WHAT HAPPENS IN YOUR STATE DOESN'T STAY IN YOUR STATE: OMISSIONS AND OPPORTUNITIES IN POLICY DIFFUSION

By

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ABSTRACT

**WHAT HAPPENS IN YOUR STATE DOESN'T STAY IN YOUR STATE:
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Decades of research have offered strong evidence for policy diffusion, whereby one government's adoption of a new policy influences subsequent governments' enactment of the same innovation. But most of this rich research has narrowly focused on the spread of statutes in the legislative arena, neglecting the myriad other venues where policy change occurs. And even when scholars have taken note of policies adopted via multiple forums, they have typically employed binary models to estimate enactment without accounting for inter-venue dynamics that might affect policy diffusion. In addition, nearly all diffusion studies fall prey to selection bias, explaining the transfer of innovations that have knowingly diffused, omitting from the models those policies that failed to spread. What is more, most of this research has focused on the transmission of the policy itself, overlooking the potential diffusion of alternative aspects of the policymaking process.

This dissertation addresses these omissions and capitalizes on existing opportunities in the policy diffusion literature. First, to better understand the spread of policies beyond the legislative context, I mapped the diffusion of a large sample of ballot measures across U.S. states from 1902 – 2016, and both anti- and pro-gay marriage policies via multiple venues from 1993 - 2015. I offer evidence of policy diffusion via state legislatures, legislative referenda, citizen initiatives, state courts, and federal courts. While the results reinforce much of our current understanding of policy diffusion, they also help refine the precise nature of this dynamic process across varying institutional arrangements.

Second, I used an established but underutilized modeling strategy—multinomial logistic regression—to better account for the transfer of innovative ideas via multiple competing arenas.

This approach allows me to simultaneously recognize each factor's contribution to policy adoption in the respective venues and uncover inter-venue dynamics.

Third, to address the persistent selection bias in diffusion studies, I relied on the same large sample of ballot measures pursued across U.S. states from 1902 - 2016. I find that nearly half of the ballot measures did not diffuse to other states, and almost three-quarters of the measures were enacted by less than a handful of states. Moreover, when I reran the models omitting policies that did not diffuse or only narrowly spread, policy learning's effect on adoption was twice as large when compared to the full set. This suggests that policy scholars may be overstating the rate of policy diffusion and inflating fundamental mechanisms' effect on the process.

Finally, fusing the policy-diffusion and venue-shopping literatures, I investigated whether policy actors' choice of venue to press for anti- or pro-gay marriage policies in one state influenced subsequent states' actors to pick the same forum, a process I term *venue diffusion*. I posit that policy advocates look to and learn from others, purposively seeking a solution to their shared problem (i.e., policy learning) and how best to achieve that solution (i.e., political learning). By incorporating political learning into my models, I am better able to explain the dynamics of policy diffusion *and* offer evidence of venue diffusion, at least in the context of a salient morality policy. States are more likely to pick the venue that other, especially similarly-situated, states have chosen to enact the policy successfully. The interdependence between the American laboratories of democracy appears to go beyond merely the copying of a policy idea to emulating a fundamental input of the policymaking process.

To my soulmate, Elly, and our marvelous daughters, Gracie and Dot.
You fill me with sated joy.

ACKNOWLEDGMENTS

This research highlights the importance of interdependence among policy actors in explaining the policy process. Emphasizing this interdependence is fitting because social connectedness to and learning from others have been no less critical to this project and my success in graduate school. I could not have completed this mammoth enterprise without the support of so many people in my life. I relied on the insight and encouragement from numerous faculty mentors, colleagues, friends, and family. If it "takes a village to raise a child," it took a megalopolis to help me complete my dissertation. Of course, any errors in the research presented here are entirely my doing. And undoubtedly, because of the scale of this project and my feeble memory, I have likely omitted the names of some individuals that have positively contributed to this project in some capacity. I extend my apologies for neglecting to recognize their input here and express my heartfelt thanks.

My dissertation committee—Ryan Black, Eric Gonzalez Juenke, Charles Shipan (from the University of Michigan), and Saundra Schneider—was invaluable to this research and my progress throughout my graduate studies. Some of the best advice I received in graduate school was to conscript the smartest, most prolific scholars to form my committee, even if my topic did not perfectly align with their research foci. I am glad I heeded such guidance. Undoubtedly, these four individuals' wells of knowledge and unique perspectives greatly enhanced the development and completion of this project, as well as my career.

Ryan Black is one of the most prolific, rational, and resourceful researchers I know. He sees empirical questions in all things. In the classroom, Ryan sets expectations high, and students always seem to rise to the occasion. He is accessible, humble, and eschews titles. And he is amiable and humorous, making every interaction with him a joy. I appreciate that Ryan recognized my passion for teaching early on, modeled evidence-based instruction, demonstrated innovative approaches in

the classroom, and made me a better teacher. Ryan deserves all the accolades (and more!) that he has earned for his scholarship, teaching, and mentoring because he unduly helped me in all of these.

One of my first courses in graduate school—an introduction to the philosophy of science and research methods—was with Eric Gonzalez Juenke. Eric socialized me to the discipline and taught me to prioritize sound research design. His research identifying selection bias in the study of minority political candidates led me to consider the selection bias in the policy diffusion literature. I think he is one of the best writers in the discipline, modeling clear and concise prose. Eric also exemplifies extraordinary teaching; he has an uncanny ability to relate pop culture with research methods, piquing students' interest in political science. Eric has been one of the most ardent supporters in my corner. Those who know me know that I place high value on kindness. Eric is as nice as he is intelligent, making him a remarkable scholar, adviser, and person.

I long admired Chuck Shipan, a distinguished scholar at the University of Michigan, for his acclaimed research on policy diffusion. As a long shot, I invited him to be on my committee as an external faculty member. Everyone would have understood if he had politely declined the request from a student at another institution. You can imagine my delight when he agreed to serve on my committee. And serve he did! Chuck meticulously read, studied, and annotated my dissertation drafts, even pouring over the footnotes and appendices. He drove to East Lansing on multiple occasions to hear about my research and offer discerning feedback. Chuck followed-up with detailed written bullet points summarizing his advice and charting a path forward. His brilliance is only matched by the charitable way he delivers constructive feedback. Chuck is an uncommon scholar and mentor, and I am forever grateful for his beneficence.

I was exceptionally lucky that the estimable scholar I wanted to work directly with during graduate school, Sandy Schneider, was on the selection committee when I applied. She plucked my application from the pile of superb candidates and recommended that MSU recognize my aptitude

with a University Fellowship. Sandy's support did not stop there. On day one, she invited me to co-author meaningful disaster policy research with her. She thought one of my initial term papers was solid enough for publication and encouraged me to submit it. Sandy treated me to coffees and meals to discuss my papers, gently nudged me to polish my writing, and pushed me to read early seminal works, which led me to identify omissions in the literature for this project. She also graciously introduced me to her extensive network of scholars, afforded me opportunities to participate in the ICPSR Summer Program in Quantitative Methods, and wrote numerous letters of recommendation on my behalf. Moreover, Sandy modeled how to consume research critically and run a seminar course. She mixes probing, open-ended questions with gourmet popcorn, simultaneously fostering deeper engagement with the material and a sweet tooth.

Graduate school can produce multiple roadblocks and opportunities for deviations from the end goal. When I veered off course or did not follow her advice, she did not gloat or discount me. On the contrary, Sandy reassured me and remained a steadfast champion of my potential, believing in me even when I had doubts. I am forever indebted to Sandy for taking a chance on me, for her prescient comments on my research, and for always seeing the best in my work product.

As many doctoral students can attest, the best scholars do not always make the best advisers. My committee was the exception. My only hope is that I can match their generosity as I try to pay it forward fostering the next generation of civically engaged students and budding scholars.

Many other MSU faculty and staff offered astute recommendations, thoughtful counsel, or continued reassurance during the dark parts of any research project. I am especially indebted to Michael Bratton, Melinda Gann Hall, and Sarah Reckhow for allowing me to execute some form of this research in their respective courses. All three endorsed the general premise of this project and provided sage advice for advancing it forward. Josh Sapotichne graciously talked through various aspects of my dissertation, directing me to different scholars' work and exhibiting as much

enthusiasm for my ultimate findings as I did. Josh has also been instrumental to my career development, introducing me to the foremost policy process scholars and treating my professional experience advantageously. Matt Grossmann spent hours reviewing early drafts and discussing different research frames, prompting me to pay more attention to the role of interest groups in the diffusion process. I cannot thank Matt enough for all his support on this and other projects. His delegatory approach to research is empowering and made me a more confident scholar. Cory Smidt is one of the brightest political methodologists in the discipline, and he always had his door open to me and generously fielded methods and coding questions. Even though we attended rival undergraduate institutions, he never held that against me and always had my best interest at heart.

I am also grateful to Bill Jacoby's sharp questions during the prospectus phase of the project, which helped me define the key contributions of my research relative to parallel studies. His comprehensive, illustrative, and energetic approach to teaching multiple regression, measurement, and scaling ignited my interest in learning and teaching research methods. My career was further enriched when Bill invited me to serve as the managing editor of the *American Journal of Political Science* (AJPS). I was afforded a front-row seat to the editorial process, interacted with numerous established and emerging scholars in our field, and apprised of the latest scientific findings. I also became an ardent disciple for reproducible research. And when the *AJPS* moved to American University, good fortune provided me the chance to work with Jan Leighley, another exceptional political scientist and mentor. Jan has always provided sage outside counsel. She was incredibly supportive of my career development and recognized my contributions to the *Journal*. In Jan, I gained another trusted adviser, ally, and friend.

Chuck Ostrom, in his capacity as department chair, and Melinda Gann Hall, Tom Hammond, and Ani Sarkissian, in their capacities as graduate program directors, deserve special recognition for their abiding support of my studies, research, and career. All four were remarkably

With the financial backing of MSU's Department of Political Science, College of Social Sciences, and Graduate School, I was able to present different versions of this research at several academic conferences. I appreciate the feedback from panel chairs, discussants, and participants at the 2015 Michigan Academy of Science, Arts & Letters Annual Conference; the 2015 Midwest Political Science Association Annual Conference; the 2016 Southern Political Science Association Annual Conference; the 2018 Midwest Political Science Association Annual Conference; and the 2019 Measurement Meets Politics and Policy Conference in Chicago, IL. The following individuals provided noteworthy insights at these conferences or in other capacities: Brady Baybeck, Ann Bowman, Becky Bromley-Trujillo, Jerrell Coggburn, Paul Cornish, Daniel Hawes, Renée Johnson, Daniel Lewis, Kristin O'Donovan, Srinivas "Chinnu" Parinandi, Mallory SoRelle, and Kimberly Wiley.

This project would have been much more challenging had various scholars and organizations not made their data publicly available. I cite the sources of data used throughout the dissertation in the appendices and reference sections, but I extend a personal thanks to Kimberly Conger, Paul Djupe, Carl Klarner, and Daniel Lewis. MSU's Government Information & Political Science Librarian, Julia Frankosky Ezzo, also did some data digging for me as well. And two undergraduate students at Hope College (my alma mater and where I was a faculty member for a year), Irene Gerrish and Joseph McClusky, provided tenacious research assistance collecting and coding nearly 7,800 ballot measures pursued at the U.S. state-level from 1902-2016.

I would be remiss, however, if I failed to acknowledge the undergraduate faculty mentors at Hope College that helped mold my early understanding of the discipline and approach to teaching: Annie Dandavati, David Ryden, Joel Toppen, and Boyd "Chacha" Wilson. Just as influential to my formation and zeal for understanding public policy and politics were my eight years of professional experience before homing in on my vocation. The people I worked with in El Salvador to

implement community and economic development initiatives in impoverished communities will always hold a special place in my heart. My tenure there further opened my eyes to the complexity of military intervention, trade, immigration, foreign aid, disaster relief, poverty, and debt policies. Likewise, the courageous human rights defenders in Guatemala that I later lobbied on behalf of in Washington, DC as director of the Guatemala Human Rights Commission, and the tireless grassroots activists that stood in solidarity with them, made me better understand and appreciate the power of democracy. I not only gained direct knowledge of the legislative process but also learned how to use my voice of privilege for those "*sin voz*." My time managing sales for Neogen Corporation, a multinational food and animal safety company, provided a holistic view of trade, economic development, tax, and food and drug policies. These professional experiences epitomized how policy is as personal as it is public. The people I interacted with during these adventures influenced my passion for studying politics and thus had some bearing on my graduate studies and the output here.

Nonetheless, while the aforementioned individuals immeasurably influenced my scholarship and teaching, the following people sustained and motivated me throughout this project and the arduous odyssey of graduate school. God gave me the strength to burn the midnight oil and opened windows of opportunity for me when doors seemed to close. Numerous neighbors, friends, and family members asked with genuine interest about my research or tenderly inquired about the progress of my dissertation. My extended family afforded me multiple passes to bow out of family parties, reunions, or impromptu gatherings.

One pair of in-laws, Richard Douglass and Marian Horowitz, made dinner for my family nearly every week, lightening the household duties. Richard also gave career advice and helped tackle home repairs, while Marian offered writing and grammar tips and fueled me with her delectable lemon bars. Another pair of in-laws, Tricia and Steve McEuen, visited us and invited us to Colorado

for respites from the doldrums of academic work. Tricia's comforting spirit and scrumptious meals always reassured me, while Steve spent hours conversing with me about my research, asking perceptive questions that helped me better distill my contributions to a more general audience. Mary Beth Moore and Doug Ruby, my wife's aunt and uncle, provided opportunities for recess at their cozy cottage in Pentwater, Michigan and at their home in Washington, D.C. Doug jokingly asked about my dissertation's progress in my first week of graduate school and Mary Beth's acclaimed chocolate chip cookies served as rewards after a hard day's work. Those named here and so many others unnamed—brothers, sister-in laws, brother-in laws, nieces, nephews, grandparents, aunts, uncles, cousins, friends, neighbors—were incredibly encouraging and supportive. I would not have arrived at this destination without them.

Deep appreciation and gratitude go to my parents, Susan and Clarence Jordan. I am especially proud to be their son. My persevering father worked for thirty-four years as a custodian for our local elementary school. My talented mother made and sold artisan goods at craft shows around the state. Despite my parents' best efforts, our family of six was a portrait of the working poor. We relied on government food assistance from time to time, and on subsidized housing loans. At the dinner table, we discussed grievances in my father's union, the influx of cheap crafts from abroad, and the fate of the Earned Income Tax Credit. These childhood experiences fostered in me a passion for trying to understand the political world. Despite our financial circumstances, my parents instilled in my brothers and me a deep passion for learning and encouraged us to use our skills and talents to serve the common good. More than anyone, they demonstrated the value of hard work and sacrificed everything for us. I would not be who I am today without them. I am forever grateful for their unwavering support at every step of this journey.

