THE PARTISAN DUOPOLY IN US HOUSE ELECTIONS: AN ANALYSIS OF MINOR PARTY FAILURE

Scot Schraufnagel and Kerri Milita

The research examines the dearth of minor party representation in the contemporary US House of Representatives. It explores the influence of state election laws concerning ballot access, fusion candidacies, and party primaries on non-major party voting. Results suggest these impediments are of limited significance in expanding the scope of electoral competition. Instead, a component of the secret ballot reform, initiated in the nineteenth century, which prevents distribution of party ballots, has likely had the greatest effect on minor party success.

Introduction

By the general election of 1892, the Australian ballot had been adopted by all American states. Instituted to temper corruption and domineering political parties, the ‘secret ballot’ has had electoral consequences beyond the sequestered voting booth. One alleged casualty of the change has been third or minor parties in American politics (Evans 1917; Rusk 1970; Burden 2007; Hirano and Snyder 2007; Tamas and Hindman 2007). Figure 1 exhibits the precipitous drop in non-major party congressional representation for the years succeeding the electoral reform.1 With the Australian ballot party leaders were prevented from circulating their straight-party line ballots, and the development and dispersion of electoral instruments

![Figure 1](image-url)  
**Figure 1**  
*Sources:* Data collected by the authors from the US clerk of the House website and from electoral archives from the Secretary of State Offices for each of the 50 US states.
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was granted solely to government officials. Subsequently, major party governing officials, in the American states, were afforded the opportunity to erect institutional barriers for non-major party candidates to navigate (see Herrnson 1997, 2006; Winger 1997; Lowi 1999).

The electoral barriers adopted in the wake of the secret ballot serve as the focal point for scholarly inquiry into the lack of minor party voting and partisan independence in the US. Such impediments include ballot access restrictions, the banning of fusion candidacies, and closed party primaries (Robeck and Dyer 1982; Norrander 1989; Brown 1997; Stratmann 2005; Burden 2007). A preponderance of research has focused on third party voting for presidential and gubernatorial candidates and explored how election rules work to promote major party dominance of executive offices (Mazmanian 1974, 1978; Smallwood 1983; Gold 1995; Lewis-Beck and Squire 1995; Lacy and Monson 2002; Allen and Brox 2005; Burden 2005, 2007).

Breaking with the modal category of inquiry, this research assembles aggregate data on non-major party voting for US House candidates; an area that has received less attention.

Likely attenuating the tendency for scholars to study minor party voting for legislative seats is the inimitable Duverger’s Law, which is routinely offered as the chief explanation for the lack of minor party representation in the US Congress (Duverger 1954; Blais and Carty 1991; Herrnson 1997, 2006; Hershey 2009: Ch. 2). Researchers acknowledge (perhaps too readily) the practical and political infeasibility of changing the existing single-member districts with plurality rule (SMD-PR) arrangements responsible for two-party dominance in the American states. The alleged improbability of these reforms has led some scholars to presume minor party voting for legislative seats in the US to be a non-phenomenon (Dwyre and Kolodny 1997; Reichley 1999). But, earlier historical eras witnessed considerably more non-major party success under the same SMD-PR election laws that exist today (Nash 1959; Voss-Hubbard 1999; Hirano and Snyder 2007). Consequently, the dearth of minor party voting in the modern context, at first glance, appears curious.

This research is conducted in much the same manner as other studies that explore the influence of auxiliary electoral barriers instituted by major party elected officials post-Australian ballot. However, the focus here is on the substantive effect of these changes and the possibility that preventing entrepreneurial minor party leaders the opportunity to simply out-recruit their major party competition might be the real story. It should be made clear that the implementation of the secret ballot created two new and independent electoral dynamics. First, it enabled Democrat and Republican state lawmakers to erect election system barriers for non-major party candidates to navigate and secondly, it prevented the circulation of party specific ballots. The former has been the subject of numerous studies—the latter dynamic remains comparatively unexplored.

This study will test the significance of three different election laws that have been written post Australian ballot that arguably have contributed to minor party failure in the US: ballot access requirements, fusion candidate bans, and closed state party primaries. The 50 American states vary considerably in their adoption of these laws. Hence, the research takes advantage of the dynamic nature of inter-state electoral context to test the substantive significance of these laws. The test covers the years 1976–2006. The research focuses on the modern era because the normative concern is contemporaneous.

