat, despite a majority voting for the two Democrats combined. Certainly, such a scenario is not optimal for the city, and the opposite could occur in a strong Republican area where two Republicans run, one with the party label and one without.

The reason this situation is so demanding for voters is that it is hard to determine candidate viability, and one of the greatest signals of viability is political experience. This is compounded by the past affiliation of the independent candidate; for voters with some knowledge about politics, the candidate could still easily be identified as a Democrat or a Republican, even if the candidate claims otherwise and runs on the ballot without the party label. If voters are unaware, they may simply vote based on familiarity with a name and the assumption that the candidate is still a major-party candidate.

Granted, the voters themselves could become more informed, but even then, the possible confusion created by the candidacy could leave voters perplexed as to the best option come Election Day. Outside major races for the presidency,

⁸If voters select candidates who are the closest to them ideologically, then odds are that some voters will perceive independent candidates to be closer to them ideologically than a third-party candidate who stakes out a position by aligning themselves with a party or at least a label.

⁹ $Y = -1.2632 - .0068(\text{Prior Vote \%}) + E$, with “Prior Vote Percent’s” standard error at .0027.

¹⁰There are also studies looking at party and voter coordination in American history, especially prior to the Civil War (Jenkins and Morris 2006; Chamberlain 2014), when multiple parties were contesting for office.

Congress, and governor, voters often have much less polling information, if any at all. Though they might know they live in a Democratic city, they might not know the degree to which other Democratic voters will support the party's own or the Democrat running without the party's formal support. If the total votes for the two Democratic candidates will be twice that of the Republican candidate, Democratic voters' preferences will not be hurt by having an intraparty feud in the general election. Whichever Democratic candidate of the two receives the most votes, it will not cause the Republican candidate to win. But determining that is harder than merely figuring out which candidate is running ahead in a race with two candidates. On top of all this, it can be especially daunting when the candidate running without a party label abandons ship at the last minute; voters might not be aware of the change in affiliation until Election Day arrives. Thus, we argue the difference between Charlie Crist, mentioned earlier, and Lincoln Chafee, who left the Republican Party in 2007 before running as an independent for governor of Rhode Island in 2010 (and then joining the Democrats in 2013), is an important one for voters, the media, political parties, and politicians. The former appears as a blatant political move to avoid differences within his party, while the latter appears to be a somewhat more reflective process of where he stands politically.

At the extreme, such situations could lead to "political manipulation," or the ability to change outcomes from what they would have been otherwise by controlling the choices that people are confronted with (Riker 1982). Creating coordination issues might deny majorities and shift pluralities to the other party, as in the scenario laid out earlier in this section. In fact, it could be a strategic effort on the part of an FMP to show their former party their political worth, in terms of votes, in that district. This could provide significant leverage when moving back to a major party, which would want to regain control of the lost seat; electoral coordination issues can exist in combination with a specific strategy of "upsetting the apple cart." A self-interested politician of one major party might be encouraged to run and even be supported by members of the other major party. Because of the possibilities discussed in this section, then, the differences between FMPs and ANMs, or those who are always non-major party candidates, appear important.

MEASURING PRIOR ATTACHMENT TO A MAJOR PARTY

Before exploring the differences between these two styles of non-major party candidacies, a framework for measuring FMPs is needed. Specifically, we measure the affiliation of a non-major party candidate with the major parties on the basis of whether the last time they ran for state legislature it was as a major-party candidate. Our measure is not one that corresponds to any legal definition of partisan affiliation, but it provides insight into how voters respond to non-major party candidates whom they perceive as being affiliated with a major party. State laws vary greatly in what constitutes disaffiliation anyway, and how judges will rule on specific pieces of evidence in a specific state is often uncertain as well. Furthermore, the fact that an independent candidate is currently in an office for which they were elected as a Democrat or Republican is often utilized as evidence in disaffiliation cases. As a result, it is important to distinguish FMPs on the basis of whether they ran in the immediate past or not, and especially whether they won or lost their last election. Winners from the immediate past are plausibly more associated with a major party than their counterparts.

We then place non-major party candidates into six categories. The first four are FMPs, divided into groups based on whether they won or lost in the past, and whether it was in the immediate past or sometime further in the past.¹¹ These are labeled "FMP-current office holder," "FMP-past winner," "FMP-recent loser," and "FMP-past loser." Most, but not all of the current office holders are incumbents, some currently holding office in the other chamber of the legislature. If the last time a non-major party candidate ran as a Democrat or Republican was more than ten years ago, they are not coded as an FMP of any type. Instead, they are relegated to a fifth category of non-major party candidates who may or may not be associated with a major party in the public's mind, whom we label "disaffiliation uncertain." To ensure that always non-major party candidates have not run in the past as a major-party

¹¹An FMP is defined as running immediately in the past if it was for an office whose term length would have carried them to the current election had they won. If a non-major party candidate won as a major-party candidate in the past, but not the immediate past, and they ran as a major party candidate in the immediate past but lost, they are categorized as an "FMP-past winner."

candidate, we exclude the first ten years of useable elections for any given state from analysis. A sixth category represents the ANMs, or the non-major party candidates who have never run as a major-party candidate in a prior election.

State legislative elections are an appropriate level of election to test hypotheses about the impact of FMPs, too. They tend to receive much less attention than statewide and congressional races. Because of this, polls reporting on them—which could be used by voters to assess the viability of the candidates running—are uncommon; these are the types of elections where, if there are electoral coordination issues when FMPs enter, some evidence should exist.¹² Although there are differences between state legislative elections and elections of other types, the impact of FMPs in our analysis provides insight into how such candidates might influence local elections. As mentioned above, this is especially important given the absence of a comprehensive database of local elections. Furthermore, the extensive scope of SLERs yields a sizeable enough number of FMPs for statistical analysis. And, finally, the focus on state legislative elections in this way is the first effort to systematically assess the extent of non-major party success in this type of election.

With our definition of FMPs and the use of state legislative elections in mind, two additional points need to be made before proceeding. First, it is natural to wonder how many of these FMPs are related to changes occurring because of Southern Democrats leaving the party and becoming Republicans, a possibility given the time period of the sample and the slower shift to Republican power, from Democratic dominance, at the state level in the region. But only 77 of 410 FMPs examined here were from the South, and their proportion does not vary substantially between the different categories of FMPs we create.¹³

Second, our measure does not include many state legislative candidates who are affiliated with a major party who then go on to run as a non-major party candidate. For example, they may have recently won election to a local office on a major-party ticket or have a prominent party leadership position. Having won a prominent local office as an established Democrat or Republican, with the electoral support that would come along with that, they are still lumped in with the ANMs when comparing vote totals of the different categories of non-partisan candidates, thus reducing the observed differences

between the categories. Although this limitation is regrettable, our measure of non-major party candidates' affiliation with a major party is one that biases our tests against finding that such candidates receive a larger portion of the vote than other non-major party candidates, and it is the best that can be created at this time.