During graduate school, my parents would frequently travel two and a half hours each way to visit and help care for my children. On several occasions, they dropped their work at a moment's

notice to help us out in a pinch. They furnished my family with freshly picked blueberries, pistachio pie, and too many savory meals to count. My dad supplied me with original trivia questions to keep my general knowledge fresh. My mom offered words of fortitude, always believing in my abilities. And when this journey became increasingly more difficult, they volunteered to do even more to lighten my load. I could not have asked for better parents or an environment to begin to learn about politics and public policy.

Still, the most significant recognition of all goes to my spouse, Elly Jordan, and our two precocious daughters, Gracie (6 years old) and Dot (3 years old). These three bore the burdens of this project and process more than anyone. My daughters, Gracie and Dot, made this journey immensely more gratifying and joyful. They did not treat me any differently when my statistical models would not converge, when my dissertation prose was shoddy, or when I had to skip out on play time. They showered me with their love, wowed me with their development, and obliged me to tickle them until their laughter filled my soul. Gracie's and Dot's existence reminded me of what was truly important and motivated me forward.

Words are insufficient to express my appreciation and awe for my partner, Elly. Elly encouraged me to take a leap of faith and pursue my vocational dream of becoming a political scientist and professor. She was the first to listen patiently to my ill-formed ideas, improved my own understanding of the political world with her insightful questions, and offered feedback that greatly enhanced my research. Elly provided first-rate advice on how to overhaul complex sentences and revamp syntax. She graciously laughed at my awful jokes while all together keeping me in good spirits. Elly even had the patience to help me format the dissertation's Table of Contents, the final straw that breaks most scholars' backs.

What is more, she frequently put in overtime to care for our children and tackle household tasks so that I could have the space to read, collect and analyze data, and write. Further underscoring

how special she is, Elly was willing to ride the roller coaster of the academic job search and uproot

our family to make my dreams come true. Elly did this all the while providing exceptional legal

counsel to immigrants, sexual abuse victims, and other clients marginalized by society and the law.

Her extraordinary intellect is only matched by her level of compassion and generosity toward others.

At various points along the journey, it was her steadfast support and belief in me that kept me going.

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     I am incredibly blessed to share this life with Elly, Gracie, and Dot—three amazing and

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CHAPTER 1: INTRODUCTION

In 2009, Richard Lee—a marijuana user, entrepreneur, and founder of Oaksterdam University, the first cannabis trade school in the United States—launched a citizen initiative campaign in California to legalize the recreational use of marijuana (Hecht 2014; Martin and Rashidian 2014). California was the first state in the union to permit the use of marijuana for medicinal purposes in 1996. Lee wanted the Golden State to be the first to legalize the smoking of pot for any Californian twenty-one years of age or older, explicitly flouting U.S. law (Kamin 2015; Pickerill and Chen 2008). And Lee believed that a ballot initiative, allowing voters to have a direct say on this policy, was the best route to get this done.

Other activists, growers, and even representatives from statewide and national marijuana movements to legalize hemp use, including the California Leaders for the National Marijuana Policy Project and the National Organization for the Reform of Marijuana Laws (NORML), encouraged Lee to wait. They cautioned that it was too soon, that younger voter turnout would be too low in an off-year election, and that adult recreational use was politically untenable (Hecht 2014). Lee persisted. He bankrolled more than $1.6 million to pay for signature gatherers, secure a spot for Proposition 19 (Prop. 19) on California's November 2010 ballot, and rally support around his campaign (Hecht 2014; Martin and Rashidian 2014).[1]

Lee's campaign for Prop. 19 largely framed the legalization of cannabis as (1) a job creator (Starrs and Goin 2010), (2) a way to increase tax revenue, and (3) a way to save taxpayer money, by eliminating costly criminal justice policies employed to enforce prohibition (Ballotpedia 2010; Hecht 2014; Martin and Rashidian 2014). A diverse coalition of individuals and interest groups endorsed

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[1] California's November 2010 ballot measure to legalize recreational marijuana was not the first in the country, although it was the first in nearly a quarter century. In 1986, pro-reform activists and interest groups in Oregon successfully got Ballot 5 Measure on the voting ticket. The measure, intending to legalize the use of cannabis, was defeated having only garnered 26% of the vote.

Prop. 19, including George Soros, Clint Eastwood, Snoop Dog, the United Food and Commercial

Workers Union, the NAACP, the ACLU, and various elected officials (Ballotpedia 2010; Hecht

2014). Of course, the measure also had plenty of detractors. Many in law enforcement, dozens of

elected officials, the state Attorney General, the National Black Churches Initiative, Mothers Against

Drunk Driving, and even some marijuana activists opposed the initiative (Ballotpedia 2010). Indeed,

several supporters and legal growers of medical marijuana worried that Prop. 19 carried too severe

of penalties for minors, would drive down prices, or would put established growers out of business

(Hecht 2014). Amid mounting opposition within the pro-marijuana movement, California legislative

action decriminalizing recreational use, and threats of stiff federal enforcement, the ballot initiative

failed (Martinez 2010).[2] Californians rejected Richard Lee's measure 53.5% to 46.5% (Ballotpedia

2010).

Regardless of the loss, Lee's entrepreneurial spirit to change public policy and opinion in

favor of cannabis spurred activists in other states also to pursue legal recreational use of marijuana

and to do so via direct democracy. Following Lee's lead, policy actors in three states—Colorado,

Oregon, and Washington—put forward citizen initiatives in 2012 to legalize recreational use of

marijuana in those states. At least one of the organizers of the Colorado ballot initiative, Dan

Rogers, attended Oaksterdam University and directly strategized with Richard Lee about how best to

achieve the legalization of marijuana in Colorado (Hecht 2014). Rogers drafted an initiative that

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[2] Witnessing the increasing support for some type of action on cannabis, the California legislature passed SB 1449 in October 2010 to lessen the criminal penalty for the possession of less than one ounce of marijuana from a criminal misdemeanor to a civil infraction (Ballotpedia 2010). Governor Schwarzenegger, an opponent of Prop. 19 despite at least one public incident of smoking pot during his body-building career (Grace 2002), signed the bill into law. With legislative action, many thought Prop. 19 was moot. Moreover, the federal government had sent contradictory signals. In 2009, the Obama administration issued the Ogden Memo indicating that federal resources would not be used to pursue individuals using medical marijuana in compliance with existing state law (Kamin 2015). However, weeks before the November 2010 election, Attorney General Eric Holder said the Justice Department would not allow California to blatantly flout federal law. He asserted he would rely on the Controlled Substances Act to "vigorously enforce" federal law and go after individuals and organizations using, growing, or distributing marijuana for recreational use, even if voters passed the ballot initiative (Hoeffel 2010).

included language guaranteeing greater state regulation of the cultivation, distribution, and sale of cannabis. Rogers' effort also amassed greater unity of support among medical marijuana growers and activists within the state (Hecht 2014). In the end, the ballot proposals won in Colorado and Washington but narrowly lost in Oregon (Barcott 2015).

Following these wins in Colorado and Washington, pro-reform activists and interest groups collected enough signatures in Alaska and again in Oregon for November 2014 ballot proposals. Both direct democracy measures in Alaska and Oregon passed.[3] Ohio put forward a similar ballot measure in 2015. Although voters defeated the Ohio proposal, activists and interest groups put forward citizen initiatives for November 2016 in five other states: Arizona, again in California, Maine, Massachusetts, and Nevada (MPP 2016; NCSL 2018). These plebiscitary questions all passed except in Arizona, where it lost by a slim 2.5 percentage points. In 2018, Michigan voters passed recreational pot use also at the ballot box,[4] while activists in numerous other states are planning citizen initiative campaigns to approve adult-use of marijuana in future elections (NCSL 2018).[5] Figure 1.1 illustrates the passage of policies to legalize recreational marijuana use across U.S. states by citizen initiative.

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[3] Also in November 2014, voters in the District of Columbia overwhelmingly approved Initiative 71, which legalized the possession and cultivation of limited amounts of marijuana by adults twenty-one years of age and older. However, since the U.S. Congress has jurisdiction over the capital city (afforded by the U.S. constitution), lawmakers passed a series of measures curtailing the implementation of the voter-backed initiative.

[4] At a recent roundtable, Sam Pernick, the organizing director for MI Legalize—the state group spearheading the legalization of recreational cannabis, commented that the decision to pursue a policy change via citizen initiative was due to political calculations within the state, the prior success of the medical marijuana ballot measure in Michigan in 2008, and witnessing the routes that other states had previously taken to sanction marijuana use (Pernick 2019).

[5] As of 2017, state-level direct democracy had been the only vehicle to legalize recreational marijuana. Nonetheless, in 2018, Vermont's state legislature legally approved recreational marijuana, becoming the first and only state legislature to do so, although several other state legislatures are debating statutes to either legalize or decriminalize possession of pot. Importantly, Vermont does not allow citizen initiatives. Legislators in Maine, Massachusetts, and Washington are also considering bills to repeal the voter initiatives in those states that legalized the production, sale, and use of recreational marijuana (NCSL 2018). Due to the horizontal diffusion across U.S. states, there are now conversations at the federal level of legalizing recreational cannabis (Higdon 2019).

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Figure 1.1: U.S. States Legalizing Recreational Marijuana via Citizen Initiatives, 2010 – 2018

States Pursuing Legalization of Marijuana via Citizen Initiative   ▢ Did Not Attempt   ▢ Did Not Pass   ▪ Passed
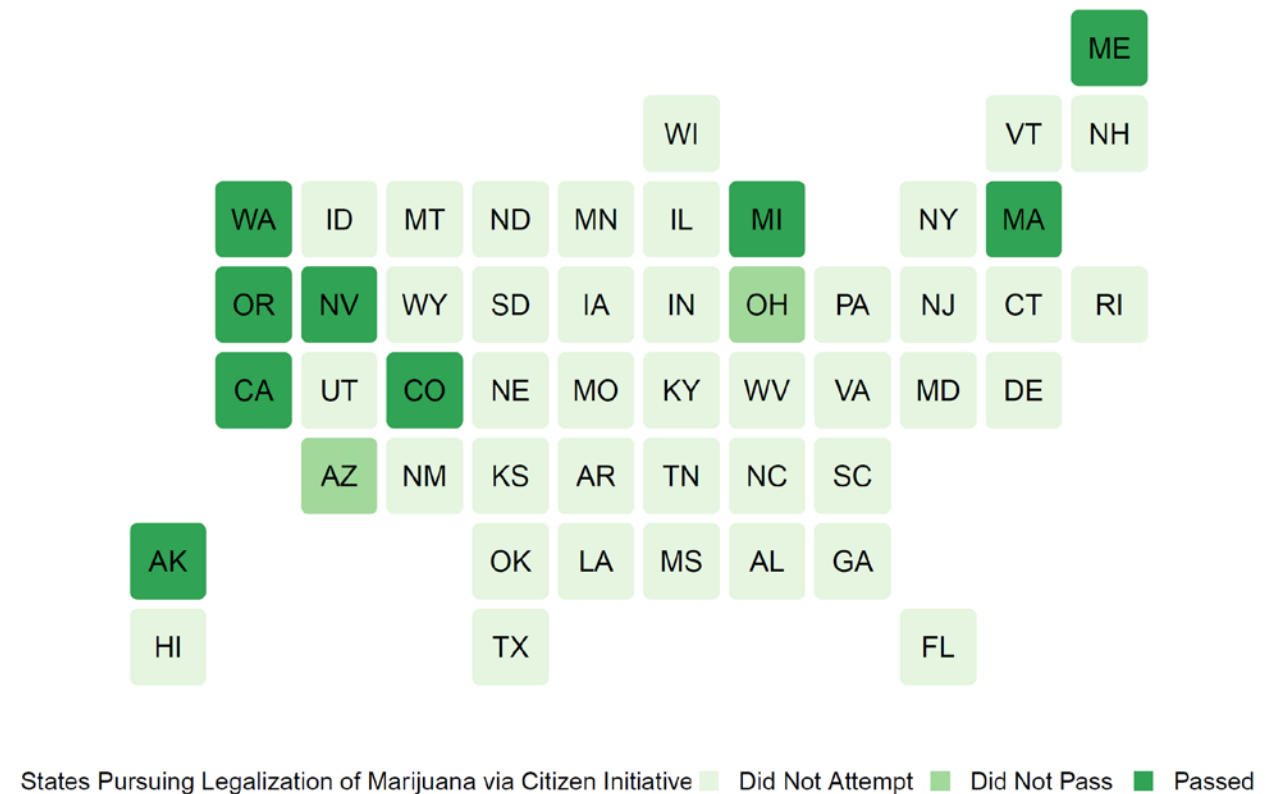
Policies aimed at legalizing the recreational use of marijuana are spreading across U.S. states. Individual activists, like Dan Rogers, along with state and national interest groups, like NORML and Marijuana Policy Project, are following Richard Lee's innovative push for more lax marijuana laws. *But they are emulating more than just the policy.* These policy actors have also learned about the successful and failed tactics employed by the Prop. 19 campaign in California. Beyond the policy itself, these actors are also copying Richard Lee's choice of institutional venue—a citizen initiative—to pursue policy change. Lee could have attempted statutory legalization of marijuana by way of the state legislature, or pressing legislators to call a referendum, or lobbying the governor to issue an executive order, or bringing forward a legal argument in the state or federal courts. For a host of political and institutional reasons, Lee pursued change via a ballot initiative. Policy actors in many other states have followed suit, emulating Richard Lee's choice of venue in their states' effort to

legalize pot. These actors did not just copy the innovative policy; they also copied the choice of institutional site to pursue policy change. The central question is why? Why did advocates of recreational marijuana pursue policy change at the ballot box rather than via a different route?

The Purpose of this Research

The circumstances described above around the spread of legal-marijuana-use laws are not unique. More than five decades of research exploring policymaking in the U.S. states offer strong evidence that policy activity in one state depends on, at least in part, the policy activities in other states (Berry and Berry 1990; Boushey 2010; Gilardi 2016; Graham, Shipan, and Volden 2013; Gray 1973; Karch 2007a, 2007b; Rogers 1962; Savage 1985; Shipan and Volden 2006, 2008; Volden 2006; Walker 1969). Actors in one state facing a common societal problem frequently turn to and seek out policy innovations—a program or policy which is new to the governmental unit adopting it, no matter how old the program or how many other governments have already enacted it—adopted in other states to address the same issue. Scholars refer to this phenomenon as *policy diffusion.*

Given the increasing societal acceptance of marijuana use, medical research indicating cannabis's palliative health properties, and the increasing costs of ineffective enforcement and criminal justice policies targeting pot use, it is not surprising that policy actors in other states followed the lead of California, copying its policy innovation to legalize the recreational use of marijuana in their states. Nor is it that surprising that these policy actors, like Richard Lee in California, also pressed for more lenient marijuana laws via citizen initiatives, as citizen-driven ballot measures have become a popular venue to press for policy change.

What is surprising, however, is that the spread of new ideas *via different policy venues* is severely understudied. Save for a small number of publications researchers have overwhelmingly limited their focus on the spread of new policy innovations from one legislative body to another legislative body.