Results suggest two of the three the electoral arrangements, ballot access restrictions and fusion bans, do yield statistically significant associations with non-major party voting in US House elections. However, there are no associated gains in non-major party representation when these barriers are not present. The substantive insignificance of these barriers suggests the other accompanying change associated with the secret ballot is culpable for
stifling minor party success; namely, the eradication of party ballots, which prevents minor parties the opportunity to simply out-recruit their major party opponents.

**Research Design**

The econometric models that follow will test the statistical significance of the three electoral barriers to non-major party voting discussed above. The results section will discuss concerns over substantive significance. The unit of analysis for the empirical tests is the average level of no-major party voting in US House elections, in the 50 American states, in elections that are held in the years 1976 to 2008. Fifty states and 16 election cycles yields a sample size of 800. Using voting for election to the Lower Chamber provides a test of non-major party electoral prowess in a showground where one might imagine minor party advocates would start a grassroots campaign for increased visibility and success. During the testing, every methodologically sound effort is made to give the barriers the benefit of the doubt, in terms of both statistical and substantive significance.

**The Dependent Variable—Non-Major Party Voting**

Most specifically, non-major party voting is measured by the proportion of total votes cast in US House elections that went to minor party candidates, independents, or write-ins from each state, during each even-year election held in November. Higher values denote the presence of greater non-major party voting in a particular state, during a given election year. Figure 2 presents composite averages, by state, for the entire time period. Notably, Vermont exhibits the most extensive minor party voting during this time period, due to the successful political career of Bernard Sanders (I-VT), an Independent member of the House of Representatives for 16 of the years, included in this analysis. Vermont’s 30-year average is just over 35%. The modelling that follows will take special precautions to account for the extraordinary success of Vermont’s at-large—non-major party House member. Contrasting Vermont, the states of Florida, Georgia, Illinois, and Maryland have the lowest minor party voting (less than 1%) during the testing period. The mean level of minor party support, by state, for the time period is 3.09%, with a standard deviation of 7.25%.

**Key Exploratory Variables—the Three Barriers**

The first electoral barrier tested is restrictive ballot access laws or the ease with which candidates acquire a spot on electoral instruments. The prerequisites for non-major party access (such as paying a monetary sum or acquiring a specific number of signatures) often exceed the requirements for major party candidates (Lewis-Beck and Squire 1995; Ansolabehere and Gerber 1996; Dwyre and Kolodny 1997). The presence of cumbersome filing fees and signature requirements, it is believed, reduces the likelihood non-major party candidates will run, and depletes the resources of those who manage to gain ballot access.

Two operationalisations of the relative difficulty of ballot access are employed. In Model 1, Joshua Rosenkranz’s (1996) interval-level ballot access scores are used. His measure incorporates a host of ballot access considerations such as the number (also percentage) of signatures required, whether a filing fee is mandatory, as well as the deadline for filing. Extended deadlines with minimal fees and signatures are believed to facilitate access. When
ballot access laws have changed during the time period of this study, Rosenkranz’s 1996 values are altered based on the formula he provides. The variable, in this study, ranges from 31 to 101 with higher scores indicating greater difficulty in ballot access for minor party and independent candidates.6 In Model 2, the ballot access scores are replaced by a dummy variable coded ‘1’ if the signature requirement for minor party candidates in the state exceeds 3% of a district’s electorate, and ‘0’ if otherwise. This more parsimonious operationalisation represents a very strict ballot access requirement (only six of the 50 states had such a requirement) and should improve the likelihood of finding a significant association between ballot access restrictions and non-major party voting. Both modelling choices should produce negative coefficients.