Table 3 shows that ANMs are much more common than FMPs. Yet, FMPs make up 3.9 percent of such candidacies, and these candidates are much more likely to have won office in the past than ANMs. A surprising fact the table reveals is that of the 241 non-major party candidates who have ever won in the past, 189 are FMPs. Also important is the fact that 76.2 percent of ANMs in the sample were running for the first time. Experience as candidates, then, is clearly on the side of FMPs. It is also important to remember that the rarity of such candidates is itself a function of laws in many states preventing them from running.

Partisan disaffiliation laws are implicitly based on a somewhat cynical view of major-party politicians who seek refuge outside a major party. And, while we do not maintain that we can divine the motivation of every one of these candidates, we expect a number of patterns to emerge if these candidates are running for the sake of political expediency.

First, FMPs would tend to run as independents, not members of a third party. If they wish to maximally take advantage of their link to a major party to obtain more votes, they would want to distance themselves as little as possible from that party. Running as an independent instead of on a third-party label would be a way to minimize this distancing. In contrast, there is a likely tendency for ANMs to represent different underlying motives. Running as a third-party candidate, for them, is potentially more of an expressive endeavor, though the motives can range from a real effort to win, to a true belief in a minor party's platform with the goal of promoting the cause, to the creation of a ballot label that represents a candidate's pet issue, to simply the enjoyment of running for office and the attention it can bring. Granted,

¹²Furthermore, signature requirements for state legislative races are often lower than for U.S. Congress (Shock 2008), which could potentially make a non-major party option more desirable to an established politician.

¹³The number of Southern FMPs of those FMPs listed in Table 3 is 19, 18, 16, and 26, respectively. The percentage of FMPs from the South goes down to 15.0 percent in Table 5, which analyzes contested elections.

TABLE 3. FREQUENCY OF FORMER MAJOR-PARTY AND ALWAYS NON-MAJOR PARTY INDEPENDENT AND THIRD-PARTY CANDIDATES BY PRIOR ELECTORAL EXPERIENCE, 1978–2014

| <i>Type of non-major party candidate</i> | <i>Percent of non-major party candidates (N = 10,873)</i> |
|--|---|
| ANM, first run | 76.2 (8,288) |
| ANM, past loser | 5.2 (567) |
| ANM, recent loser | 12.6 (1,368) |
| ANM, past winner | .1 (7) |
| ANM, current office holder | .4 (45) |
| FMP, past loser | 1.1 (115) |
| FMP, recent loser | 1.0 (106) |
| FMP, past winner | .8 (85) |
| FMP, current office holder | 1.0 (104) |
| Disaffiliation uncertain | 1.7 (188) |

ANM, always non-major party candidate; FMP, former major party candidate.

former major-party candidates can have a true change of heart, and a truly independent candidate could still think strategically about what the label represents, relative to the major parties. But, the tendency will be for FMPs to find strategic advantages in the independent label over a third-party endorsement while ANMs will view the landscape differently.

This receives confirmation in Table 4, where evidence pertaining to differences in how ANMs and FMPs think about their campaigns is presented. Only 23.8 percent of ANMs run as independents compared to between 57.7 and 78.8 percent of FMPs, depending on the category. This suggests that the independent label is sought by FMPs, because they are more likely to act strategically and with an eye to the office in comparison to ANMs, who are more likely to seek third-party labels, perhaps because they are more likely to be motivated by ideological, ego, or expressive policy motivations in running for office. This finding provides systematic evidence to support Brancati's (2008) speculation that independent candidates are more likely to be political insiders alienated from their party.

Second, and in relation to the first point, the FMPs would have a tendency to run in the future on the same party label they recently abandoned. If they have really had a philosophical break with their party, it would seem strange if they had a higher rate of turning towards a major party in the future (and the one they just rejected at that) in comparison to ANMs. Note also that even if all FMPs broke from their major party for reasons of political expediency, many would not run again, and many

might still go on to run as a non-major party candidate in the future, especially if they win.

Accordingly, Table 4 indicates that 29.8 percent of FMPs who have held office in the immediate past run in the future on a major-party ticket in comparison to 3.2 percent of ANMs, while other types of FMPs do so between 7.2 and 17.2 percent of the time.¹⁴ About a quarter of FMPs who run on a major-party ticket later do so on a party's label that does not match their initial party, but the other three-quarters return to the major party they ran on in the past. Overall, the actions of the FMPs suggest they are often motivated by strategic behavior. Table 4 also indicates that FMPs who are current office holders are more likely to run again, regardless of the label they adopt when doing so, than other FMPs, and are especially more likely to run again than ANMs. Again, this is an indication that, on average, their motives for running for office differ substantially from ANMs.

Conversely, ANMs that run again are more likely to remain non-major party candidates than FMPs. However, about three-quarters of ANMs in our sample do not run again for the state legislature. While this does not rule out their running for other offices, it does reveal, in comparison to their FMP counterparts, that these ANMs are quite frequently one-and-done candidates. This finding is important in differentiating the two types of candidates, but it is also a unique finding that has not been reported elsewhere.

Third, they would have a tendency to run in elections in which the candidate of the party they recently left is unopposed. If these candidates were motivated to leave their party and run under another banner, more for ideological reasons than out of political expediency, we would expect that the number of major-party candidates would have less bearing on their decision to run. As indicated in Table 2, non-major party candidates who oppose just one major-party candidate get substantially higher percentages of the vote than those opposing two. Yet, while Table 4 indicates that there is some tendency for FMPs to be more likely to run against just one major-party candidate than ANMs, the difference is not large.

Furthermore, the expectation that they will be running against members of their prior party if they only have one opponent is not always correct.

¹⁴The analysis of what candidates do in a future election excludes elections at the end of the dataset, and so has a smaller number of cases than that reported in row two. The number of cases for rows three through seven is reported in row three.

TABLE 4. ELECTORAL DECISIONS BY CATEGORY OF NON-MAJOR PARTY CANDIDATE, 1978–2014

| <i>Percent that run</i> | <i>ANM</i> | <i>FMP, former loser</i> | <i>FMP, recent loser</i> | <i>FMP, former winner</i> | <i>FMP, current office holder</i> |
|--|---------------|----------------------------------|----------------------------------|-----------------------------------|---|
| As an independent | 23.8 (10,275) | 66.1 (115) | 61.3 (106) | 78.8 (85) | 57.7 (104) |
| As a major party candidate in their next election | 3.2 (9,683) | 13.9 (108) | 7.2 (97) | 17.3 (75) | 29.8 (104) |
| As the same major party as their last major party run | NA | 12.0 | 6.2 | 13.3 | 22.1 |
| As a different major party as their last major party run | NA | 1.9 | 1.0 | 4.0 | 7.7 |
| As a non-major party candidate in their next election | 19.4 | 10.2 | 17.5 | 13.3 | 11.5 |
| Percent that do not run in the future | 77.4 | 75.9 | 75.3 | 69.3 | 58.7 |
| Percent that run in a race with only one major party candidate | 34.5 (10,275) | 44.4 (115) | 40.6 (106) | 44.7 (85) | 49.0 (104) |
| Percent that run in a race with only one major party candidate that matches their prior party | NA | 5.2 | 4.7 | 28.2 | 26.9 |
| Percent that run in a race with only one major party candidate that differs from their prior party | NA | 39.1 | 35.9 | 16.5 | 14.4 |
| Average % away from 50% of vote | NA | -4.40 (64) | -5.79 (63) | 4.94 (47) | 12.90 (53) |

NA, not applicable.