Diffusion scholars have mostly ignored the interdependence of decision-making outside of the traditional legislative context. This is curious considering that in the American federated system, policy actors have multiple institutional venues—governmental arenas with formal and informal rules that structure how actors make collective decisions and decide on public policies—available at the state level to pursue new programs and policies. These institutional venues include state legislatures, citizen initiatives, popular referenda, legislative referenda, state court decisions, gubernatorial executive orders, state administrative agencies, Congress, federal courts, and the federal bureaucracy, among others.

Indeed, since the 1970s, individuals and interest groups have increasingly pressed for policy change outside the "people's branch" and via a multitude of institutional venues (Damore, Bowler, and Nicholson 2012; Magleby 1988; Miller 2009; Reilly 2010). For instance, citizen initiatives have been used to pass "three-strikes" laws to punish repeat criminal offenders, reinstate the death penalty, legalize marijuana for medical or personal use, and ban same-sex marriage. Governors have signed executive orders mandating renewable energy standards, while state and federal courts have struck down statutes and amendments outlawing same-sex unions. Nonetheless, we know little about the diffusion dynamics of these innovations while accounting for the different venues in which they are pursued. *This research contributes to the policy diffusion scholarship by documenting and examining the transmission of policy innovations across multiple institutional venues.*

More specifically, I leverage the spread of policies across multiple venues to address three omissions in the policy diffusion literature. First, I move us beyond the myopic legislative context by mapping the patterns of diffusion of (a) ballot measures across U.S. states from 1902 – 2016, and (b) anti- and pro-gay marriage policies via state legislatures, legislative referenda, citizen initiatives, state judiciaries, and federal courts. Doing so helps reinforce and refine our understanding of the dynamics of policy transfer. Second, I employ an established, but underutilized, modeling strategy

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that better accounts for the spread of innovative ideas via multiple competing arenas. Multinomial logistic regression allows us to simultaneously recognize each factor's contribution to policy adoption in the respective venues and uncover inter-venue dynamics. Third, I address persistent selection bias in diffusion studies, whereby researchers examine policies that knowingly diffuse to a plurality of jurisdictions without considering policies that have yet to spread or only spread narrowly. I offer some evidence that policy scholars tend to overstate the occurrence of policy diffusion and overestimate the effect of its key mechanisms.

But this dissertation does more. What is equally as surprising as understudying policy diffusion via multiple venues is that we have not asked whether the choice of institutional venue to press for policy change in one state—a vital aspect of the agenda-setting process—influences the venue shopping process in other states. Rather than making insular, independent decisions about the "best" institutional venue to press for a favorable change, policy actors may learn about the paths taken by policy entrepreneurs and other actors to bring an innovation to the governmental market. For example, Richard Lee's decision to press for legal marijuana use via citizen initiative in California may have influenced Dan Rogers and policy actors' decision in other states to pursue the same policy via ballot initiatives. *Fusing the policy-diffusion and venue-shopping literatures, this research also attempts to answer to what degree policy advocates' choice of venue to press for a new idea in one state influences other states' venue selection to pursue the same innovation.*

In particular, I theorize that a government's choice of venue to pursue a policy is influenced by the prior venue choices of other governments pursuing the innovation, a phenomenon I term *venue diffusion.* I charge that policy actors look to and learn from others, purposively seeking a solution to their common problem (i.e., policy learning) *and* how best to achieve that solution (i.e., political learning). For example, Dan Rogers and policy actors in subsequent states all learned from Richard Lee's choice of venue and campaign strategies to pursue recreational marijuana in their

states. *Political learning* has mostly been omitted from our models and understanding of policy diffusion (Gilardi 2010; Heclo 1974; May 1992; Rose 1991). This presents an opportunity. By expounding on political learning and incorporating it into our models of the policy process, we are better able to explain the dynamics of policy diffusion and offer concrete evidence of venue diffusion.

The upshot of this dissertation is fourfold. First, I offer evidence of policy diffusion via institutional venues beyond the legislative context. Although the results reinforce much of our understanding of policy diffusion, accounting for states' varying institutional arrangements refines the precise nature of this process. Second, despite the occurrence of policy diffusion in other institutional venues, I show that policy scholars may be overstating the rate of policy diffusion and overestimating key mechanisms effect on the process. I find that nearly half of all ballot measures pursued across the U.S. states from 1902 – 2016 did not diffuse to other states, and nearly three-quarters of the ballot measures have yet to be enacted by other states or were enacted by less than a handful of states. Moreover, when I rerun the models excluding the policies that do not diffuse or only spread narrowly, policy learning's effect on enacting a policy is twice as large compared to the full set, potentially inflating the key mechanism's role in the process.

Third, while past policy research may have overstated the occurrence of policy diffusion and policy learning, past research has also *understated* how frequently policy actors draw political lessons from policy entrepreneurs and early movers about other aspects of the policy process (i.e., political learning), including venue choice. The inclusion of political learning in policy diffusion models significantly improves our understanding of why states adopt new ideas. Policy actors not only learn about available policy solutions to shared problems but also gain insights on how to politically achieve the policy solution.

Lastly, I provide qualitative and quantitative evidence that venue diffusion occurs, at least in the context of a morality policy. States are more likely to pick a venue to pursue an innovation as other states successfully enact the policy via the same route. Evidence of venue diffusion also suggests that other elements of the policy process—framing, routing policy opponents, coalition building, campaign tactics—to bring an innovation to market in the governmental arena may also transfer across states. The interdependence between states appears to go beyond the copying of a policy idea to emulating fundamental components of the policymaking process. Ultimately, what happens in your state doesn't stay in your state.

The Case for Venue Diffusion

Policy entrepreneurs, those innovative individuals or groups that are the first to pursue a new policy within their governmental jurisdiction, tactically pick an institutional venue. Entrepreneurs prioritize the venue in which they believe they have a comparative political and resource advantage, is most accessible and amenable to the policy image, and has the best chance to bring about policy change and ensure policy longevity. Entrepreneurs investigate and consider the full set of institutional venues available to them to press for policy change.

However, policy actors, those individuals or groups within and outside the public sector that follow the lead of policy entrepreneurs to advocate for the same policy innovation in other governmental jurisdictions, suffer from bounded rationality in their decisionmaking. At times they have limited information. Other times they face overabundant information. Still, these policy actors have limited resources (e.g., cognition, capital, energy, time), thus relying on heuristics to make decisions to optimize outcomes (Simon 1972, 1985; Tversky and Kahneman 1974). As a result, policy actors engage in satisficing, looking to policy entrepreneurs in other states for the 'best' policy solution and 'best' political process to achieve policy change. Policy actors not only learn about the

content of a policy, including the problem, the goals, instruments, and implementation design of the solution (i.e., policy learning), a common tenet of policy diffusion. But policy actors also learn about how to navigate and manipulate the policy process to advance the policy (i.e., political learning) (May 1992).

In turn, I charge that it is not only the innovative policy that spreads from state to state (i.e., policy diffusion), but also the choice of venue that diffuses (i.e., venue diffusion). Moreover, I credit political learning as the driving mechanism of venue diffusion. To be sure, policy actors weigh other internal and external factors in picking an institutional route to press for policy change. These may include considering the political, economic, institutional, demographic, or interest-group contexts within a state. And they may include external forces such as the venue choice of geographic neighbors, jurisdictions with similar institutional arrangements, federal intervention, the national political context, or policy coalition influence. Even after accounting for plausible alternative external and internal pressures, I contend that policy actors contemplating a path to enact a policy also consider the successful paths previously taken in other states to adopt the same policy. The results presented in later chapters suggest a probabilistic relationship, not a deterministic one. Some policy actors within a state may have relied on an insular, independent assessment of the full set of venue options, weighing only internal factors to pick a route. Most policy actors, however, likely picked a venue by considering both internal and external information.

This proposition of *venue diffusion* is something marathon runners trying to qualify for the Boston Marathon are familiar with. As the world's oldest annual marathon and one of the most prestigious racing events, earning a spot in the Boston Marathon is challenging. To "be in the running," racers must complete a certified marathon with a qualifying time for their age group within a specific period before the Boston Marathon. On average, only ten percent of marathon finishers qualify.

Knowing this, marathon runners trying to qualify for the Boston Marathon also engage in satisficing, learn from others, and strategically pick the marathon that will help secure a spot at Boston. They do not research every possible qualifying marathon among the universal set of potential races and choose the venue that best optimizes their chances, independently deciding in a vacuum. Instead, they gain tips from racing articles and magazines, get advice from previous qualifiers, and follow the lead of others that have tactically selected the marathon course that increases their chance of qualifying. There are entire articles, blogs, and websites dedicated to promoting the "best-Boston qualifiers"—the marathon courses that will give the best chance at running the necessary qualifying time for the Boston Marathon. Runners are more likely to pick flat and fast courses, instead of elevated and sluggish courses, to attempt their qualification. Understandably, Detroit is a popular choice for runners trying to qualify; Denver, not so much.

Much like picking the right marathon course can increase a runner's chances of qualifying for the Boston Marathon, picking the right institutional venue can augment the odds a policy is adopted and entrenched in the political system. Just as current runners learn from and rely on the advice of former Boston qualifiers to pick the race that optimizes their chances of success, so too do policy actors learn from and rely on the venue shopping experience of policy entrepreneurs and other policy actors to choose the optimal arena to achieve successful policy change. Venue choice matters. It matters to an innovation's success and its entrenchment in the status quo. I charge that policy actors do not decide in which arena to press for new ideas in a vacuum. As they learn about a policy previously pursued by others, they also learn about the political tactics and paths others followed to achieve a policy win.

Structure of the Dissertation

The next chapter offers a synthesis of what we know about policy diffusion. I recount what multiple generations of diffusion research have taught us about horizontal and vertical interdependence between governmental units. I describe the incremental learning process that generally characterizes the spread of policy innovations, and I nod to the instances when diffusion is rapid and inconsistent with a model of learning. I summarize the primary external mechanisms driving policy diffusion (i.e., policy learning, geographic, competition, coercion, imitation), as well as highlight additional internal factors (e.g., policy, political, institutional, economic) that influence the adoption of ideas across states.

In Chapter 3, I identify two gaps in the policy diffusion literature and articulate why they are problematic. I highlight past research's myopic emphasis on the spread of policy innovations from legislative context to legislative context to the exclusion of other venues. Moreover, I point out past research's omission from our models those policies that have yet to be enacted by others or have only been adopted by a few states. Relying on the full set of all legislative referenda, citizen initiatives, and popular referenda pursued across the U.S. states from 1902 – 2016, I describe how policy actors have increasingly pressed for policy change via ballot measures with varying degrees of success across issue area, ballot measure type, time, and space. I then use a random sample of ballot measures from the full set, including measures not yet adopted by others to those enacted widely, to uncover the diffusion dynamics of ballot measures. While the forces driving the spread of ballot measures largely mirrors the forces responsible in the legislative context, I offer evidence that past selection bias may overstate the occurrence of diffusion and overestimate the impact of the main mechanisms.

I lay the theoretical foundation for venue diffusion in Chapter 4. I start by providing an overview of venue shopping and demonstrate that policies are frequently pursued outside the

"people's branch." I review the venue shopping literature's complementary and sometimes

competing rationales for what motivates venue choice. I then integrate these venue shopping

theories with a political learning explanation between policy entrepreneurs and actors for the

possible diffusion of venue selection across U.S. states. I also identify alternative external and

internal forces that could account for policy advocates' choice of venue. All the while, I lay out the

hypotheses to be tested in the subsequent chapters. I end the chapter by identifying the implications

of venue diffusion and outline why evidence for such a phenomenon matters.

Chapter 5 recounts the policy fight over same-sex marriage by the religious right and gay

rights movements and explains why this policy case is useful to better understanding both policy

diffusion and venue diffusion. I then identify four missing pieces to the fuller puzzle of policy

diffusion from past research on this policy case including failing to account for the spread of these

policies across multiple venues, ignoring the diffusion of pro-gay marriage policies, controlling for

the opposition's policy successes, and integrating political learning into the diffusion process. Next, I

lay out my expectations for political learning and other known external and internal determinants in

predicting the adoption of anti- and pro-gay marriage policies. I follow this by describing the data,

detailing my measurement choices, and justifying a multinomial logistic regression modeling strategy.

The empirical results reveal that a multinomial logistic approach allows us to capture the inter-venue

dynamics of policy diffusion better and establish political learning as a central mechanism of policy

transfer. Political learning's marginal effect was more substantial than nearly every other external and

internal factors' impact on explaining a state's decision to prohibit or permit same-sex unions. I

conclude the chapter by carrying out robustness checks of the models and variable

operationalizations, and by making the case that political learning is different conceptually and

empirically from policy learning.

In Chapter 6, again relying on the policy case of gay marriage, I provide both qualitative and quantitative evidence for venue diffusion. The qualitative narrative describes how early policy entrepreneurs engaged in strategic venue shopping in the state courts to press for marriage equality and how subsequent policy actors learned from these tactics to also advocate for same-sex unions in other state courts and venues. I highlight how both national and state-level interest groups played a role in pursuing and spreading these policy innovations, and that treating the fight over gay marriage as only a top-down process would be a mistake. After detailing expectations, describing the data, and variable operationalizations, the empirical results from both anti- and pro-gay marriage models support the existence of venue diffusion and identify political learning as the principal mechanism driving venue choice across states. Policy actors learn from the successful venue shopping choices by early mover states and especially prioritize cues from states analogous along institutional and political dimensions. Although interest groups' role in the process is less clear, what is clear is that political learning's effect on venue choice varied over time as policy actors processed in real time other states' venue successes and failures. Robustness checks of the models at the end of the chapter further bolsters the chapter's claims.

The conclusion trails in Chapter 7. I summarize the key takeaways and also suggest avenues for future research to build on and expand this new knowledge base. I finally offer supplemental materials, including tables, figures, and detailed lists of states' adoptions for ballot measures and anti- and pro-gay marriage policies in the Appendices.