The second consideration is whether or not fusion candidacies are directly or indirectly banned in a state. Fusion allows two or more parties to endorse a single candidate. The candidate then proceeds to run under multiple party banners. Voters may opt to vote for a candidate under either the major party or minor party label (Cobble and Siskind 2003) allowing voters to send a message of approval to a non-major party, and their candidate, without ‘wasting’ their vote (Argersinger 1980). When states place an outright ban on fusion candidacies the viability of American minor parties is believed to be compromised (Riker 1981; Scarrow 1986).7

In Model 1 fusion is operationalised by a dummy variable scored ‘1’ if the state has placed a direct ban on fusion candidacies and ‘0’ otherwise (Winger 1997, 1999; Burden and Greene 2000; Cobble and Siskind 2003). As the nature of state laws regarding fusion candidacies is not always lucid, many states neither ban fusion practices outright, nor
explicitly allow the practice. Hence, Model 2 scores this variable ‘1’ if a state either directly bans or indirectly bans fusion candidates. In effect, this second measure includes all states that do not expressly allow fusion practices. Whether fusion is explicitly banned or ambiguously discouraged, a negative relationship with non-major party voting is expected.8

The third potential impediment to non-major party voting is the closed party primary. States with closed primaries require voters to register with one of the major parties as a precondition for participation. Other states are more lenient and do not require party registration. Previous research suggests that closed primaries force voters into partisan corners (Jewell 1984), and produce fewer registered independents (Norrander 1989). Voters who want to participate in a primary that is closed must opt for major party identification. Consequently, open primary states that do not require voters to name a party affiliation might be fertile ground for non-major party success.

It is important to note, however, registering as an independent or a member of a third party is not the same thing as voting for a non-major party candidate in a general election. Protest-minded voters in a state with an open primary may be satisfied by the opportunity to vote strategically in the primary, and then make a less tactical choice in the general election. In a closed primary state, independent-minded voters might save their protest (non-major party vote) for the general election. A state’s primary system is considered closed (scored ‘1’) when a state requires party registration prior to voting. All other primary types, in the American states, are coded ‘0’.9

Key Controls

The first key control variable specifies the biennial proportion of US House elections in each state that went uncontested by a major party candidate. If a state has two House seats and one of them went uncontested the variable would equal ‘.50’, if neither went uncontested the variable would equal ‘0.0’. As nature abhors a vacuum, minor party voting should rise as a reaction to the presence of ballots with only one major party candidate (Duverger 1954: 216–7). A positive coefficient is anticipated. Second, the percentage of self-identified independents in each state is accounted for (Eldersveld 1952; Bowler and Lanoue 1992). Data from 1985 research on state citizen ideology are employed in the models as an estimate of self-identified independents (see Wright et al. 1985).10 Again, a positive coefficient is anticipated.

Other Considerations

Four additional control variables are included in the models. First, is the degree of single-party dominance present in each state (see Kamieniecki 1988; Norrander 1989). Single-party dominance is measured as the absolute value of the difference between the percent of Democrats in a state House of Representatives versus the percent that are Republican. This renders a theoretical scale of 0 to 100, where higher values denote state legislative dominance by one political party. On average, states with a single-party tradition foster less electoral support for non-major parties (Dubin 2007). A negative coefficient is anticipated. Second, African Americans are the most solidly Democratic voting bloc in the American electorate (Burden and Greene 2000). Consequently, the percent of a state’s citizenry that is African American is controlled for, and should be negatively associated with non-major party voting.
Third, the ideological distance between a state government and its citizenry is accounted for. It is believed that a greater ideological distance will be associated with more non-major party voting (as a protest to the major parties, see Bowler and Lanoue 1992; Peterson and Wrighton 1998: 19). It is measured by the absolute value of the distance between composite scores of state government and state citizen ideology (Berry et al. 1998). Finally, the research employs a contextual dummy variable to control for the electoral success of Bernard Sanders (I-VT) (Winger 1997: 159–61). The eight cases in the dataset representing an instance where Sanders wins Vermont’s at-large House seat are scored ‘1’ and all other cases are scored ‘0.’

Model Specification

A major issue with model specification is that the dependent variable is left-censored. For 102 of the 800 observations the dependent variable equals ‘0’. This is problematic for ordinary least squares regression, which assumes that values on the dependent variable are continuous. Moreover, the percentage of voters, who would have supported a non-major party candidate, if one had appeared on the ballot, is unknown. Simply creating a dummy variable for those cases where the dependent variable equals ‘0’ is not ideal. This approach will underestimate the intercept and overestimate the slope, potentially producing inconsistent or biased estimates (Long 1997: 187). Consequently, this study employs a Tobit model which accounts for the censoring. Tobit produces consistent estimates of the parameters when the data are censored (McDonald and Moffitt 1980: 318–9; Long 1997: 189).