For former partisans who never won, they are many times more likely to oppose a major-party candidate from the party they were not affiliated with prior to the non-major party run, such as a former Democrat-turned-independent running against only a Republican candidate. In contrast, FMPs who are current office holders are almost twice as likely to oppose a member of the party they just left than a member of the other party. The difference is almost as great for FMPs who won sometime further in the past. Again, this underscores the different motivations between the different types of FMPs.

Last, we would expect FMPs to tend to run in districts that are safer for the party they were just affiliated with if they are running for the sake of political expediency. They may perceive that voters are less likely to split their votes between two candidates of a party if it is in a competitive election. Strategic politicians, interested in continuing their careers, would have less incentive to abandon their major party, in a district where that party is weak, to run against a candidate from the dominant party. However, the independent candidacy, in situations where one leaves the dominant party to run outside and against it, could lead to either an outright victory or a closer-than-desired election in a typical safe district. Both could grant that “mugwump” leverage within their former party, leading to concessions from the latter and reconciliation in the end.

The last row of Table 4 shows the partisanship of districts the four different types of FMPs run in when they run in contested elections. For FMPs who were former Democrats, the statistic reports the percent of the Democratic share of the two-party vote above 50

percent, while for Republicans it reports vote share below 50 percent. For example, the average FMP who was a current office holder was in a district that obtained 62.9 percent for the party they were affiliated with immediately in the past. This share of the vote is greater than 77.4 percent of contested elections. Less extreme were FMPs who won in the past but were not currently holding office. The average candidate from this group ran in a district that was 54.9 percent for their former major party, which is a district that obtained more votes for their party than 61.1 percent of elections. In contrast, FMP losers were more likely to run in districts that favored the other party. The average FMP loser ran in a district that was around 45 percent for their former party, making about 60 percent of districts more favorable to the party they just left than their average district. The contrast between FMPs who lost in the past with those who won is noteworthy. Perhaps it indicates that partisans who lost in the past are more likely to try an independent run if the district is more closely fought. In contrast, established politicians who run into some type of problem are more likely to try and run on a non-major party ticket when they are in a safer district for their party.

In contrast, ANMs tend to run everywhere. The percent of the two-party vote in the average district they ran in is indistinguishable from the mean district overall, but more importantly, the standard deviation of the normal vote in the districts they run in is approximately the same (16.5 versus 15.3), indicating they are no more likely to run in lopsided or swing districts. Conventional wisdom suggests that the stereotypical, anti-system, ANM is less interested in district

dynamics, and this finding in Table 4 provides statistical evidence to support this, for the first time.

Overall, these three tables present a layout for approaching more nuanced questions concerning these campaigns while providing new insights into non-major party candidates, both generally and in state legislative races, that have not been explored previously in the literature. It is clear that aggregate statistics for all non-major party candidates are masking a critical distinction between ANMs and FMPs. First, FMPs are more likely to have been electoral victors prior to their non-major party campaigns than are ANMs. Second, they are much more likely to run as independents than under a third-party banner. Third, FMPs are more likely to run again in the future, and under their original major-party label. Additionally, FMP office holders are more likely to run again, when compared to other FMPs and especially to ANMs. Fourth, these candidates are also somewhat more prone to choosing a race with only one major-party candidate, especially those who are current office holders. Fifth, those FMPs who never won tend to oppose candidates from the opposite major party more than those who are current office holders, who generally oppose a candidate from their old party. Sixth, and finally, FMPs are much more sensitive to district partisanship, though it is dependent on winning or losing in prior races and the length of time since winning; in contrast, ANMs run just about everywhere. Combined, the evidence indicates quite strongly that, taken as a group, FMPs are running for reasons of political expediency, which gives pause to the notion that they were motivated primarily by a philosophic break with their party.

MAJORITIES, PLURALITIES, AND VOTE SPLITTING

With this said, the evidence to this point mostly shows differences in choices made by the candidates themselves. They do not reveal how much, and to what degree, these choices *matter* in determining electoral outcomes. The next step, then, is to evaluate which types of non-major party candidates are denying majorities to winning candidates. To parse this out, Table 5 focuses on races with both a Democrat and a Republican running in them. It is not possible to “spoil” an election with just two candidates. The table also focuses on races with only one non-major party candidate; those with two or more non-

TABLE 5. DENYING MAJORITIES, BY TYPE OF NON-MAJOR PARTY CANDIDATE, 1978–2014

| <i>Type of race</i> | <i>Percent of races with attribute (N = 89,870)</i> | <i>Average percent of vote</i> | <i>Percent races with no majority</i> |
|--------------------------------|---|--------------------------------|---------------------------------------|
| No major party candidates | .0 (35) | | |
| One major party candidate only | 40.1 (36,007) | | |
| Major party contested races | 59.9 (53,828) | | |
| No non-major party | 52.7 (47,332) | | |
| Two or more non-major party | .6 (545) | | |
| One non-major party only | | | |
| ANM, first run | 5.1 (4,536) | 5.7 | 11.5 |
| ANM, past loser | .4 (313) | 4.9 | 5.8 |
| ANM, recent loser | .9 (786) | 4.7 | 9.4 |
| ANM, past winner | .0 (2) | 20.0 | 100.0 |
| ANM, current office holder | .0 (8) | 51.7 | 25.0 |
| FMP, past loser | .1 (54) | 10.5 | 24.1 |
| FMP, recent loser | .1 (57) | 8.7 | 19.3 |
| FMP, past winner | .1 (41) | 19.6 | 46.3 |
| FMP, current office holder | .1 (48) | 27.8 | 54.2 |
| Disaffiliation uncertain | .1 (106) | 7.6 | 24.5 |

major party candidates make only a small percentage of all legislative races (.6 percent). Thus, we seek to compare ANMs to FMPs by only examining elections with a single non-major party candidate. The average percent of the vote received by a non-major party candidate of a particular stripe is provided in column two.

A necessary but not sufficient condition for the candidate who is preferred by the most number of people to lose, is that no candidate receives a majority of the vote. For example, the fact that neither Bush or Gore obtained a majority of the vote in Florida in the 2000 election means that Gore may have been preferred by more people than Bush, but it still could have been the case that Bush was preferred by more voters. Column three reports the percent of races with each type of candidacy in which the winning candidate did not obtain a majority of votes, which represents an absolute maximum on the percent of such elections that may have been “spoiled.”