Advice Before Reading

Before turning to the next chapter which reviews the policy diffusion literature, I offer some advice to facilitate the reader's understanding of this research. First, I provide a description, some examples, and references for the key concepts that underlie this research in Table 1.1. My hope is

Table 1.1: Key Concepts

Concept	Definition	Sources
bounded rationality	limited information, limited cognition to deal with overabundant information, or limited resources, thus relying on heuristics to make decisions to optimize the outcome	Simon 1972, 1985; Tversky and Kahneman 1974; Weyland 2006
institutional venue	a governmental arena with a set of informal and formal rules that structure and guide how actors make collective decisions and decide on public policies; also known as a "policy venue" Examples: state legislature, state legislative referendum, citizen initiative, state high court, gubernatorial executive order, state bureaucratic agency, federal government, etc.	Baumgartner and Jones 1993; Kingdon 1984; Lubell 2013
policy actor	individuals or groups within and outside the public sector that follow the lead of policy entrepreneurs to advocate for the same policy in other governmental jurisdictions[†]	Author's definition
policy diffusion	the process by which new policy ideas are transmitted across governmental units over time; a government's policy choices are influenced by the policy choices made in other governmental units; an external force	Berry and Berry 1990; Boushey 2010; Gilardi 2016; Graham, Shipan, and Volden 2013; Gray 1973; Karch 2007a, 2007b; Rogers 1962; Savage 1985; Shipan and Volden 2006; Volden 2006; Walker 1969;
policy entrepreneur	innovative individuals or groups within and outside the public sector that are the first to pursue a new policy[†]	Author's definition; also see Kingdon 1984; Mintrom 1997
policy innovation	a program or policy which is new to the governmental unit adopting it, no matter how old the program may be or how many other governments have adopted it Examples: "three-strikes" habitual offender laws, tax and expenditure limitations, medical marijuana laws, smoking restrictions, seat-belt requirements, auto lemon laws,	Berry and Berry 2014; Gray 1973; Rogers 1962; Walker 1969;
policy learning	learning about the content of a policy, including the problem, goals, instruments, and implementation design of the solution	Heclo 1974; May 1992; Rose 1991; Sabatier 1988
political learning	learning about how to maneuver within and manipulate the policy process to advance an idea or policy	Freeman 2008; Gilardi 2010; May 1992; Nicholson-Crotty and Carley 2015; Rose 1991
venue diffusion	a government's choice of venue to pursue a policy is influenced by prior venue choices of other governments pursuing the policy	Author's definition
venue shopping	the process of strategically choosing among the variety of institutional settings where policy change can occur to lobby for an issue, press for a new policy, or maintain the status quo	Baumgartner and Jones 1993; Holyoke 2003; Ley and Weber 2015; Lubell 2013; Pralle 2003; Sabatier and Jenkins-Smith 1993;

Note: The table reports characteristics for ten important concepts in this research. † This definition deviates slightly from the policy literature for the purpose of explaining the process of venue diffusion.

that the accompanying definitions elucidate the myriad, sometimes overlapping, terms used to articulate key actors and components of the dynamic policy process.

Second, to clarify, policy innovations are not policy inventions. This distinction is subtle but important. Policy inventions are the products of "the process through which original policy ideas are conceived" (Berry and Berry 2014). Policy innovations, however, are the reincarnations of the invention in the governmental jurisdictions that have yet to enact the fresh idea. Each new policy starts as an invention but becomes an innovation for those who have yet to adopt it. Policy inventions turn into innovations. As Karch (2007a: 1) put it, innovations "need not be new in an objective sense," rather "they need only be perceived as new by an individual or another unit of adoption. If the idea, practice or object seems new to a potential adopter, it is an innovation."

The proliferation of diffusion research has nearly uniformly focused on innovations, ignoring the policy invention process. Save for Polsby's (1985) work to document policy invention at the federal level and Boushey and Knight-Finley's (2016) more recent effort to analyze the policy winnowing of ideas as the design stage, we have little understanding of how ideas are molded into policies that then transfer across governments. Like most policy diffusion scholars, my research here focuses on the spread of ideas and programs that are new to the adopter, but not necessarily new. Thus, policy invention is outside of the scope of my research here, but it is another essential element of the diffusion process that merits more considerable scholarly attention.

Fourth, policy diffusion scholarship has the liability of conflating terminology around who is diffusing what. Since the unit of analysis is generally the state-year, country-year, city-year, or an equivalent space-time monadic unit, researchers often talk about the government taking action, adopting a policy, diffusing an innovation, or the like: e.g., states copying other states, cities influencing other cities, nations learning from other nations. The reality, however, is that governments do not act, do not adopt, do not learn, nor do they diffuse. Rather actors within

governments carry out these tasks. While I also rely on this convention—referring to "states" taking direct action, for consistency with the literature, readers should know that policy advocates are the real protagonists.

Finally, the concept of venue diffusion was formulated with the American state context in mind. As such, unless otherwise specified, when I refer to governments, the implication is U.S. state governments. That said, the theory of venue diffusion should be generalizable to other levels of government where there is variation in the opportunity to venue shop. Other countries with federated systems (e.g., Canada, India, Switzerland) may witness and be prone to similar dynamics. Cities may emulate other cities' decisions to pursue a policy via the city council or a ballot question. Policy actors in nation states may also learn from and follow the choice of venue in peer nations. This research stems from the American context, but many of its findings and implications should be transferable to additional settings.

CHAPTER 2: POLICY DIFFUSION

Policy choices within a governmental jurisdiction can be a result of both internal and external forces. Different economic, social, political, institutional contexts, as well as diverse policy actors within a state (i.e., internal forces), can stimulate new policy ideas. In fact, states experiencing similar conditions and a common problem may arrive at the same policy solution to address the issue, independently of one another. States may happen upon, or "converge," on equivalent policy solutions (Bennett 1991; Boehmke 2009b; Freeman 2008). Moreover, some problems are unique and isolated to that jurisdiction; in turn, a solution likely emerges from within (Volden, Ting, and Carpenter 2008).

External forces, however, can also supply policy choices. States facing a common problem or issue may look to "peer" jurisdictions—those units that are geographically proximate (Berry and Berry 1990; Berry and Baybeck 2005; Walker 1969); similar along economic, social, political, cultural, or institutional dimensions (Butler et al. 2015; Desmarais, Harden, and Boehmke 2015; Fay and Wenger 2015; Lewis 2011; Lupia et al. 2010; Volden 2006, 2015); or with similar preferences—for an innovative solution. Or activity at lower or higher levels of government may also influence or compel states to consider a set of policy options (Karch 2009, 2012; Shipan and Volden 2006, 2008; Welch and Thompson 1980). These external forces explain the phenomenon of *policy diffusion*: the process by which new policy ideas are transmitted across governmental units over time (Rogers 1962; Walker 1969; Gray 1973).

The bedrock of policy diffusion is that a government's policy decisions are "systematically conditioned by prior policy choices made" by other governments (Simmons, Dobbin, and Garrett 2006: 787). Or put more plainly by Virginia Gray, diffusion rests on the idea that policy "adopters influence those in the social system who have not yet adopted" (1973: 1176). Since policy actors do

not live in a vacuum, previous actions in one state likely affect subsequent actions in other states. Governments are linked together through their policy decisions.

Scholars have documented the transmission of various policy innovations across space and time, ranging from anti-money laundering protections (Sharman 2008); education reforms (Mintrom and Vergari 1998); capital punishment laws (Mooney and Lee 1999); curtailment of welfare benefits (Volden 2002); child seat belt and lemon-aid laws (Savage 1985); environmental policies (Daley and Garand 2005); health insurance programs (Volden 2006); the liberalization of global economic policies (Simmons and Elkins 2004); lotteries and gaming (Berry and Berry 1990; Baybeck, Berry, and Siegel 2011); pension reform (Weyland 2005, 2006); social security programs (Collier and Messick 1975); structural changes in cities (Frederickson, Johnson, and Wood 2004); to water fluoridation (Crain 1966), among other policies. Furthermore, researchers have shown that diffusion can both be horizontal and vertical (Mintrom 1997; Shipan and Volden 2006), across a multitude of dyadic relationships, including diffusion from cities to cities (Crain 1966; Frederickson, Johnson, and Wood 2004), cities to states (Shipan and Volden 2006, 2008), states to federal governments (Boeckelman 1992; Karch and Rosenthal 2016), and countries to countries (Elkink 2011; Pitlik 2007; Simmons and Elkins 2004; Weyland 2005, 2006). There is no shortage of evidence for the diffusion of myriad public policies across myriad jurisdictions and myriad points in time (Graham, Shipan, and Volden 2013).

Policy diffusion is generally viewed as an incremental-learning process. Succinctly stated by Volden (2015:3): "policy diffusion is not just the adoption of similar policies by similar states but rather…a learning-process leading to more effective policies over time." Policy actors within a state facing existing economic or social problems engage in a limited search of potential policy solutions attempted in peer jurisdictions. Elected officials, in particular, face time constraints and are motivated by concerns for reelection. In turn, policymakers rely on heuristics and information from

"trusted" sources, learning about these innovations, evaluating their outcomes, and picking the 'best' available option they believe will meet constituents' demands (Berry and Berry 2014; Boushey 2010; Freeman 2008). As Lubell (2013: 545) explains:

> "[H]umans heavily engage in social learning from others, sometimes conforming to the behavior of the majority, and other times adopting the behavior of the most successful or prestigious individuals. Such social learning influences how individuals make decisions across different [policy] games in which they participate, and learn over time about different ways of solving collective action problems."

In a nutshell, policy actors learn about and adopt new developments employed in other governmental units.

Much like new technologies gain a small following of early-adopters, then an increasingly larger majority of backers, bookended by laggards joining the bandwagon, new policy solutions also attract early to late adherents. As more states adopt an innovation, more information is available to reduce uncertainty for the holdouts. The cumulative frequency distribution for the adoption rate of policy innovations typically follows a sinusoidal-shaped curve (Gray 1973; Rogers 1962). The initial pace of policy adoption starts slowly, then gains speed as more states adopt the policy until a widespread majority of states follow the trend, and finally plateaus as the straggler states enact the innovation over a more extended period (Gray 1973; Rogers 1962).

Of course, the incremental-learning narrative of policy diffusion does not always comport with reality. While some policies are adopted and implemented gradually across states, other policies are enacted suddenly across a swath of states, implying imitation rather than cumulative learning (Boushey 2010, Nicholson-Crotty 2009). Some ideas seem to experience an "outbreak," whereby "a positive feedback cycle [leads] to the extremely rapid adoption of policy innovation across states" (Boushey 2010: 5). Sudden changes in public opinion, national crises or focusing events, or the advent of policy fads can all spur multiple states to adopt nearly identical policies simultaneously. Lawmakers in these states, trying to capitalize on potential electoral benefits of quick action, may

"forgo the gathering of information in favor of immediate adoption, creating a rapid diffusion process" (Nicholson-Crotty 2009: 194). These environments may produce non-incremental patterns of policy transfer (Boushey 2010). Acute innovation may be more common for some types of policies than others, distinct policy actors, or even different institutional venues where policies may be pursued (Boushey 2010; Makse and Volden 2011; Nicholson-Crotty 2009).

Importantly, whether a result of incremental learning or imitation, policy diffusion is a "multi-stage process" (Elkins and Simmons 2005; Givan et al. 2010; Karch 2007b; Karch and Cravens 2014). Unfortunately, much of the early literature solely focused on the dichotomous enactment of an innovation: did 'State A' adopt 'Policy X' or not? Yet policy innovations do not simply succeed or fail. New ideas make it onto the agenda, are pursued via one or multiple venues, are enacted or rejected. If the innovations are adopted, they are then implemented and evaluated and can be modified, reinvented, or repealed. Moreover, this feedback from the initial policy can influence the process for future innovations. Treating policy diffusion as anything less than a multi-dimensional process "may underestimate the impact of certain forces while overestimating the impact of others" (Karch 2007b: 26).

Fortunately, more recent scholarly attention, although still limited, has been paid to the various stages of policy diffusion. Many of these works have primarily focused on the later stages of the policy process, including the modification (Karch and Cravens 2014), reinvention (Clark 1985; Glick 1992; Glick and Hays 1991; Hays 1996; Mooney and Lee 1999), or repeal (Lowry 2005) of the innovation. Only a few scholars have emphasized the earlier stages of the policymaking process. Wilkerson, Smith, and Stramp (2015), for example, highlight an essential part of the agenda-setting phase by analyzing the reuse of legislative text across multiple state legislatures. Similarly, Boushey and Knight-Finley (2016) explore the possible diffusion of the policy winnowing that occurs at the design stage. And Gilardi, Shipan, and Wueest (2019) examine how the framing and perception of

the innovation might affect its diffusion. They find that frames which emphasize the concrete aspects of the policy (i.e., learning about the policy) are more predictive of states adopting smoking restrictions than normative frames. Giving attention to all the stages of the policy process will offer a more thorough view of how policies move from one governmental unit to another.

Mechanisms of Policy Diffusion

The task of policy diffusion scholars has been to distinguish between the internal and external forces influencing policy choice within a governmental unit.[6] Careless theory and empirical analysis can reinforce "Galton's problem." It occurs when a researcher infers incorrectly that just because two or more characteristics are highly correlated that they are also causally related. But, as the maxim goes, "correlation does not imply causation." Just because two states that share similar traits and face similar circumstances end up adopting the same policy does not mean external forces are at play. As such, policy transfer scholars, relying on the fundamentals of the process described above, have identified several key mechanisms to theoretically and empirically account for possible external forces driving diffusion. Rather than merely being interested in *if* policies diffuse, scholars have increasingly become interested in *why* they might diffuse. The four main mechanisms identified are learning, imitation, competition, and coercion (Gilardi 2016; Graham, Shipan, and Volden 2013; Shipan and Volden 2008).[7]

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[6] Teodoro (2009), examining the role of policy entrepreneurs within local bureaucratic agencies, offers a unique perspective on the diffusion of innovations. Instead of treating diffusion as a product of internal and external forces, Teodoro suggests diffusion is an artifact of *supply* and *demand* dynamics. Teodoro argues that forces outside of government—e.g., interest group lobbying, public ideology, fiscal conditions, economic competition, etc.—demand new solutions and some individuals within government, acting as policy entrepreneurs, are motivated to innovate and supply those new solutions. Seeing policy diffusion as the resultant outcome of supply and demand dynamics puts the individuals making policy decisions, rather than the governmental units where decisions are made, front-and-center as the unit of analysis. Future diffusion scholarship should incorporate and build on this perspective.

[7] Of course, other mechanisms (and the terminology for those mechanisms) for policy diffusion have been identified (Gilardi 2016; Graham, Shipan, and Volden 2013). The international relations literature, for example, has also put forward "norm diffusion," whereby normative judgments of a policy may trump rational considerations of its usefulness and effectiveness. It is the idea that states adopt a policy (e.g., woman's suffrage) because others are doing it; rather than learning from the experience or other adopters, states enact the policy because of a bandwagon effect (Berry and Berry

As articulated above, policy actors facing a particular problem within one state may look to policy entrepreneurs in other states for innovative solutions. These actors may learn about the policy (e.g., policy implementation, policy effect) and the political (e.g., venue selection, framing, policy opponents, etc.) dimensions of the innovation (Freeman 2008; May 1992; Seljan and Weller 2011; Shipan and Volden 2008; Volden 2006).[8] Actors search for solutions elsewhere because of a genuine need for information in the face of considerable uncertainty. The policy and political information about the innovation become more abundant and accessible as more states adopt the policy (Makse and Volden 2011).

Rather than "learning" about a policy, however, some states may imitate the policies adopted by states with similar political, demographic, budgetary, or cultural characteristics (Shipan and Volden 2008). For example, some states may look to copy policies adopted by their contiguous-geographic neighbors (Berry and Berry 1990; Cohen-Vogel and Ingle. 2007; Foster 1978; Walker 1969). Although learning and imitation appear similar and can be challenging to parse empirically, learning is a purposive search for information while imitation is conformity (Meseguer 2005).

The competition mechanism implies that a state adopts a policy to gain or keep an economic, resource, or image advantage over other states or other governments. For example, states may permit a lottery or casino to draw in revenue from other states or keep gambling dollars within the state (Baybeck, Berry, and Siegel 2011; Berry and Berry 1990), or "race-to-the-bottom" in offering the least amount of redistributive benefits (Bailey and Rom 2004; Volden 2002).