A second issue is that data on the dependent variable are arrayed both over time (election cycles from 1976 to 2006) and across sections (the 50 American states). This suggests the need for a random-effects specification, which provides estimates that are weighted to correct for heteroscedasticity and autocorrelation problems inherent in many pooled-cross sectional designs (Beck and Katz 1995). Hence, a random-effects Tobit model is used.

Results

When Rosenkranz’s (1996) interval level measure of ballot access is employed (Model 1) a statistically insignificant relationship is found between ballot access restrictions and non-major party electoral success. When the ease of ballot access index is supplanted with a dummy variable capturing whether or not the signature requirement for ballot access is greater than 3% of the district electorate (6/50 states), the variable does achieve statistical significance (Model 2). The coefficient, however, is not substantively promising. Eradicating this particular barrier is associated with less than a 2% increase in non-major party voting, on average. And, because there is nearly no non-major party representation in the House, during the study time period, we cannot reasonably suggest that this barrier has been preventing non-major party representation.

Fusion bans in both models are statistically significant. Whether fusion candidacies are explicitly or indirectly banned, the non-major party vote share is reduced by a little less than 2%, on average. Again, this is not substantively promising. The third perceived barrier, the closed state party primary, is not associated with any noticeable change in the non-
This was not entirely unexpected, nor necessarily inconsistent with Barbara Norrander (1989: 534–5), who argues that closed primaries will produce fewer independents, but not necessarily more partisan behaviour. It seems forced partisanship tends to be shallow (see also Burden and Greene 2000). Some individuals prone to independence, and wishing to protest vote, it appears, are satisfied by their ability to vote strategically in an open primary and subsequently opt for a major party vote in the general election.

The control variables perform much better. The coefficients for major party missing (Models 1–2) suggest that there is an 8–9% increase in non-major party voting when comparing a state that always has a major party missing and a state that never does. Moreover, the percentage of self-identified independents in a state is associated with greater non-major party voting in both model runs as was expected. Also, consistent with expectations, ‘one-party’ states are associated with lower levels of non-major party voting. A greater ideological distance between a state government and its citizenry is, also, statistically linked to

<table>
<thead>
<tr>
<th>Variable (exp. sign)</th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
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<tr>
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<tr>
<td>Difficulty of Ballot Access (−)</td>
<td>&lt;.01</td>
<td>−</td>
</tr>
<tr>
<td>Signature Req. &gt; 3% (−)</td>
<td>−</td>
<td>−1.66*</td>
</tr>
<tr>
<td>Fusion Directly Banned (−)</td>
<td>−1.76**</td>
<td>−</td>
</tr>
<tr>
<td>Fusion Indirectly Banned (−)</td>
<td>−</td>
<td>−1.65**</td>
</tr>
<tr>
<td>Closed Party Primary (−)</td>
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<tr>
<td>Percentage of Independents (+)</td>
<td>.10**</td>
<td>.10*</td>
</tr>
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<tr>
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<td>8.07***</td>
<td>8.10**</td>
</tr>
<tr>
<td>% Registered Independents (+)</td>
<td>.10**</td>
<td>.10*</td>
</tr>
<tr>
<td>Other Controls</td>
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<tr>
<td>One-Party Dominance (−)</td>
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<td>−2.13**</td>
</tr>
<tr>
<td>% African American (−)</td>
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<td>−.95</td>
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<tr>
<td>Ideological Distance (+)</td>
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<td>.04***</td>
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<tr>
<td>Bernard Sanders (+)</td>
<td>55.97***</td>
<td>56.02***</td>
</tr>
<tr>
<td>Constant</td>
<td>−2.31</td>
<td>−5.47**</td>
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<tr>
<td>Wald Chi²</td>
<td>1573.39***</td>
<td>1568.65***</td>
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*** p < .001; ** < .01; * < .05; ≥ .10 (one tailed-tests)
more minor party voting. And finally, non-major party voting in Vermont when Bernard Sanders is running is more than 55% higher, on average.