Table 5 indicates that in elections contested by both major parties, ANMs rarely deny the winning candidate a majority of the vote, a result of only obtaining around five percent of the vote when they run. Whether running for the first time, or having lost in the past, ANMs are only associated with a non-majority winner 11.5 percent of the time at most. In contrast, FMPs obtain far more votes than

ANMs and are much more likely to be associated with an election in which the winning candidate fails to win a majority. Fully 54 percent of major-party contested elections with current office-holding FMPs do not have a majority winner. FMP winners who are not current office holders see such elections 46 percent of the time. It is hard to compare these FMP winners to ANM winners, as there are so few of the latter in elections with both a Democrat and a Republican. What makes recent winner FMPs so apt to deny majorities is that they often get substantial sums of the vote, but not enough to win, and if they do win, not enough to win decisively. Elections with FMPs who lost in the past see a much lower percentage of non-majority wins but still see an amount that is much higher than ANMs by ten or fifteen percent. Looking at all elections, whether they are major party contested or not, only .7 percent of elections without FMPs see a non-majority winner, while 19.0 percent of those with an FMP do.

Still, this table does not separate out past and recent winners and how successful they were in their current race. This is accomplished in Table 6, which has separate columns for ANM and FMP past winners and current office holders, and rows for those who lost, those who were opposed and won with a plurality, those opposed who won with a majority, and those who ran unopposed. First, it should be clear that being a past winner does not have the same effect as being a current office holder. Past winners never run unopposed, and lose at higher rates.

But there are marked differences between FMP and ANM current office holders. Twenty-five of 44 ANM recent winners were opposed and won with majorities; 24 of 99 FMPs who were recent winners did the same. Percentage-wise, then, ANM current office holders tend to have more success in winning with majorities; they are also more likely to run unopposed (15 versus seven, respec-

tively). FMPs who are current office holders are more likely to win than ANMs with a plurality (11 to one, respectively), but their success rate in terms of winning elections is much less.

This leads to the conclusion that ANM office holders usually garner real support to win office again. The overwhelming majority (91 percent) of ANM office holders are re-elected. For FMP office holders, this is not the case; only a strong minority of such candidates (40 percent) are re-elected. This gap is substantial in differentiating the two types of non-major party candidates, and it justifies the distinction made.

VOTE PERCENTAGE MODEL

But, a more rigorous empirical approach can help us better understand voters' behavior towards non-major party candidates as well as a more rigorous assessment of how many more votes FMPs are likely to receive. The first step is analyzing the determinants of non-major party vote percentages, with the unit of analysis being the non-major party candidate in elections contested by both major parties. In the model, we control for whether there is a major-party incumbent or not and the number of other non-major party candidates (some elections have two or even three, to a maximum of five in rare circumstances). A variable measuring the absolute value of the percent distance from 50 percent of the Democratic two-party vote is included. The latter variable is interesting in its own right, as it assesses the ability of voters to vote strategically for non-major party candidates. The chances of "spoiling" an election are lower the safer the election for one major party or the other. If voters are sophisticated enough to know this, more votes for non-major party candidates will be observed the safer the district. We also include a dummy variable coded "1" when a non-major party candidate is an independent.

Then, we create a series of dummy variables related to candidate characteristics, with the omitted category being ANMs running for the first time. The first four variables track all non-major party candidates, whether they are ANMs or FMPs, and are coded "1" for the four possible combinations of running in the immediate past or earlier, and winning or losing in the past. Four additional variables are coded "1" under identical conditions, except only for FMPs. These four variables therefore indicate how well FMPs do in comparison to other non-major

TABLE 6. NON-MAJOR PARTY CANDIDATE WINNERS:
ALWAYS NON-MAJOR PARTY VERSUS
FORMER MAJOR PARTY INDEPENDENT
AND THIRD-PARTY CANDIDATES, 1978–2014

| | <i>ANM past winner</i> | <i>ANM office holder</i> | <i>FMP past winner</i> | <i>FMP office holder</i> |
|---------------------------|--------------------------------|----------------------------------|--------------------------------|----------------------------------|
| Lost | 6 | 4 | 82 | 62 |
| Opposed, won w. plurality | 1 | 1 | 1 | 11 |
| Opposed, won w. majority | 0 | 25 | 2 | 24 |
| Unopposed | 0 | 15 | 0 | 7 |
| Total | 7 | 45 | 85 | 104 |

TABLE 7. DETERMINANTS OF NON-MAJOR PARTY CANDIDATE PERCENT OF THE VOTE, MAJOR-PARTY CONTESTED ELECTIONS ONLY, 1978–2014

| <i>Independent variable</i> | <i>Coefficient</i> |
|---|--------------------|
| Number of major-party incumbents | -.87* (.11) |
| Number of additional non-major party candidates | -1.15* (.14) |
| Independent candidate | 3.28* (.17) |
| Deviation from 50 percent | .09* (.01) |
| Lost in past | -.47* (.24) |
| Lost in immediate past | -.36* (.16) |
| Won past | 10.72* (2.25) |
| Current office holder | 41.70* (1.51) |
| FMP, lost in past | 1.36* (.61) |
| FMP, lost in immediate past | .11 (.59) |
| FMP, won in past | -1.17 (2.34) |
| FMP, current office holder | -23.11* (1.63) |
| Constant | 5.07* (.44) |
| State level error term | 2.79* (.31) |
| Number of groups: 1,030 | |
| Election level error term | 4.48* (.04) |
| Log likelihood | -20,382.67 |
| <i>N</i> | 6,956 |

Note: * $p < .001$, two-tailed. Dependent variable percentage of total vote attained by non-major party candidate.

party candidates with similar experience, and the coefficients associated with the first four variables report how well such ANMs perform. We also include a state level error term to protect against state level factors spuriously driving relationships.¹⁵

These results are presented in Table 7. First, note that the control variables performed as expected and are all statistically significant. Non-major party candidates obtained about one percent less of the vote when facing a major-party incumbent and received about one percent less for every additional non-major party candidate in the election. All else being equal, independent candidates obtained 3.3 percent more votes than third-party candidates.

The coefficient associated with “Deviation from 50 Percent” indicates that for every percent away from a perfectly competitive election, non-major party candidates received about a tenth of a percent more votes. As noted, the standard deviation of the two-party vote in major-party contested elections is 15.3 percent. This implies that going one standard deviation above or below 50 percent will result in non-major party candidates receiving 1.5 percent more votes, a substantial impact considering how few votes they receive on average. This implies that some portion of potential non-major party supporters are sophisticated enough to refrain from voting for non-major party candidates when it is more likely to cause their most preferred major-party candidate to lose.

Next, note that ANMs who have either lost in the past (whether only immediately in the past or not) or are running for the first time receive very similar percentages of the vote, although the small substantive differences are statistically significant. Thus, the coefficient associated with the constant indicates that all three ANM types receive about five percent of the vote on average, and when all the control variables are set to zero. In contrast, ANMs who have won in the past get substantially more votes. Those who won in the past, but not the immediate past, received 10.7 percent more than those running for the first time, and those who were current office holders received 41.7 percent more.