Finally, diffusion may also occur because another jurisdiction, such as the federal government, influences or "coerces" a particular policy innovation through incentives, penalties, or court rulings (e.g., increase the legal drinking age, adopt stem-cell related legislation) (Karch 2009,

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2014; Braun and Gilardi 2006; Finnemore and Sikkingk 1998). Other scholars see policy diffusion as a continuum from lesson-drawing to coercive transfer (Dolowitz and Marsh 2000).

[8] For an excellent overview of the concept of learning in the public policy process, see Freeman (2008).

2012; Shipan and Volden 2006, 2008; Welch and Thompson 1980). Bottom-up or top-down

pressures can add a vertical component to traditional horizontal diffusion patterns. Indeed, federal

intervention, action, or even greater national attention may speed the diffusion of a policy (Allen,

Pettus, and Haider-Markel 2004; Boushey 2010, 2012; Mallinson 2016; McCann, Shipan, and Volden

2015; Nicholson-Crotty 2009; Welch and Thompson 1980). Of course, various policy actors,

including networks of state or national interest and advocacy groups can also play a role in the

dynamics of policy diffusion (Balla 2001; Garrettt and Jansa 2015; Mintrom 1997; Mintrom and

Vergari 1998; Shipan and Volden 2006).

Additional Factors Important to Policy Diffusion

Beyond laying the theoretical foundation for the diffusion of new ideas across governmental

jurisdictions, providing empirical evidence that other governments' prior decisions influence a

government's policy choices, and identifying the key reasons why some states copy other states,

diffusion scholars have also highlighted additional factors that augment, hamper, or inhibit the

contagion of innovative policy solutions. These factors include policy type, policy attributes, the

capacity of policy actors, and the state's political environment, institutional considerations, and

resource conditions, among others.

The diffusion process is not uniform across all types of policies. Shifting from the traditional

"state-centric" focus of much of the research to a "policy-centric" approach helps to explain

variation in patterns of policy transfer (Mallinson 2016; Makse and Volden 2011; Nicholson-Crotty

2009). Depending on the policy category—morality, regulatory, development, redistributive, etc.—

the pattern, speed, and determinants of diffusion may differ in important ways. For example,

Mooney and Lee (1999) demonstrate that the spread of the death penalty, a morality policy, across

U.S. states was rapid, largely driven by value judgments and public opinion about capital punishment

rather than any lesson drawing by policymakers. According to the authors, "the decisionmaking process [was] not one of incremental learning but rather it [was] one of competition to validate majority values" (Mooney and Lee 1999). Nicholson-Crotty (2009) point out that energy, environmental, healthcare, tax, trade, and regulatory policies generally diffuse at a slower pace than other policy types.

The dynamics of diffusion are also different for policy *reversals*, the undoing of past policy (Eyestone 1977; Lowry 2005). Examining the spread of water management efforts, Lowry's (2005) research indicates that the politics of policy reversals are different from the politics of policy adoptions in at least three ways. First, Lowry finds that the pattern of diffusion for policy annulment is not necessarily geographic, especially since policy repeals gain national attention. Second, the speed of reversals appears to be more gradual than for adoptions; this could be attributable to the fact that policy disinnovations must compete with established institutions, constituents, and a subsystem of support that must be overcome. Third, at least in the context of the removal of dams, Lowry finds that a state's fiscal health and interest group pressures are the leading determinants for the diffusion of reversals.

In fact, different types of policies diffuse in dissimilar ways primarily because of their particular attributes. Eshbaugh (2006) and Nicholson-Crotty (2009) identify two features of a policy that affect its diffusion: its salience and complexity. Salient policies are those proposals that affect constituents in important ways and gain the attention of a large share of the American public. More salient policies may spread more quickly since they boast greater public awareness and can earn a more prominent spot on the agenda. Complex policies are those programs that require substantial technical expertise to design and address a policy problem, expertise often beyond the capacity of state legislators (Gormely 1986; Nicholson-Crotty 2009). Complexity may hamper the spread of a policy since greater attention and knowledge is required to formulate the policy. Nicholson-Crotty's

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analysis of the effect of these two policy attributes on the speed of diffusion of 57 policies suggests that salience can hasten policy transfer, especially for more straightforward policies.

Makse and Volden (2011) also examine the effect of policy attributes on patterns of diffusion. Relying on the attribute typology introduced by Rogers (1983), Makse and Volden analyze how a policy's relative advantage (i.e., the perceived return of going with the new policy vs. remaining with the status quo), compatibility (whether policy comports with current values), observability (if policy results recognized by others), trialability (amount policy can be experimented with), and complexity (difficulty in understanding and using the policy) condition its diffusion. They find that all of these policy attributes (scored by outside policy experts) affect the degree and rate of states emulating other states. The rate of adoption was higher for policies with a relative advantage over the status quo, compatible with current values, observable by many, and trialable. Similar to Nicholson-Crotty's (2009) findings, Makse and Volden conclude that the more complex a policy the slower its rate of adoption. Also of note, policy learning was most evident for highly observable policies, while least evident for complex solutions.

In addition to the policy type and characteristics, there are also policy-actor, political, institutional, and resource dynamics, among others, that may affect the adoption of policy innovations. The capacity of the policy actors is critical for the diffusion of any new idea. Contemporary research has documented that more professionalized legislatures are better equipped to innovate and seek out innovations (Shipan and Volden 2006, 2014; Volden 2015). Professionalized policymakers, compared to amateur or part-time legislators, have the time, resources, and motivation to address constituents' demands for new policies (Shipan and Volden 2006). Those policymakers with higher policy and political expertise can learn from their own experiences as well as look to other states for successful policies and processes of adoption.

Highlighting the significance of capacity, Shipan and Volden (2014) examine states' adoption of policies to limit youth access to cigarettes and show that states look to peers that demonstrate success, measured in this case as the largest reduction in teen smoking. But, this learning is conditional on policymakers in early-adopter to laggard states having both the policy (e.g., understanding state conditions, past policy successes and failures) and political (e.g., navigating political obstacles and institutions) capacity. As Shipan and Volden (2014) put it, learning "requires the time and ability both to gather relevant information and to process it in a way that is appropriate and meaningful" (2). Diffusion is more likely when potential adopters are capable of both policy and political learning.

The political context also impacts the pace and pattern of policy diffusion. For example, adopters' ideological predispositions can play a central role in learning among governments (Butler et al. 2015; Desmarais, Harden, and Boehmke 2015; Volden 2015). Butler et al. (2015) provide experimental evidence that decision makers within a state engage in ideologically motivated reasoning. Legislators predisposed against a particular policy are less likely to learn from policy actors in other states. This ideological hurdle can be overcome if the policy is especially successful or co-partisan peers in other states adopt the policy. The degree of electoral competition within a state (Barrilleaux, Holbrook, and Langer 2002; Holbrook and Van Dunk 1993), state electoral cycles (Berry and Berry 1990, 1992; Mintrom and Vergari 1998), citizen ideology and public opinion (Erikson, Wright and McIver 1993; Pacheco 2012; Wright, Erikson, and McIver 1987), national attention (Boushey 2016; McCann, Shipan, and Volden 2015), as well as interest group capacity and pressure (Desmarais, Harden, and Boehmke 2015; Haider-Markel 1998; Mintrom 1997; Sabatier and Jenkins-Smith 1999; Savage 1985) can all condition the spread of new solutions to common societal problems. Some research even suggests that Democratically-controlled state governments are more

likely to innovate than Republican-controlled states given the party's penchant for greater

governmental intervention (Calvert, McCubbins, and Weingast 1989).

Institutional structure and resource conditions also influence whether and how a state copies

another state. Procedural variations in how states adopt policies or amend their constitutions, for

example, can slow or speed the spread of policies (Dinan 2018; Fay and Wenger 2015; Lewis 2011;

Lupia et al. 2010). Or a state's regulatory environment can hurry or hamper diffusion (Stream 1999).

States with more resources, including higher wealth or better fiscal health, can also be more

innovative (Berry and Berry 1992; Boehmke and Skinner 2012; Desmarais, Harden, and Boehmke

2015; Walker 1969). In sum, depending on the policy type or policy attributes, a state's policy actor

capacity, and political, institutional, or resource environment may contribute to its propensity to

innovate (Boehmke and Skinner 2012; Walker 1969). Many of these factors serve as the

"prerequisites" for policy diffusion (Savage 1985). And occasionally the "time comes" for a policy to

be enacted (Savage 1985).

Conclusion

The policy diffusion literature is replete with rich research on how and why innovative ideas

spread across different governmental jurisdictions. Despite this voluminous body of research,

omissions and opportunities remain to further flesh out (1) the forces driving diffusion in

institutional arenas outside of the legislative context; (2) the reality of policy diffusion by including

innovations that have yet to be adopted by others or have only spread narrowly; (3) the inter-venue

dynamics at play when policies are enacted via multiple institutional paths; and (4) whether political

learning facilitates the spread of policy solutions *and* venue choice across U.S. states. I now turn to

tackle the first two items in the next chapter.

CHAPTER 3: DIFFUSION DYNAMICS OF BALLOT MEASURES

More than five decades of research exploring policy making in the U.S. states offer substantial evidence that a government's policy choices depend, at least in part, on the policy decisions previously made by other governments—that policy innovations diffuse (Berry and Berry 1990; Boushey 2010; Gilardi 2016; Graham, Shipan, and Volden 2013; Gray 1973; Karch 2007a, 2007b; Shipan and Volden 2006; Volden 2006; Walker 1969). Scholars have assiduously documented if and how a multitude of different policies representing contrasting topic areas have spread across distinct governmental jurisdictions (e.g., cities, states, countries).

But existing policy diffusion research has primarily traced the spread of policies from one legislative unit to another legislative unit. Save for a few dozen articles, the literature has mostly overlooked the diffusion of policies in other venues: e.g., ballot measures, gubernatorial executive orders, court rulings, agency decisions. This is unfortunate because state actors have increasingly pursued policy change via alternate venues outside of the legislative context. And the patterns and explanations for policy diffusion from legislature to legislature may not hold for diffusion in other sites. Furthermore, scholars have almost exclusively studied policy diffusion by observing policies that have been already widely adopted by a large number of governmental jurisdictions—a "pro-innovation bias" (Karch et al. 2016). This selection bias has thus omitted critical data on policies that have failed to diffuse or only been enacted by a small number of governments. By ignoring other sites where policy change can occur and by only modeling policies that have knowingly spread, our understanding of the policy interdependence between governmental units is potentially limited.

In this chapter, I attempt to address both gaps in the literature by relying on a random sample of ballot measures from the full set of nearly 7,800 ballot measures—legislative referendums, citizen initiatives, popular referendums, and others—pursued at the U.S. state level from 1902–2016 (Jordan and Grossmann 2018; NCSL 2016). Importantly, this supply of ballot measures includes

initiatives and referendums that have *and* have not diffused. Leveraging this unique data, I examine three empirical questions. First, do state ballot measures diffuse across U.S. states? Relatedly, if not, why not? Second, if ballot measures do spread across governmental jurisdictions, what are the primary external mechanisms driving this diffusion? Third, how has our past selection bias (i.e., modeling only policies that spread) affected our understanding of the diffusion process?

Although there are some limitations in my ability to answer those questions, this chapter does provide a clearer picture of the states' use of ballot measures, their relative success rates, and the main topic areas that voters are asked to decide. Moreover, I offer evidence that we, as policy scholars, have been overstating the occurrence of policy diffusion. Nearly half of all ballot measures are only adopted by one state and do not appear to spread to other jurisdictions. And nearly three-quarters of ballot measures are pursued by fewer than a handful of U.S. states. Besides, by excluding the policies that have only spread to a limited number of governments or have yet to diffuse entirely, our models run the risk of inflating key mechanisms' impact on the diffusion dynamics. Still, for the ballot measures that do diffuse, the axial forces found to drive diffusion in the legislative context—policy learning and imitation—make a center stage appearance in the ballot measure context as well.

Policy Diffusion

Policy choices within a state can be a result of both internal and external forces. A state's given political, economic, social, and institutional context (i.e., internal forces) may stimulate new policy ideas. Sometimes, states face unique problems isolated to their jurisdiction; in turn, a policy solution likely emerges from within (Volden, Ting, and Carpenter 2008). Other times, states experiencing similar conditions and a common problem may "converge" upon equivalent policy solutions independently of one another (Bennett 1991; Boehmke 2009b; Freeman 2008).

External forces, however, can also supply policy choices. States facing a common problem or issue may turn to "peer jurisdictions"—those states that are geographically proximate (Berry and Berry 1990; Berry and Baybeck 2005), or similar along economic, social, political, cultural, or institutional dimensions (Butler et al. 2015; Desmarais, Harden, and Boehmke 2015; Lupia et al. 2010; Volden 2006, 2015)—for an innovative solution. States' policy options can also be influenced by activity at the federal or local levels of government (Karch 2009, 2012; Shipan and Volden 2006, 2008; Welch and Thompson 1980). These external forces explain the phenomenon of policy diffusion: the process by which new policy ideas are transmitted across space and time (Rogers 1962; Walker 1969; Gray 1973).

Scholars have documented the spread of various policy innovations across different units and over time, ranging from education reforms (Mintrom and Vergari 1998), capital punishment laws (Mooney and Lee 1999), curtailment of welfare benefits (Volden 2002), to child seat belt and lemon-aid laws (Savage 1985), health insurance programs (Volden 2006), and lotteries and gaming (Berry and Berry 1990; Baybeck, Berry, and Siegel 2011). Furthermore, researchers have shown that diffusion can both be horizontal and vertical (Mintrom 1997; Shipan and Volden 2006), across a multitude of governmental jurisdictions, including diffusion from cities to cities (Frederickson, Johnson, and Wood 2004), cities to states (Shipan and Volden 2006, 2008), and states to federal governments (Karch and Rosenthal 2016).

The literature has also theoretically developed and empirically identified several key mechanisms that explain why policy innovations spread. Although policy diffusion is generally thought of as an incremental learning process, that is not always the case. While some policies are enacted in a gradual fashion across states, other policies are adopted suddenly by a large swath of states, implying imitation rather than cumulative learning (Boushey 2010, Nicholson-Crotty 2009). In addition to learning from or imitating their peers, states may try to compete with or gain an

advantage over other states or feel coerced with incentives or penalties to adopt a policy (Gilardi 2016; Graham, Shipan, and Volden 2013; Shipan and Volden 2008).

The Myopic Focus on Legislative Arena

Despite hundreds of articles detailing if and how policies diffuse (Graham, Shipan, and Volden 2013), the overwhelming bulk of the literature has emphasized the transfer of policies from one legislative unit to another legislative unit (e.g., state legislature to state legislature, city council to city council, city council to state legislature). As detailed in Chapter 2, the myopic focus on the legislative arena is surprising for at least three reasons. First, early scholars suggested that policy innovation occurs in various venues outside of the "people's branch" (Polsby 1985; Walker 1969). Although Walker's (1969) canonical piece focused on the diffusion of ideas from one legislative body to another, he explicitly acknowledged that innovations are pursued "by regulatory commissions or courts" (881). And Polsby (1985) asserted that "there is no doubt that political innovations take place within...diverse [institutional] arenas."