The results suggest that eliminating the three lower-order electoral impediments does not hold much promise for increasing non-major party representation in the US House of Representatives. Indeed, evidence from this research suggests that one of these considerations, the closed party primary system, does not hinder non-major party success at all. While stringent ballot access requirements and the direct and indirect banning of fusion candidacies are both statistically linked to less non-major party voting, the substantive gain for non-major party candidates is nowhere to be found. There is no correlation with these laws and more or less actual non-major party representation. Instead, when the occasional non-major party candidate has emerged in American politics they have been helped by other factors such as name recognition and campaign resources. Meaningful reform directed at dismantling the partisan duopoly in US House elections must come from changes in the higher order electoral barriers, specifically, the SMD-PR arrangements.

Conclusion
Eliminating the lower-order electoral barriers, which come about post-Australian ballot, leaves the core impediment, SMD-PR, unshaken. Yet, the same SMD-PR elections existed in earlier periods, when non-major parties had moderate success. In the 50 years before the Australian ballot was in force, non-major parties held, on average, more than 5.5% of all seats in the US House of Representatives. Arguably this level of representation would be a normatively appealing, today, given historically that many quality policy proposals (including Progressive Era reforms such as the direct election of senators and women’s suffrage) were introduced in minor party manifestos.

Previous research has conjectured that the electoral barriers, created when major-party governing officials took control of ballot construction and dissemination, must be the answer to the drop-off in non-major parties, particularly in the second half of the twentieth century and today. Many researchers found statistically significant coefficients associated with these barriers and concluded that they were correct. But, a closer examination shows that regardless of how these alleged impediments are operationalised, the substantive significance of their influence is minor. That is, eliminating these barriers cannot revive non-major party representation. Consequently, this research suggests that there must be more to the story.

The advent of the Australian ballot engendered two crucial changes. First, the reform allowed major party state legislators to pass laws restricting non-major parties. Second, it prevented non-major party leaders from being able to circulate electoral instruments with their candidates’ names on them. The second change now appears the most consequential. The real story has been the inability of entrepreneurial minor party leaders to out hustle their competition—in sum; this is the change that broke the back of minor parties in the US.

Joseph Cooper (2009: 362) writes about electoral completion for House seats—pre-Australian ballot:

State and local parties dominated the electoral system. Nominations for local, state, and national offices were all determined by party caucuses or conventions. The parties [major and minor] also controlled the conduct of election campaigns. In these campaigns the
primary strategy remained the mobilization of partisans through reliance on parades, stump speeches, party workers, and party newspapers. Similarly, the parties controlled the machinery of elections. Voting eligibility remained in the hands of partisan election judges at the polls—present day registration laws did not exist. Ballots continued to be printed by the parties, confined to party candidates, distinctively colored, and handed in the open to these same judges at the polls.

The scenario described by Cooper no longer exists, and many would suggest, appropriately so. But, with this reform came the inability of minor parties to simply out recruit and outwork their major party brethren. Moreover, this research finds that elimination of the lower-order electoral barriers, such as ballot access restrictions, fusion bans, and closed party primaries, cannot bring about a meaningful increase in non-major party representation. Now, minor party advocates must focus their attention on America’s SMD-PR elections, and the other impediments that these election laws have provoked, such as recruitment, resources, and media biases (Norris 1997). This appears to be the only hope for a more competitive and representative party system.

NOTES

1. The two small upswings in the nearly flat line came about as the result of atypical circumstances that temporarily advanced non-major party electoral fortunes. The first was the election of 1912, the last election where a minor party presidential candidate (Teddy Roosevelt-Progressive Party) won more votes than a major party candidate. As evident by Figure 1, the former president candidate appears to have had coattails that helped to usher nine members of the Progressive Party into the US House that year. Several of these individuals won subsequent re-election. However, by the 65th Congress (1917–18), major party dominance had reasserted itself and non-major parties fare poorly again. The second blip occurs during the Great Depression when there were eight members of the Progressive Party and one member of the American Labor Party elected to the House between 1935 and 1940. Severe economic hardship seems to have caused voters in some states to abandon the major parties for a brief period.