It has already been noted that FMPs who were current office holders are more likely to run in districts that are safer for the party they just left. It would also stand to reason that they are more likely to run in races where neither major party has the benefit of incumbency, since the FMPs are often incumbents themselves. All types of FMPs are much more likely to run as independents than ANMs. Since these are controlled for in the model, we cannot ascribe differences in the performance of FMPs, compared to ANMs, to these factors (or vice versa). FMPs who lost in the past, but are not currently holding office, do slightly better than comparable ANMs, receiving 1.36 percent more votes. But if they lost in the immediate past, their vote percentage is not statistically significantly different than their ANM counterparts.

In contrast, FMP office holders do substantially worse than ANM office holders ($p < .05$). These FMPs still get the benefit of the boost that comes from holding an office (41.7 percent), but it is offset by the penalty associated with being an FMP in the current election (-23.1 percent), for a net increase over a non-major party candidate running in their first election of 18.6 percent. This indicates that current office-holding FMPs may be attempting to recover from some type of problem that prevented them from running as a major-party candidate. FMP winners from the past were not different from their ANM counterparts in a statistically

¹⁵Such as the state laws referred to before that allow independent candidates to pick an expressive label. Excluding the state level error term incrementally strengthens the impact of most variables and causes all variables in the model to attain statistical significance ($p < .05$, two-tailed).

significant sense, obtaining only 1.17 percent less than ANM winners from the past.

The bottom line is that FMPs do far better than typical ANMs. This is by virtue of the fact that they are far more likely to have held office in the past than ANMs. But when comparing non-major party candidates who are office holders, ANMs actually do better. This goes a long way to explaining why FMPs are more likely to be associated with elections that do not result in a majority win for one of the candidates.

These findings are consistent with laws that prohibit non-major party candidates from running if they are affiliated with a major party. Voters are generally sophisticated enough to avoid voting for non-major party candidates so they do not inadvertently cause their least preferred viable candidate to win. Loose regulations of independent and third-party candidacies are adequate. The tendency for non-major party candidates to receive fewer votes when elections are more closely fought by the major parties further justifies this notion. But the greater percentages of the vote that FMPs receive are a sign that partisan disaffiliation requirements for non-major party candidates are necessary.

Still, if evidence can be uncovered that FMPs take substantially more votes from the party they most recently left, this will provide additional evidence that such candidates reduce the probability that the candidate the public prefers will win and, by extension, lend support to the need for partisan disaffiliation laws. This is addressed in the next section.

VOTE-SPLITTING MODEL

Finally, we look empirically at the effects of these campaigns on vote splitting. To best assess this effect, the analysis presented here only examines elections with one Democrat and one Republican, where the vote-splitting effect would theoretically be important. If an FMP runs, but they take equal amounts of votes from the Democratic and Republican candidates, then their run cannot have made the least preferred major-party candidate win. If FMPs consistently take disproportionately large percentages of the vote from the party they just left, this is evidence that they spoil elections and further justifies the presence of partisan disaffiliation laws.

An illustrative example clarifies what is being evaluated in the analysis. In District 73 of the Mon-

tana House in 1994, 1996, and 1998, Republican Rick Jore obtained about 55 percent of the two-party vote in each election. In 2000, he lost to a Democrat who obtained 50.7 percent of the two-party vote. In 2002 (redistricting comes late to Montana), Rick Jore ran as an independent and obtained 42.9 percent of the vote, the Republican obtained 7.8 percent of the vote, and the Democrat obtained 49.3 percent of the vote (which is 86.3 percent of the two-party vote). Jore's run plausibly caused a Democrat to win the seat. Is this just an isolated example, or a common occurrence?

Spoiling a close election is arguably not as severe of a problem as spoiling an election where there is a large difference in support for the two major-party candidates: the increase in voters dissatisfied with the outcome is minimal. The fact that FMP office holders are most likely to run in districts that are more favorable for their party, but still get enough votes to potentially spoil it, therefore increases their potential for damage.

The average Democratic percent of the two-party vote is computed for sets of elections, each set representing one district in one redistricting period. Vote share is then measured as the deviation from this mean. All other independent variables are also mean centered. Elections where ANMs received more than five percent of the total vote were excluded from analysis, to ensure that the normal vote was not contaminated by non-major party candidates. All elections since 1968 were included in these analyses, unlike earlier analyses.¹⁶

Evidence was presented in the bottom row of Table 4 that FMPs who have won in the immediate past are much more likely to run in districts that favor the major party they just left. The fact that FMPs who never won in the past are more likely to run in districts favored by the other party is another potential problem. The present research design assesses deviations from the district mean to guard against endogeneity problems that result from these patterns.

¹⁶We included elections back to 1968 to maximize the number of cases for analysis. It is possible that one of the ANMs in one of these elections is actually a non-major party candidate who ran as a Democrat or Republican before the beginning of the dataset. But because the number of such candidates is probably small, and more importantly, given that we exclude elections where any non-major party candidate who was not identified as an FMP received five percent or more of the vote, the damage this would do to the analysis is minimal.

The control variables “Incumbency,” “Other,” and “Past Office Holder” were also included. The first is coded “1” if the Democratic candidate is the only incumbent, “-1” if the Republican candidate is the only incumbent, and “0” otherwise. “Other” is an analogous variable which measured whether the Democratic and Republican candidates held office in the other chamber of the legislature in the immediate past. “Past Office Holder” is analogously coded and measures whether the Democratic and Republican candidates held state legislative office in the past but not in the term prior to the election. It is important to control for incumbency if the presence of FMP past winners is associated with open seats. Both national and state “waves” have large impacts on state legislative elections (Klarner 2010). To control for these waves at the national and state levels, error terms for year and state-year were included in a hierarchical linear model.

FMPs who were both a Democrat and Republican in the past (13 candidates) were excluded from this analysis. Four variables record the percent of the vote obtained by the four types of FMPs in the election, multiplied by “-1” when that candidate was a Republican and coded “0” when the election did not have that type of FMP.