The second reason why it is unexpected that few studies investigate diffusion outside of the legislative context is that policy change can and does occur in multiple venues (e.g., citizen initiatives, legislative referendums, gubernatorial executive orders, court rulings, agency decisions). This is one of the defining advantages of American federalism. Policies can be enacted via citizen ballot initiatives or referenda, legislative referenda, state supreme court decisions, gubernatorial executive orders, bureaucratic agency decisions, and even by way of the federal government. Although numerous horizontal and vertical venues suggest multiple veto points to impede change, they also represent various opportunities to pursue change.

Third, this singular focus is remarkable especially since policy actors are increasingly turning to alternative venues to press for new ideas (Ferraiolo 2008; Magleby 1988; Miller 2009; Reilly 2010).

There is strong evidence that other forums are increasingly being used to set the policy agenda (Damore, Bowler, and Nicholson 2012). Indeed, due to heightened polarization and gridlock at the federal level, interest groups and citizens have sought policy windows at the subnational level (Dinan and Krane 2006).

To be sure, there are a couple dozen studies that have directly or indirectly explored policy diffusion in venues beyond American legislative bodies. For example, Fay and Wenger (2015) and Lupia et al. (2010) highlight how states' institutional hurdles slow the adoption of constitutional amendments for lottery policies and anti-gay marriage bans. Both conclude that higher institutional barriers to amending state constitutions slow policy diffusion, even if the public favors the policy. Lewis (2011, 2013) also explores the diffusion of same-sex marriage bans and finds that those states equipped with the capacity for citizen-driven initiatives were more likely to outlaw gay marriage than states without direct democracy. Analyzing the emulation of capital punishment and Indian gaming policies, Boehmke (2005) offers some support for the notion that interest groups within a direct-democracy state look to interest groups in other direct-democracy states for policy ideas. Similarly, Seljan and Weller (2011) recount the diffusion of tax and expenditure limits (TELs) via direct- and non-direct democracy states. They find that policy failure in geographically proximate states caused both plebiscite and non-plebiscite states to be less likely to adopt TELs.[9]

However, the few articles that examine the spread of policy ideas outside of the legislative context are the exception rather than the rule. This is regrettable because the diffusion of policy innovations at the ballot box, by governors, in courtrooms, or via state agencies may not parallel the patterns of diffusion in legislative arenas. Just as the diffusion process is not uniform across all types of policies, neither should we expect it to be uniform across all venues. Moreover, the previously

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[9] A few other scholars have also documented how the courts (Caldeira 1985; Canon and Baum 1981; Dear and Jessen 2007; Glick 1992; Hinkle 2015; Hinkle and Nelson 2016), gubernatorial offices (Bowman, Woods, and Stark 2010), and bureaucratic agencies (Parinandi 2013; Teodoro 2009; Volden 2006) serve as venues for policy innovation.

identified mechanisms driving diffusion—learning, imitation, competition, coercion—may be more appropriate in the legislative context than in other institutional settings with varied institutional arrangements. In fact, new, unidentified mechanisms may be driving forces as well. Besides, the policy actors typically important in fostering diffusion in the legislative context (e.g., legislators, interest groups, citizens activists) may play a more or less prominent role in the spread of innovations in other forums. Finally, the policy attributes (e.g., salience, complexity, observability, trialability) deemed critical to diffusion in the people's branch (Makse and Volden 2011; Nicholson-Crotty 2009) might also wax and wane in importance to this process in other venues. Put simply, the picture of policy diffusion in the legislative context may not reflect the dynamics in other institutional settings.

Policy Diffusion Research's Selection Bias

A myopic focus on one venue, however, is not the only gap in current policy innovation research. Nearly every policy diffusion study tries to examine transfer patterns of policies (usually from one policy domain) that have already been adopted by numerous governments, rather than consider the full set of policies that are (or are not) pursued by governments. Consequently, researchers have selected on the dependent variable (King, Keohane, and Verba 1994), and left a significant amount of essential data, policies not yet enacted by other jurisdictions, out of their models of policy diffusion. Experts have tried to explain the "hits" without also accounting for the "misses." This omission is understandable since policy scholars frequently face data and modeling limitations, and because studying both policies that *have diffused* and *have yet to diffuse* requires scholars to have a complete dataset—an arguably onerous if not impossible demand in some circumstances. Yet, to have a richer and more holistic understanding of the dynamics of policy diffusion, we must model the full set of policies that are "at risk" of being adopted by governmental units.

Fortunately, recent scholarship has identified and started to address this issue. Karch and colleagues (2016), for example, call out diffusion research for its "pro-innovation bias," whereby scholars select policies that have already diffused broadly. In analyzing the adoption of interstate compacts by a handful of states to a plurality of states, they find that modeling innovations that only gain large traction causes us to underestimate the role of learning and professional associations and overestimate any geographic or regional forces (Karch et al. 2016). In addition, Volden (2015) explores whether a state's abandonment of a specific Temporary Assistance to Needy Families (TANF) requirement makes another state more likely also to abandon or fail to adopt that specific requirement as well. He offers firm support that it does, suggesting that policy reversals and abandonments may also diffuse. Volden also finds that commensurate levels of professionalism and ideological similarity between the states facilitate this learning and desertion of the policy. However, because this is a salient, complex, and politically contentious policy area, we are still left wondering how generalizable these findings are to other policy topics, venues, and periods.

But my argument here goes beyond the need to account for "pro-innovation bias" and the modeling of policy reversals and abandonment. I charge that to comprehend fully if, why, how, and when policies diffuse, we cannot simply model policies that disseminate narrowly or widely. Instead, we must also consider for policies that have yet to gain traction outside of one state. Much like congressional scholars track and model bills that remain in committee and do not make it to the floor, or international relation scholars account for countries that do and do not go to war, diffusion scholars should also account for policies that remain in one domain and do not spread across subnational governments. Leveraging the inclusion of policies that have yet to spread can help us better grasp how policies diffuse in a dynamic, interdependent environment. No article to my knowledge has explored the diffusion of all possible bills, measures, orders, rulings, or decisions.

Luckily, the National Conference of State Legislatures Ballot Measure Database (Jordan and Grossmann 2018; NCSL 2016) provides an opportunity (1) to explore policy diffusion in key venues outside of the purely legislative context and (2) to include in our models innovative measures that have yet to launch. The database contains the full set of successful and failed ballot measures—legislative referendum, citizen initiatives, popular referendums, among others—pursued across all 50 U.S. states from 1902–2016. Moreover, the ballot measures cover an array of policy areas (from abortion, bonds, and morality policies to government reform, veteran benefits, and tax policies) to examine the effect of this potentially pernicious selection bias.

Ballot Measures Pursued in the U.S. States

Citizens acting as lawmakers is one of the unique aspects of American federalism. Buoyed by concerns about machine politics, corruption, and a powerful few supplanting the will of the many, populist and Progressive-Era reformers in the late 1800s and early 1900s were able to push for the adoption of new political institutions across the states: direct election of U.S. senators, Australian secret ballots, civil service standards, and direct democracy (e.g., Bowler and Donovan 2006; Lawrence, Donovan, and Bowler 2009; Smith and Fridkin 2008). Within two decades, twenty states had adopted direct democracy, whereby voters could directly or indirectly initiate policies, repeal legislation, or recall elected officials.[10]

There are multiple motivations for why elected officials, interest groups, or citizen activists might pursue a ballot measure. Policy entrepreneurs within a state may turn to alternative venues because they have greater knowledge and experience with one venue over another (Pralle 2003). Or perhaps state actors are facing increasing polarization and gridlock in state legislatures (Hinchliffe

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[10] Five states adopted direct democracy provisions much later than the turn of the 20th century. Alaska became a direct democracy state in 1959, followed by Wyoming in 1968, Illinois in 1970, Florida in 1972, and Mississippi in 1992.

and Lee 2016; Shor and McCarty 2011) and need another roadmap to policy change. Or legislators may capitalize on their partisan legislative majorities to enshrine their policy preferences in the status quo (Damore, Bowler, and Nicholson 2012). Interest groups and advocates also frequently desire to codify or annul policies in state constitutions (Miller 2009; Fay and Wenger 2015), attempting to preempt other institutions (Boehmke, Osborn, and Schilling 2015; Dumas 2017; Gerber 1996) or for greater popular sovereignty (Bowler and Glazer 2008; Lewis 2013), among other reasons. Still, actors may turn to the states to try to challenge federal policy or address inaction at the national level (Ferraiolo 2008).

Regardless of the motivations to pursue an initiative or referendum, not all states' access to ballot measures is created equal. Today, 24 states and the District of Columbia allow their citizens through direct or indirect means to press for new statutory or constitutional language at the ballot box.[11] I classify these measures as "citizen initiatives." Forty-nine of the states, with the exception of Delaware, allow the legislature to refer constitutional questions to voters, although only 24 states and the District of Columbia permit the electorate to have a say in statutory questions. I term these referrals as "legislative referenda." Slightly more than half of the states, 26 in total, allow citizens to check the legislature by repealing public policy via plebiscite or referendum. I mark these measures as "popular referenda." Finally, some states allow "other measures" for constitutional conventions, nonbinding questions, or advisory votes. See Table 3.1 for each state's access to these different types of ballot measures, where citizens have an expanded or limited direct say on policymaking.

However, even this simple categorization is not exhaustive because there exist varying degrees of hurdles for policy actors trying to pursue an initiative or referendum. To secure a place for a measure on the ballot, most states require a specific number or proportion of voters' signatures

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[11] Although, Illinois is one of these twenty-four states, it only permits citizen initiatives to amend Article IV of its constitution dealing with legislative procedures.

Table 3.1: Institutional Arrangements for Direct Democracy by State

State	Legislative Referendum (Statute)	Legislative Referendum (Amendment)	Citizen Initiative (Statute)	Citizen Initiative (Amendment)	Popular Referendum	Recall
Alabama		✓				
Alaska		✓	✓		✓	✓
Arizona	✓	✓	✓	✓	✓	✓
Arkansas	✓	✓	✓	✓	✓	
California	✓	✓	✓	✓	✓	✓
Colorado	✓	✓	✓	✓	✓	✓
Connecticut		✓				
Delaware	✓					
Florida		✓		✓		
Georgia		✓				✓
Hawaii		✓				
Idaho	✓	✓	✓		✓	✓
Illinois	✓	✓		✓		
Indiana		✓				
Iowa		✓				
Kansas		✓				✓
Kentucky	✓	✓				
Louisiana		✓				✓
Maine	✓	✓	✓		✓	
Maryland	✓	✓			✓	
Massachusetts	✓	✓	✓	✓	✓	
Michigan	✓	✓	✓	✓	✓	✓
Minnesota		✓				✓
Mississippi		✓		✓		
Missouri	✓	✓	✓	✓	✓	
Montana	✓	✓	✓	✓	✓	✓
Nebraska	✓	✓	✓	✓	✓	
Nevada	✓	✓	✓	✓	✓	✓
New Hampshire		✓				
New Jersey		✓				✓
New Mexico	✓	✓			✓	
New York		✓				
North Carolina		✓				
North Dakota	✓	✓	✓	✓	✓	✓
Ohio	✓	✓	✓	✓	✓	
Oklahoma	✓	✓	✓	✓	✓	
Oregon	✓	✓	✓	✓	✓	✓
Pennsylvania		✓				
Rhode Island		✓				✓
South Carolina		✓				
South Dakota	✓	✓	✓	✓	✓	
Tennessee		✓				
Texas		✓				
Utah	✓	✓	✓		✓	
Vermont		✓				
Virginia		✓				
Washington	✓	✓	✓		✓	✓
West Virginia		✓				
Wisconsin		✓				✓
Wyoming		✓	✓		✓	✓
TOTALS	24	49	21	18	23	19

Note: The table provides the different institutional arrangements for ballot measures for each state, whereby state electorates have a direct vote on policymaking, including via legislative referenda for statutory and constitutional policies, citizen initiatives for statutory or constitutional policies, popular referendum to annul a policy, or the recall of an elected official. Source: Ballotpedia (2016); Lupia et al. (2010); NCSL 2016; and Waters (2003).

(e.g., some percentage of the votes cast for governor in the prior election) (Donovan, Bowler, and McCuan 2001). Several states also require approval by the legislature or a committee. Still, other states require a supermajority of support from the legislature or approval in two legislative sessions. For example, Tennessee requires a supermajority of legislators supporting the measure from two separate sessions before the proposal makes the ballot (Lupia et al. 2010).

Despite these institutional hurdles, elected officials, interest groups, and citizen activists have increasingly turned to referendums, initiatives, and other ballot measures to pursue policy change in the U.S. states over the last century (Ferraiolo 2008; Magleby 1988; Miller 2009; Reilly 2010). Of the 7,772 ballot measures pursued at the state level from 1902 – 2016, nearly two-thirds (64%) have been put before the voters since the 1970s. Of the cumulative total, some 62% (4,814) were legislative referenda, with the overwhelming majority of those occurring in the last five decades. Another 32.1% (2,494) were citizen initiatives, with more than half of those being pursued since the 1970s. And a smaller portion of the total ballot measures were popular referenda (4.2%, or 325) and other measures (1.8%, 139).[12]

Figure 3.1 displays the total number of ballot measures pursued by type by decade from 1900–2010 (although the 2010 decade only includes ballot measures through 2016). As we can see, there has been a marked increase in the use of legislative referendum and citizen initiatives to bring about policy change since the 1970s. This activity appears to have reached an apex in the 1990s, granted that the number of legislative referendums and citizen initiatives have held relatively steady since. Opposite of this trend, the use of popular referendums to recall legislation has drastically declined since the 1910s, with 70 such measures pursued that decade compared to only 29 in the

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[12] For an additional and exceptional breakdown of the number of ballot measures adopted by the U.S. states since the early 1900s by decade, policy type, and the quantity challenged in the courts see Miller (2009).