2. Much of the third party voting literature documents the types of individuals that are more or less likely to vote for minor party candidates in presidential elections (Eldersveld 1952; Kamieniecki 1988; Gold 1995; Rosenstone et al. 1996: Chs. 6, 8; Abramson et al. 2000). Others look at individual-level voting in gubernatorial elections (Mazmanian 1974; Lacy and Monson 2002). It is found that third party voters tend to be weak partisans or political independents (Gold 1995) with low levels of trust in government (Bowler and Lanoue 1992; Peterson and Wrighton 1998; Lacy and Monson 2002), who believe that the nation is on the wrong track (Norrander 1989; Gold 1995; Rosenstone et al. 1996: Ch. 6; Abramson et al. 2000). Other have argued that third party voting is not so much muted through electoral laws, but rather that third party issues are absorbed into major party platforms once they reach a certain level of public awareness, effectively cutting off third party lifelines (Burden 2007; Hirano and Snyder 2007).

3. For exceptions see Robeck and Dyer (1982); Herrnson (2006); Hirano and Snyder (2007); Tamas and Hindman (2007).

4. There is very little difference in the relative value of the dependent variable using alternative coding rules, such as leaving off write-ins. The US House Clerk’s website http://clerk.house.gov (last accessed 2 December 2008) was used to obtain the relevant values.
5. One limit to this design is that there are some electoral dynamics that are more accurately district-level phenomena. However, employing the congressional district as the unit of analysis causes other problems because the variables of primary interest do not vary by district and their values would simply be repeated for all observations from a particular state.

6. The hypothetical range of this variable is 0 to 162. Changes in ballot access laws were obtained from Ballot Access News at http://www.ballot-access.org/ (accessed 3 June 2009). The state with the least difficult ballot access during the time period studied is Arkansas, and the state with the most restrictive ballot access during this time period is New Hampshire.

7. Scholars believe the power of fusion candidacies to be so great for third party appeal that an addendum to Duverger’s Law is offered: ‘Plurality election rules bring about and maintain two-party competition except where fusion candidacies are legally possible and other conditions, especially a competitive party environment, encourage their formation’ (Scarrow 1986: 644).

8. In alternative model runs, not reported in this article, both fusion ban variables were included in the same models. This specification rendered the ‘Fusion Directly Banned’ statistically insignificant, while the practice of ‘Fusion Indirectly Banned’ remained significant. The research also created a fourth measure of the effects of fusion. In this instance, the variable was coded ‘1’ if fusion is allowed, ‘-1’ if fusion is directly banned, and ‘0’ otherwise. This test returns a statistically significant association between fusion and non-major party voting in all model runs and does not change the statistical significance of other variables in the models. Fusion laws for the 50 states are available at Ballot Access News, http://www.ballot-access.org/ (accessed 2 June 2009).


10. National Election Study data on self-identified Independents is not available for many states in many years. Other sources are also incomplete and are not as routinely cited as the values calculated by Gerald Wright et al. (1985). To avoid potential problems associated with mixing data sources only the single data point is employed.

11. The ideology scores created by William Berry and colleagues (1998) range from ‘0’ (more conservative) to ‘1’ (more liberal) and are developed using identical scaling, which allows for meaningful discernment of the distance between the two values.

12. The model is run in Stata 9 using the command ‘xttobit’. The random-effects Tobit model uses an adaptive Gauss–Hermite quadrature to approximate the high-dimension integrals that are part of the likelihood for these models. Quadrature is one of the most accepted approaches to fitting these models (Stata Corporation 2007). A quadrature check was performed with varying integration points which produced consistent estimates, indicating that the data are stable and the model is correctly fitted. Results of these tests are available from the authors upon request.

13. Anecdotally, personal resources allowed minor party candidates such as Governor Jesse Ventura and presidential candidate Ross Perot to overcome obstacles in their independent candidacies. Moreover, the previous political experience of Bernard Sanders (I-VT), a former minor party mayor, and Senator Joe Lieberman (I-CT) likely facilitated their electoral success as non-major party candidates.

14. Unfortunately, there is no contemporary deviation in SMD-PR in the American states to test the effects of this formidable barrier.
REFERENCES


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