The challenge in this analysis is that the number of major-party contested elections for one district in one redistricting period (i.e., a “set” of elections) is often small, which inhibits the ability to estimate the normal vote. When an election with an FMP is in a set of elections with only one election, that election contributes no information to an estimate of FMP vote-stealing effects. This challenge is dealt with somewhat by expanding the “sets” of elections referred to above in the following ways. First, elections for all multi-member posts within the same district are placed in the same set. Next, all elections for state house and state senate districts that are identical are placed in the same set. This sometimes combines two simultaneous state house elections to multi-member district posts with a state senate election, such as in Idaho and Washington. Last, 58 cases were added to sets of state senate elections that contained FMPs that were created from aggregating values from elections in their nested state house districts, did not themselves have FMPs, and otherwise met the criteria for inclusion in the sample.¹⁷

An alternative approach would be to use lagged vote share as a proxy for the normal vote in a district. However, the number of elections with a use-

TABLE 8. MULTIVARIATE MODEL OF VOTE STEALING EFFECTS, DEVIATION FROM DISTRICT MEAN, 1968–2014

| <i>Independent variable</i> | <i>Model one coefficient</i> |
|--|------------------------------|
| Incumbency | 4.76** (.04) |
| Other | 3.97** (.13) |
| Past office holder | 2.23** (.11) |
| FMP past loser vote percentage | -.12** (.06) |
| FMP recent loser vote percentage | .04 (.07) |
| FMP past winner vote percentage | -.14** (.04) |
| FMP current office holder vote percentage | .01 (.03) |
| Constant | .02 (.22) |
| Year error term | 1.32** (.16) |
| Number of groups: 46 | |
| State-year error term | 1.21** (.03) |
| Number of groups: 1,029 | |
| Election level error term | 4.48** (.01) |
| Log likelihood | -192,213.89 |
| <i>N</i> | 65,570 |

Note: ** $p < .05$, two-tailed, * $p < .05$, one-tailed. Cell entries are the regression coefficient and standard error in parentheses. Cell entries for error terms are the standard deviation of the error type, with its standard error in parentheses.

able FMP that are in a major-party contested election, and that are not preceded by either redistricting or an uncontested election, is much smaller than the number of usable elections attained with the current strategy.

These results are presented in Table 8. The coefficients associated with the four “FMP Vote Percentage” variables indicate the impact of an FMP’s vote on the votes obtained by the major-party candidate who shares the party they recently left. For example, an FMP who won in the past as a Democrat, but not in the immediate past, was estimated to reduce the Democratic percentage of the two-party vote by .14 percent for every percent of the vote they obtained. The coefficients associated with both “FMP Past Winner Vote Percentage” and “FMP Past Loser Vote Percentage” attain statistical significance and are similar in magnitude. However, the coefficient to the variable one would expect to be most associated with vote

¹⁷In other words, if these aggregated state house districts were associated with a state senate district (via nesting and being in the same redistricting period) that had an FMP in it, they were added to the sample. This adds a small but crucial number of elections, given that many sets of state senate elections only contain two elections in a redistricting period. The addition of these cases unfairly but trivially increases the precision with which the impacts of “Incumbency,” “Other,” and “Past Office Holder” are computed, but this is not dealt with given their small impact on standard errors and the great precision their associated coefficients have anyway (t-values were never less than 20 in any analysis).

stealing—“FMP Current Office Holder Vote Percentage”—was essentially zero and failed to attain statistical significance. Nor did the variable associated with “FMP Recent Loser Vote Percentage.”

Given the magnitude of these coefficients in the context of the percent of the vote FMP candidates are likely to receive, they are estimated to rarely “spoil” elections. The values of the four FMP vote variables and their coefficients were utilized to estimate the percentage of elections that would have resulted in a different major-party winner had the FMP not run. The results presented in Table 8 imply that only one of the 212 elections in the analysis with an FMP would have seen a different major-party candidate win.¹⁸ Nor is this the Montana election mentioned above, as the coefficient associated with being an FMP office holder is essentially zero. The election that was estimated to have been “spoiled” by an FMP was when a former Democratic state legislator ran for New Mexico State House District 44 and obtained 12.3 percent of the vote, reducing the Democratic vote from 50.3 to 48.6 percent of the two-party vote. The closeness of this election is an obvious component of why the outcome is estimated to have been changed. As a check on the overall results, every election with an FMP was examined, and this informal process created an impression that was completely consistent with the notion that there is no systematic tendency for the party they just came from to lose more votes.

It should be cautioned that the findings in this section do not mean that only one election among the elections examined here was spoiled by an FMP. FMPs may take more votes from one party or another in individual races, and thus spoil elections. The analysis here merely indicates that there is no tendency on average for FMPs to take substantially more votes from the party they just left.

Why might Democrats (Republicans) who then become independents or third-party candidates in the next election not take more votes from the Democratic (Republican) than Republican (Democratic) candidate? One possible explanation is that many of them are moderates who appeal to both parties, which would explain why they left the party in the first place. This explanation is also consistent with the fact that they often run as independents. If others are more extreme candidates, which party would lose the most votes would balance out to an extent. Another possibility is that some of these candidates might be viewed as pariahs by the party, whether be-

cause of scandal, personal issues, or personality. Finally, another possibility is that, without party support, these wayward partisans are forced to run solely on the basis of themselves; the votes received are “personal votes” and thus come from both parties.

DISCUSSION AND CONCLUSION

In this article, our main goal was to study the reasoning put forth to justify partisan disaffiliation laws. Because of its connection to major-party candidates jumping ship to non-major party labels, we split non-major party candidates into former major-party candidates (FMPs) and always non-major candidates (ANMs), or those who have not run under a Republican or Democratic label. By doing so, the evidence uncovers a marked tendency for FMPs to be associated with winners who do not obtain a majority of the vote. In fact, FMPs who are current office holders are associated with a mere plurality winner an astonishing 54 percent of the time in elections contested by both major parties. Non-majority winners also open up the possibility that the first choice of the electorate has not been chosen, and are also indicative of situations that are more vulnerable to political manipulation. This evidence supports the rationale put forth in defense of partisan disaffiliation laws.

Still, voters and candidates behaving to maximize their self-interest generally avoid outcomes where a widely disliked candidate is elected to office, thus obviating the need for more restrictive ballot access laws. This is because most voters most of the time do not vote for non-major party candidates, whether because the two major parties stake out positions that satisfy many people or because voters are sophisticated enough to not vote for non-major party candidates even if they prefer them. Plausibly, as a result of how voters behave, potential non-major party candidates refrain from running, most of the time. Many of those that do run appear to be motivated by “the journey,” ego, and ideology, and not with thinking deeply about the strategic nature of candidate entry into campaigns, as evidenced by the absence of a relationship between favorable conditions for third-party candidates and the decision of these candidates

¹⁸We do not find it credible that these instances of non-major party wins are instances of “wrong winners.” For this to be true, supporters of one major party would have to prefer the other major party to the non-major party or votes for the non-major party would have had to have been strategic.

to run. This implies that current ballot-access laws are sufficient to prevent most third-party and independent candidates from creating “voter confusion.”

FMPs tend to be exceptions to these rules. Voters are not as averse to supporting such candidates in comparison to ANMs. This is partly because FMPs make decisions that are conducive to receiving more votes, such as running as independents and, especially for current office holders, running in districts that are safe for the party they just left. But over and above these factors, because they are much more likely than ANMs to have held office in the past, they obtain far more votes than the average non-major party candidate. On the other hand, most of these prior-office holding FMPs lose, and they obtain fewer votes than ANM office holders. This puts them in the position to be especially likely to deny winners outright majorities, which makes them possible “spoilers.”