Figure 3.1: Total Ballot Measures by Type by Decade, 1900–2010
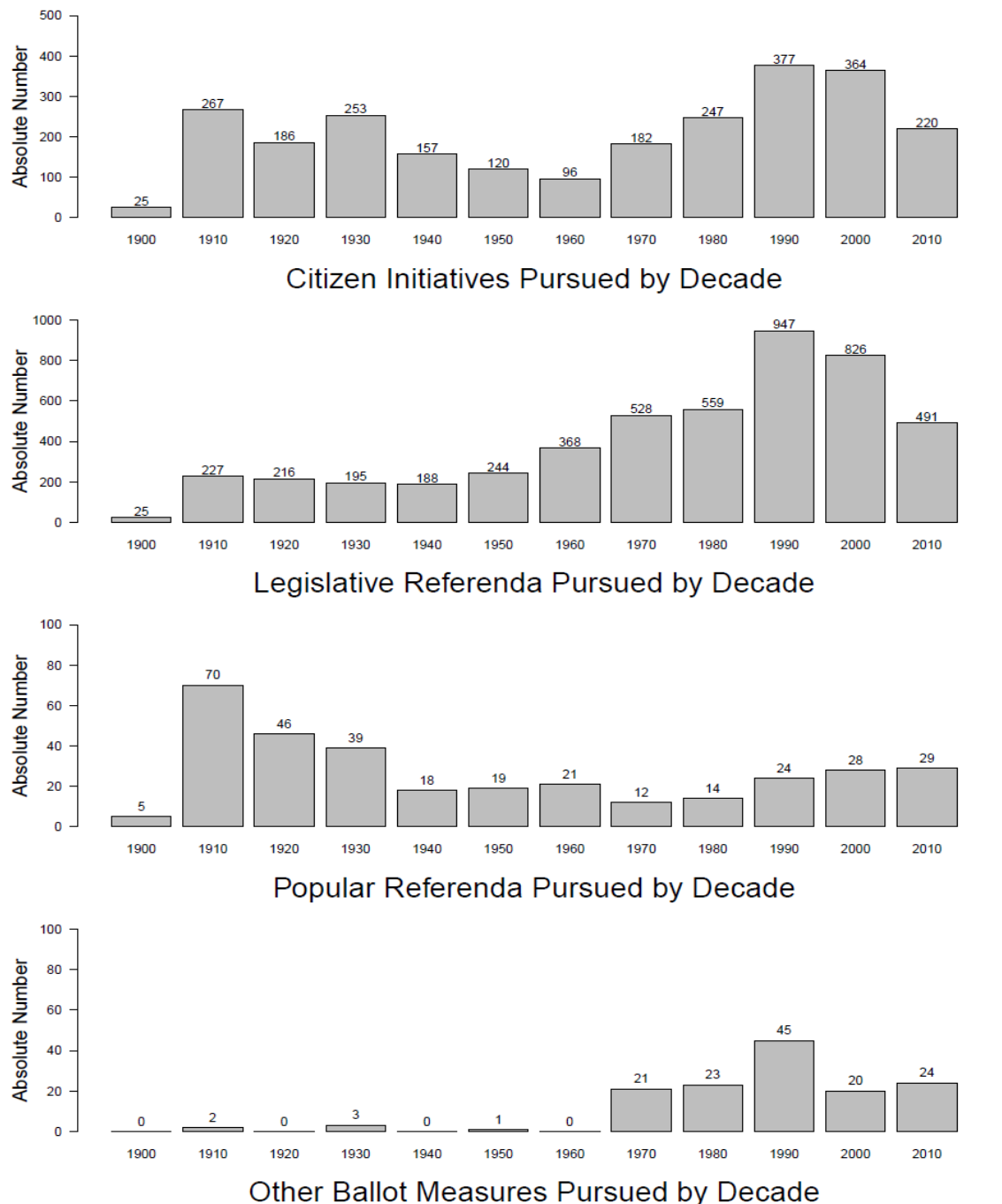
Note: Bar chart displays the total number of ballot measures pursued across the U.S. states by type (citizen initiatives, legislative referendums, popular referendums, and other ballot measures) pursued in the U.S. states by decade from 1900–2010. The 2010 decade only includes ballot measures through 2016. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

2010s. There has been an uptick in "other" measures as well. This category includes measures for

constitutional conventions, nonbinding questions, or advisory votes.

State policymakers have been asking for voter input more frequently, while citizens and interest groups have been more willing to give legislators a pass (by not repealing legislation via popular referenda) and press for new policies via plebiscite. Aside from an increase in the absolute numbers, however, the passage rate of ballot measures also appears to be higher compared to the earlier decades. See Figure 3.2 for the success rate of ballot measures by type by decade. When legislators refer policies to the electorate via legislative referendum, the success rate of those referenda has increased over time. In 1910, less than half of legislative referendum were approved; in 2010, nearly 80% of legislative referenda passed. This difference in proportions is statistically reliable

Figure 3.2: Ballot Measure Passage Rate by Ballot Measure Type and Decade
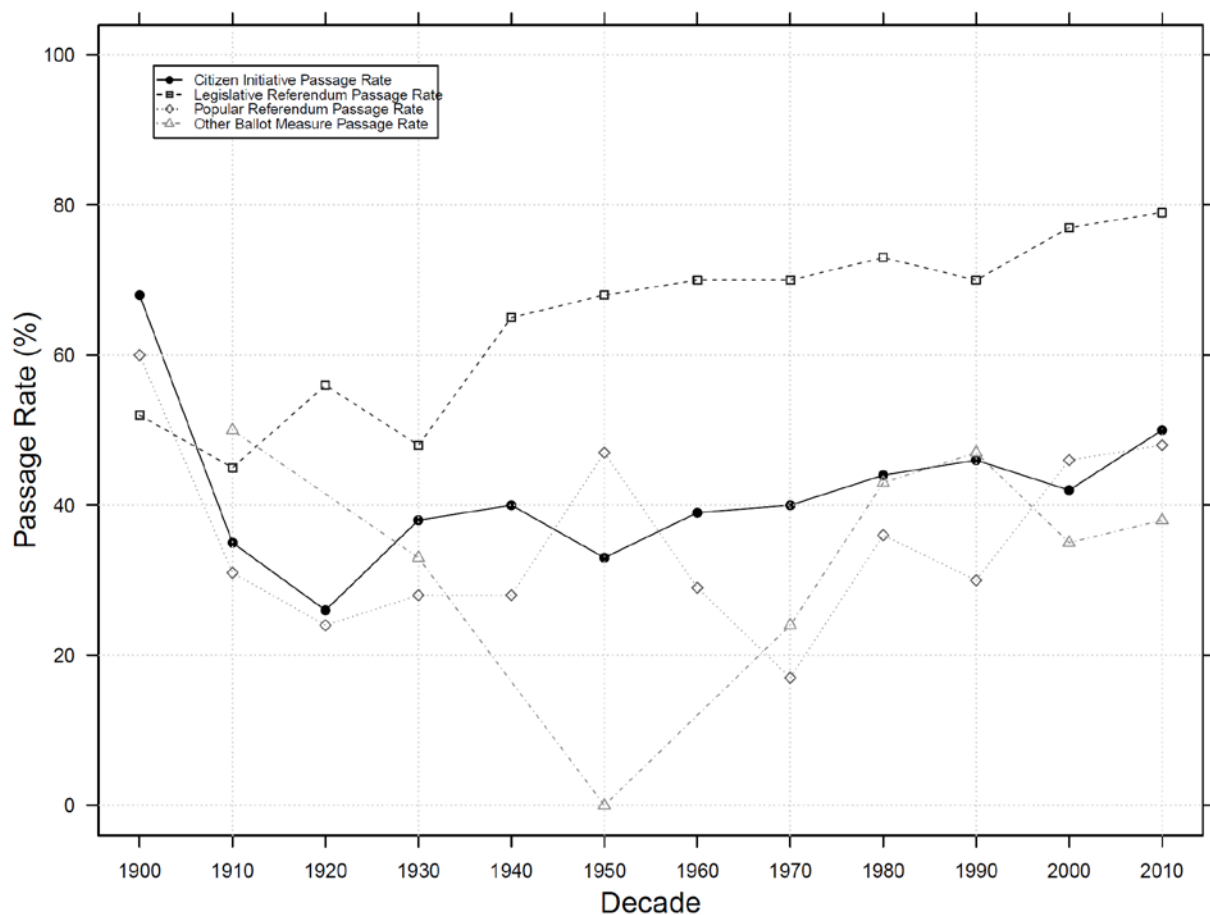
Note: Line chart displays the passage rate for Citizen Initiatives, Legislative Referenda, Popular Referenda, and other ballot measures pursued in the U.S. states by decade. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

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at the α=.05 level (p<.000). There has also been a slight increase in the success rate of citizen initiatives (35% in 1910, 50% in 2010) (also statistically different at conventional levels, p<.001), but not as steep as has been for referred measures. This passage rate for legislative referendum is somewhat surprising considering that prior research (Dumas 2017; Gerber 1996) suggests that legislators desire to directly tackle policy issues to achieve outcomes closer to their preferences, rather than allow public input via legislative referendum, citizen initiatives, or court cases.[13]

The success rate also varies widely by state. Figure 3.3 illustrates the average pass rate for ballot measures by state. South Dakota has the lowest average success rate at under 40%, closely followed by Michigan, Colorado, and New Hampshire. Eleven states have a success rate below 50%. Meanwhile, Indiana, North Carolina, Pennsylvania, Tennessee, and Washington DC had the highest success rate at 100%. However, these latter states only put a limited number of legislative referenda before voters in the last century: Indiana (11), North Carolina (19), Pennsylvania (12), Tennessee (11), Washington DC (1). Fourteen states in total have a success rate for measures higher than 80%.

Of course, not all states turn to initiatives and referendums as frequently as others. Figure 3.4 shows the aggregate number of measures that each state has allowed on the ballot. Two states, in particular, stand out. California has attempted more than 1,238 ballot measures, while Oregon has pursued 859 initiatives and referendums since 1902. The next closest state, Oklahoma, has only attempted 440 in the same period, while the average for the states without California and Oregon included is 229 ballot measures. For these states, excluding California and Oregon, this works out to four ballot measures per two-year election cycle. Clearly, California and Oregon are leaders (and likely influential observations in any models of diffusion) in pressing for policy change at the ballot

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[13] This sizeable increase in the success rate for legislative referendum over time should be explored further in future research. Do legislatures with larger partisan majorities simply capitalize on a more supportive electoral climate to secure their policy preferences (Damore, Bowler, and Nicholson 2012). Is this due to legislators profiting from geographic sorting and polarization (Lang and Pearson-Merkowitz 2014). Or have legislatures become better at discerning the policy preferences of the public and carefully craft policy language directed at the median voter? Or are voters simply more likely to approve of a referendum *because* it came from the legislature rather than an interest group or citizen activist?

Figure 3.3: Ballot Measure Passage Rate by State
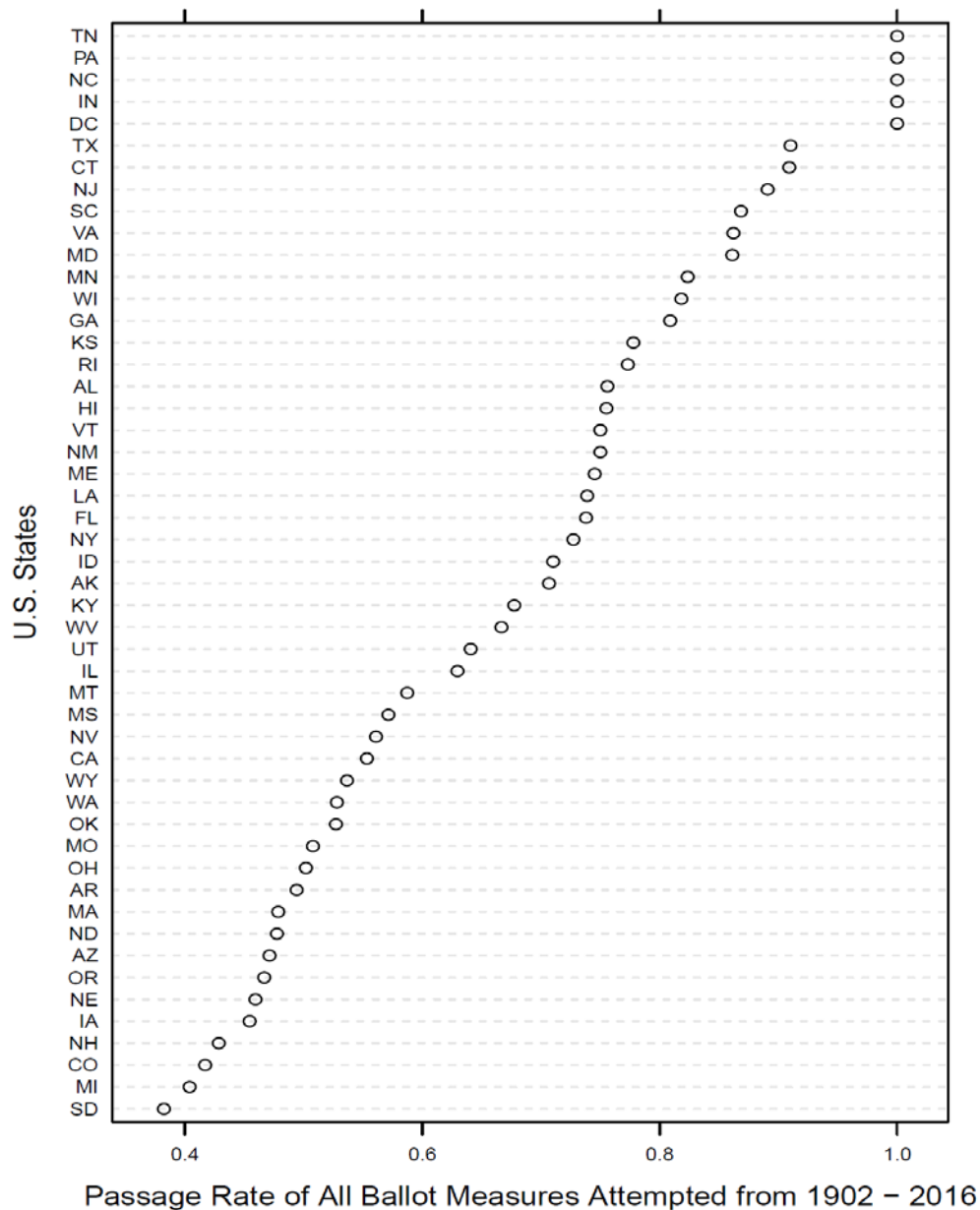
Note: Dot plot displays the average passage rate of ballot measures (e.g., citizen initiatives, legislative referendum, popular referendum, others) attempted by each U.S. state from 1902-2016. Source: NCSL (2016) Ballot Measures Database.

box, but there is also sizable variation across the other states. Certainly, the aforementioned

hodgepodge of institutional arrangements by state (Bowler and Donovan 2004; Fay and Wenger 2015;

Lupia et al. 2010) affects whether or not measures even make it on the ballot let alone adopted.