Two additional points need to be made to clarify what our findings imply. First, these findings do not imply that third-party candidates and independents harm electoral integrity, writ large. In fact, the findings on ANMs suggest that easing ballot access laws would not severely threaten the integrity of the electoral process. If ballot access laws for minor parties were eased, and another political party became prominent enough to systematize plurality outcomes created through political competition and widespread voter support, criticisms can target first-past-the post, single-member plurality systems for not properly converting voter sympathies into legislative seats (see New Zealand’s electoral system prior to changes in the 1990s and Canadian national elections). Nevertheless, it is a product of routinized political competition, which is pleasing to those seeking a robust democracy.

This is a different issue than pluralities caused by FMPs, where a majority outcome is denied because of the temporary use of an independent label (rather than real independence). These scenarios are potentially problematic, obfuscating the voting process for the public and causing personal, intra-party disputes to spill onto the ballot. Because of this, we urge readers to focus on how the reasoning put forth in defense of partisan disaffiliation laws is supported by much of the empirical evidence, specifically with regard to FMPs; this should not be interpreted as an indictment of minor parties and independent candidates as a whole.

Second, some readers might find the focus on FMPs ironic given the 2016 presidential election. With Donald Trump the presumptive nominee on the Republi-

can ticket, without a history of being a party activist or even a party member, and with Bernie Sanders launching a strong challenge against Hillary Clinton on the Democratic side, even though he eschewed the Democratic label until recently, it appears the opposite should be the focus of attention. Outsiders moving into the party, and disrupting the status quo, is more important than disgruntled partisans, leaving the fold to adopt an independent or third-party label.

Yet, we argue that this phenomenon is a component of the broader argument we make, which is that the rationale behind partisan disaffiliation laws is to restrict movement between and out of parties to try to control the ballot. Trump and Sanders both moved into the party from no party affiliation, which is allowed, but the laws in place then made it difficult for either to leave the party this election cycle. For example, Trump’s threats of a non-major party run, had he failed to win the nomination, would have been made difficult because many state laws are in place to prevent such a movement. Had he tried, he likely would have failed to obtain ballot access in some states because of partisan disaffiliation laws, in conjunction with “sore loser” laws. The issue of partisan disaffiliation is still present, even in this particular presidential race, and those state legislative candidates who remain disgruntled with their party over the choices of Trump and Clinton will potentially need to consider these laws, should their anger remain in the 2017 and 2018 elections. Thus, these laws are quite important to consider given the current state of party politics in the United States.

Given these results, and the role these laws can play in the current political climate, we offer several suggestions for possible changes to the nature of partisan disaffiliation laws. If maintaining electoral integrity is key to elections, then an amendment to current partisan disaffiliation laws that would reduce the tension between the freedom to run for office and disruption to the electoral process would allow major-party incumbents to run, but not as independents. If they are really disavowing the ideology of their former major party, then they could establish this fact by publicly aligning themselves with the alternative ideology of an existing minor party, but only if it has met the qualifications for being on the ballot.¹⁹ The finding that non-major party candidates do

¹⁹Allowing them to pick their own label should not be permissible, as this would allow them to pick a party label that essentially identifies them as an independent.

worse when associated with a third-party label in comparison to an independent is a built-in safety valve.

Another method that could be utilized to reduce the tension between associational rights and threats to the integrity of the electoral process is to permit candidates who are affiliated with a party to run as independents or third-party candidates when a coming election would be uncontested otherwise. A complication with such an approach would arise if two or more additional candidates wanted to run.

Furthermore, there is substantial ambiguity about what legally constitutes a candidate's failure to sever ties with a political party. Common evidence brought to bear on this question is that a potential non-major party candidate currently holds an office to which they were elected as a Democrat or Republican. Although FMPs who have never held state legislative office in the past are also associated with a higher probability of mere plurality winners than ANMs, this is only for about 22 percent of the major-party contested elections they appear in. The finding that FMPs who have held office are more than twice as likely to deny winners a majority than other FMPs underscores the utility of focusing on this fact.

This ambiguity in the laws could lead to situations that the laws were designed to prevent—manipulation of outcomes. If political actors can implement disaffiliation laws when it suits them, and not enforce them at other times—such as when the opposing party is having an intraparty fight—this opens up the law to abuse. Writing the law so it explicitly prohibits current office holders from jumping ship and running on another party's label, whether they have completed their term or not, would go far to doing so.

Finally, our findings also provide caution to Democrats or Republicans who wish to encourage a member of the opposite party to defect and run as an independent for reasons of political gamesmanship. We find no systematic tendency for FMPs who have held office in the past to take more votes from the party they just left. Their impact on which major party will win an election is unpredictable. The same holds for those partisans who believe that an independent run could help them to reassert their position within the party by showing how valuable they are to the party (by taking votes away and causing former party members to lose seats); the results of such a gamble are uncertain, too.

The purpose of this analysis has been to evaluate partisan disaffiliation laws. But in the process of

comparing FMPs to ANMs, we have uncovered several findings regarding ANMs that in themselves constitute valuable contributions to the study of third-party and independent candidates. Prior research has not taken a comprehensive look at the frequency and success of non-major party candidates in state legislative elections in all states from 1968 to 2014. Nor have scholars detected the patterns of strategic voting discussed above regarding the conditions under which voters support non-major party candidates—the tendency for more votes to be given to non-major party candidates when such votes cannot or are less likely to “spoil” an election. Finally, the quantitative evidence we provide to support the conventional wisdom about the motivation behind ANMs' decisions to run is also novel.

REFERENCES

- Anderson v. Celebrezze*. 1980. 499 F. Supp. 121 (S.D. Ohio).
- Argersinger, Peter H. 1980. “A Place on the Ballot’: Fusion Politics and Antifusion Laws.” *American Historical Review* 85(2): 287–306.
- Brancati, Dawn. 2008. “Winning Alone: The Electoral Fate of Independent Candidates Worldwide.” *Journal of Politics* 70(3): 648–662.
- Burden, Barry C. 2007. “Ballot Regulations and Multiparty Politics in the States.” *PS: Political Science and Politics* 40(4): 669–673.
- Burden, Barry C., Bradley M. Jones, and Michael S. Kang. 2014. “Sore Loser Laws and Congressional Polarization.” *Legislative Studies Quarterly* 39(3): 299–325.
- Chamberlain, Adam. 2014. “Voter Coordination and the Rise of the Republican Party: Evidence from New England.” *Social Science History* 38(3–4): 311–332.
- Chhibber, Pradeep K. and Ken Kollman. 2004. *The Formation of National Party Systems: Federalism and Party Competition in Canada, Great Britain, India, and the United States*. Princeton, NJ: Princeton University Press.
- Cillizza, Chris. 2014. “Charlie Crist Didn’t Leave the Republican Party Because of Racism. He Left It Because He Couldn’t Win a Primary.” *Washington Post-The Fix Blog*. Available at <<https://hdl.handle.net/1902.1/21549>>. Accessed on January 22, 2016.
- Crisp, Brian F., Santiago Olivella, and Joshua D. Potter. 2012. “Electoral Contexts that Impede Voter Coordination.” *Electoral Studies* 31(1): 143–158.
- Curry v. Buescher*. 2010. No. 10-1265 (10th Cir. Aug. 31).
- Curtice, John. 2013. “Politicians, Voters, and Democracy: The 2011 UK Referendum on the Alternative Vote.” *Electoral Studies* 32(2): 215–223.
- Davis v. State Election Board of Oklahoma*. 1988. 762 P.2d 932 (Supreme Court of Oklahoma).
- Erikson, Robert S. and Gerald Wright. 2005. “Voters, Candidates, and Issues in Congressional Elections.” In *Congress*

- Reconsidered*, ed. Lawrence C. Dodd and Bruce L. Oppenheimer. Washington, D.C.: CQ Press.
- Florida Senate Interim Report 2011-119. 2010. "Legal Implications of Candidate Party Switching in Florida Elections." Published by the Committee on Ethics and Elections.
- Gillespie, J. David. 1993. *Politics at the Periphery: Third Parties in Two-Party America*. Columbia, SC: University of South Carolina Press.
- Gillespie, J. David. 2012. *Challengers to Duopoly: Why Third Parties Matter in American Two-Party Politics*. Columbia, SC: University of South Carolina Press.
- Hirano, Shigeo and Snyder, James M., Jr. 2007. "The Decline of Third-Party Voting in America." *Journal of Politics* 69(1): 1-16.
- Hirano, Shigeo and Snyder, James M., Jr. 2014. "Primary Elections and the Quality of Elected Officials." *Quarterly Journal of Political Science* 9(4): 473-500.
- Jenkins, Jeffrey A. and Irwin L. Morris. 2006. "Running to Lose?: John C. Breckinridge and the Presidential Election of 1860." *Electoral Studies* 25(2): 306-328.
- Kang, Michael S. 2010. "Sore Loser Laws and Democratic Contestation." *Georgetown Law Journal* 99: 1013-1075.
- Klarner, Carl E. 2010. "Forecasting the 2010 State Legislative Elections." *PS: Political Science and Politics* 43(October): 643-48.
- Klarner, Carl E., 2013. "State Legislative Election Returns Data, 2011-2012." <<http://hdl.handle.net/1902.1/21549>>. Harvard Dataverse Network [Distributor] V1 [Version]. The 2011-2012 addendum has the following citation.
- Klarner, Carl E., William Berry, Thomas Carsey, Malcolm Jewell, Richard Niemi, Lynda Powell, and James Snyder. *State Legislative Election Returns (1967-2010)*. ICPSR34297-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2013-01-11. doi:10.3886/ICPSR34297.v1.
- LeDuc, Lawrence. 2009. "The Failure of Electoral Reform Proposals in Canada." *Political Science* 61(2): 21-40.
- Lee, Daniel J. 2012a. "Take the Good with the Bad: Cross-Cutting Effects of Ballot Access Requirements on Third-Party Electoral Success." *American Politics Research* 40(2): 267-292.
- Lee, Daniel J. 2012b. "Anticipating Entry: Major Party Positioning and Third Party Threat." *Political Research Quarterly* 65(1): 138-150.
- Lee, Daniel J. 2014. "Third-Party Threat and the Dimensionality of Major-Party Roll Call Voting." *Public Choice* 159(3): 515-531.
- Lem, Steve B., and Conor M. Dowling. 2006. "Picking Their Spots: Minor Party Candidates in Gubernatorial Elections." *Political Research Quarterly* 59(3): 471-480.
- Libertarian Party v. Secretary of State*. 1991. 817 P.2d 998 (Colo.).
- Nagel, Jack H. 1994. "What Political Scientists Can Learn from the 1993 Electoral Reform in New Zealand." *PS: Political Science and Politics* 27(3): 525-529.
- Pyeatt, Nicholas L. 2014. "Incumbent Ideology, District Ideology, and Candidate Entry in U.S. Congressional Elections, 1954-2008." *Social Science Journal* 51(2): 181-190.
- Rapoport, Ronald and Walter J. Stone. 2008. *Three's a Crowd: The Dynamic of Third Parties, Ross Perot, and Republican Resurgence*. Ann Arbor, MI: University Press of Michigan.
- Reynolds, John F. and Richard L. McCormick. 1986. "Outlawing 'Treachery': Split Tickets and Ballot Laws in New York and New Jersey, 1880-1910." *Journal of American History* 72(4): 835-858.
- Riker, William H. 1982. *Liberalism Against Populism: A Confrontation Between the Theory of Democracy and the Theory of Social Choice*. San Francisco, CA: W.H. Freeman.
- Rogers, Steven. 2014. "Electoral Accountability for State Legislative Roll-Calls and Ideological Representation." Center for the Study of Democratic Institutions, Vanderbilt University. Available at <<http://www.stevenmrogers.com/WorkingPapers/Rogers-IndividualAccountability.pdf>>.
- Rosenstone, Steven J., Roy L. Behr, and Edward H. Lazarus. 1996. *Third Parties in America: Citizen Response to Major Party Failure*. 2nd Edition. Princeton, NJ: Princeton University Press.
- Scarrow, Howard A. 1986. "Duverger's Law, Fusion, and the Decline of American 'Third' Parties." *Western Political Quarterly* 39(4): 634-647.
- Schraufnagel, Scot and Kerri Milita. 2010. "Testing the Effects of Ballot Access Reform on Non-Major Party Electoral Fortunes: The Case of Florida's Revision 11." *American Review of Politics* 31(1): 25-39.
- Schraufnagel, Scot. 2011. *Third Party Blues: The Truth and Consequences of Two-Party Dominance*. New York: Routledge.
- Shock, David R. 2008. "Securing a Line on the Ballot: Measuring and Explaining the Restrictiveness of Ballot Access Laws for Non-Major Party Candidates in the United States." *Social Science Journal* 45(1): 48-60.
- Smith, Keith. 2014. "Proposition 14 and California's Minor Parties: A Case Study of Electoral Reform and Party Response." *California Journal of Politics and Policy* 6(4): 437-470.
- South Dakota Libertarian Party v. Gant*. 2014. 60 F. Supp. 3d 1043 (D.S.D.).
- Stone, Walter J., Sarah A. Fulton, Cherie D. Maestas, and L. Sandy Maisel. 2010. "Incumbency Reconsidered: Prospects, Strategic Retirement, and Incumbent Quality in U.S. House Elections." *Journal of Politics* 72(1): 178-190.
- Storer v. Brown*. 1974. 415 U.S. 724, 94 S. Ct. 1274.
- Tamas, Bernard and Matthew Dean Hindman. 2014. "Ballot Access Laws and the Decline of American Third-Parties." *Election Law Journal* 13(2): 260-276.
- Thourmir v. Meyer*. 1986. 803 F.2d 1093 (10th Cir.).
- Van Susteren v. Jones*. 2003. 331 F.3d 1024 (9th Cir.).
- Ware, Alan. 2000. "Anti-Partism and Party Control of Political Reform in the United States: The Case of the Australian Ballot." *British Journal of Political Science* 30(1): 1-29.

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