Oregon and California have fewer requirements than most states to get a measure on the ballot

Figure 3.4: Total Ballot Measures Attempted by U.S. State from 1902 – 2016
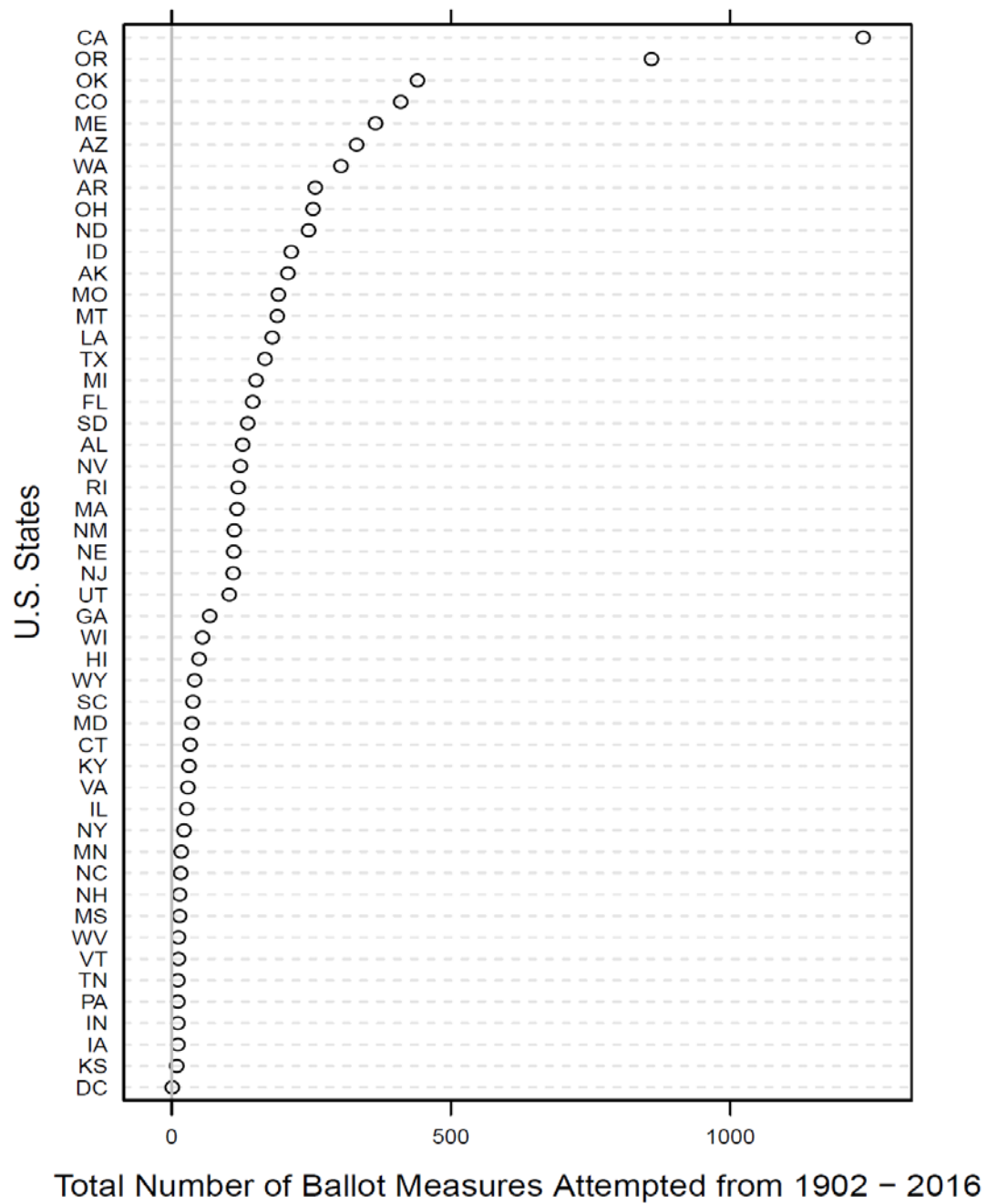
Note: Dot plot displays the absolute number of ballot measures (e.g., citizen initiatives, legislative referendum, popular referendum, others) attempted by each U.S. state from 1902{2016. Source: NCSL (2016) Ballot Measures Database.

Figure 3.5: Ballot Measures by Frequency of Policy Area
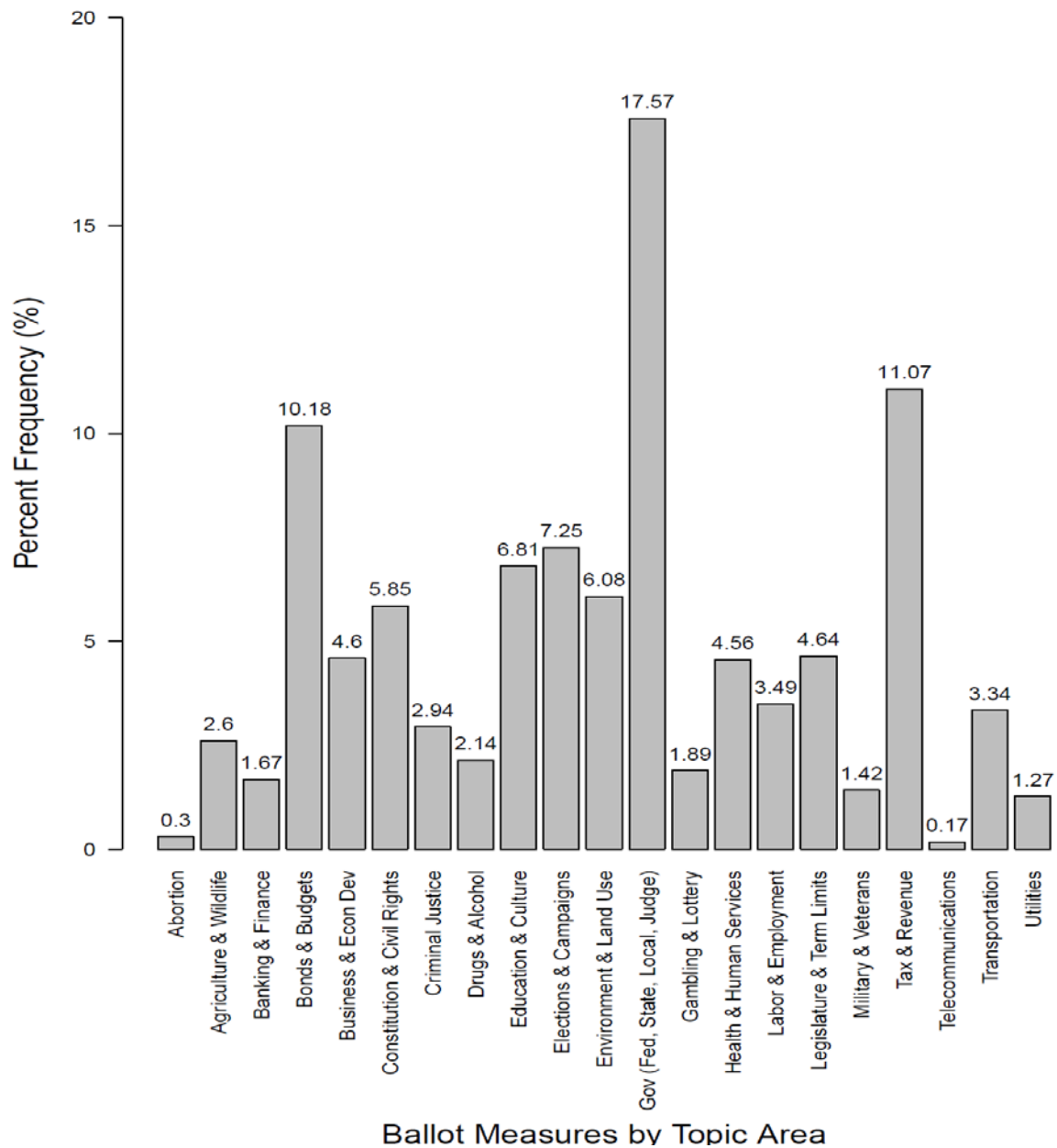
Note: Bar chart displays the percent frequency of ballot measures (e.g., citizen initiatives, legislative referendum, popular referendum, others) by policy area attempted across the U.S. states from 1902-2016. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

(Banducci 1998). But that is not the only factor. Organized interest groups also play a crucial role, especially in pressing for citizen initiatives (e.g., Boehmke 2005; Damore, Bowler, and Nicholson 2012). Still, polarization (Hicks 2013), larger partisan legislative majorities (Damore, Bowler, and Nicholson 2012), and less competitive elections (McGrath 2011) also likely explain the increased frequency in ballot measures in some states over others.

States appear to turn to ballot measures, however, for some policy areas more than others. Figure 3.5 provides the percent frequency of measures by policy area. Despite the media attention around more salient measures pertaining to morality policies such as gambling (Berry and Berry 1990), gay marriage (Lewis 2011), the death penalty (Mooney and Lee 1999), or medical marijuana (Hannah and Mallinson 2018), the top three policy areas for ballot measures actually pertain to government reforms (17.57%), taxes and exemptions (11.07%), and bonds and budgets (10.18%).[14] Anecdotally, some of the most frequently appearing topics are bonds to raise revenue (e.g., schools, transportation, construction, hospitals, research facilities), and tax exemptions for different groups or individuals viewed favorably by the public (e.g., non- profits, churches, veterans, farmers).

The Diffusion of Ballot Measures: Expectations

The above description and figures illustrate the wide variation in access to, frequency of use, and type of ballot measures pursued across the American laboratories of democracy. Considering these differences in states' institutional arrangements and the use of ballot measures, do states copy the ballot measures adopted in other states? Because past diffusion research has demonstrated the

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[14] Also see Figure A.1 in the Appendix which shows the frequency of policy area by type of ballot measure. Citizen initiatives were more likely to emphasize government reform (21.4%), taxes and revenue (20.9%), elections and campaigns (12.5%), and business and economic development (12.2%) issues. Legislative referendums, however, appear to be pursued to reform government (32.5%), solicit bond and budget funding (24.4%), or make changes to tax policy (18.7%).

interdependence between states' policy choices in the legislative context, I believe it is sensible to expect some conditionality in the ballot context as well.

However, the degree of interdependence may be overstated in the literature (Karch et al. 2016). A fundamental assumption of policy diffusion is that jurisdictions face common problems that merit universal policy solutions. Elected officials, interest groups, or concerned citizens are likely to look to other jurisdictions for these universal solutions. Nonetheless, states frequently face problems that are *unique* and that require *particularized* policy solutions (Volden, Ting, and Carpenter 2008). Not all policy ideas are germane to all governments. This fact has been obscured in the policy diffusion literature as scholars have selected cases that have spread to offer support of policy diffusion (Karch et al. 2016).

Furthermore, even some *universal* policy solutions for mutual issues may transfer slowly (over decades or centuries) to other jurisdictions or not diffuse at all (Rogers 1962).[15] Indeed, achieving policy change is challenging and infrequent (Baumgartner et al. 2009; Baumgartner and Jones 1993; Kingdon 1984). There are abundant institutional and political roadblocks to altering public policy. Even when policy change is achieved, failure in implementation, reform, and policy reversal can all result (May 1992; McConnell 2010; Patashnik 2014; Volden 2015), thus undermining the policy's potential for diffusion in other jurisdictions (Seljan and Weller 2011; Volden 2015). As a result, our general expectation should be one of stagnation rather than dispersion. Most innovations should *not* spread to other jurisdictions. Therefore, I offer the following hypothesis:

> **H$_1$: Minimal Diffusion:** *Most ballot measure policy ideas pursued in one state will not be pursued by other states.*

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[15] One cannot help but think of the stalled spread of the solution (i.e., vitamin C) to fight scurvy among sailors during the Age of Sail (mid-16th century to mid-19th century) It took several hundred years before fresh fruit and vegetables were commonplace on ships (Rogers 1962).

Nevertheless, because of past demonstrated interdependence among states, it is reasonable to assume that *some* policy innovations will transfer to other states.[16] Turning to the potential mechanisms driving the diffusion of ballot measures across subunits, I consider two external factors from the existing literature: policy learning and imitation. Because policy actors are boundedly-rational, facing limited cognition and resources, they engage in satisficing and learn from other entrepreneurs and actors about potential solutions to universal problems (Gilardi 2010, 2016; May 1992; Shipan and Volden 2008). As first movers are successful in adopting a new policy to address a common issue, remaining states will gradually become familiar with these solutions and are likely follow suit. Therefore, I propose the following policy learning hypothesis, whereby an increase in the number of states enacting the policy innovations augments subsequent states' likelihood of adopting the ballot measure.

> **H₂: Policy Learning:** *A state's likelihood of adopting a given ballot measure increases as the number of other states pursuing that ballot measure increases.*

Even though I anticipate states deliberately seeking out and learning about available solutions from other states, it is also possible that states may emulate the ballot measures pursued by peer states (Butler et al. 2015; Shipan and Volden 2006, 2008, 2014; Volden 2006, 2015; Zelizer 2019). A desire for homophily may lead policy actors to look to comparable states with a similar partisan composition, citizen ideology, economic circumstances, institutional settings, or demographics. Rather than a comprehensive search for information, state actors may simply take cues from similar states that have adopted a ballot measure. Acknowledging a possible imitation mechanism for diffusion, I hypothesize the following:

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[16] Although it may be unreasonable to assume the same mechanisms from the legislative arena apply for initiatives and referendums. Pursuing referendums and initiatives usually requires overcoming multiple veto points and players (more than in the legislative context), as well as mobilization and campaign efforts.

H₃: Imitation: *A state's likelihood of adopting a given ballot measure increases as its similarity with other states adopting that ballot measure increases.*

U.S. states also operate within a federal system. As a result, the national political environment may make some policies or venues more attractive than others (Baumgartner and Jones 1993; Berry and Berry 1990, 1992; Ley and Weber 2015; Mintrom and Vergari 1998; Smith et al. 2006). Presidential elections, for example, offer an opportunity for legislators and organized interests to mobilize support for or against a measure. Because the national political environment and timing of elections might influence the likelihood of a ballot measure's adoption, I propose:

H₄: National Environment: *A state's likelihood of adopting a given ballot measure increases during presidential election years.*

Aside from these external factors[17] associated with a state adopting a ballot measure, numerous internal factors may hasten or hinder the adoption of a ballot measure. For example, a state's political environment—party control of governing bodies, ideological predisposition of officials, public opinion regarding the policy issue—are known determinants of policy adoption (or inaction) (Butler et al. 2015; Calvert et al. 1989; Desmarais, Harden, and Boehmke 2015; Enns and Koch 2013; Erikson, Wright and McIver 1993; Holyoke, Brown, and Henig 2012; Pacheco 2012; Volden 2015; Wright, Erikson, and McIver 1987). Even the degree of electoral competition in the state could lead to more ballot activity (Barrilleaux, Holbrook, and Langer 2002; Holbrook and Van

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[17] In addition to the policy learning and imitation mechanisms, there are three other mechanisms that are typically accounted for in policy diffusion studies: geographic, competition, and coercion factors. I decide to not control for a geographic effect because of the sheer number of policies pooled in the dataset and the separate neighbor to neighbor proportions that would be required for each state-year. While future analyses could include a "neighbor" variable, there are several studies that suggest regional policy diffusion in the U.S. is increasingly rare (Haider-Markel 2001a; Karch et al. 2016).[17] As such, I do not believe the omission of a geographic variable will alter the inferences we can draw from the current analyses. Regarding the competition and coercion mechanisms, these factors tend to be topic area dependent. For instance, states are more likely to adopt a lottery as they lose out on tax revenue to neighboring states with an existing gambling system (Berry and Baybeck 2005; Berry and Berry 1990), or states are more likely to adopt welfare or embryonic stem-cell policies as the federal government signals or incentivizes its preferences (Karch 2006; Karch and Rosenthal 2015). Identifying variables that would encompass potential competition or coercion across such a range of policies (from taxes to the environment to veteran affairs) and time is quite daunting, to say the least. I decide to leave the inclusion of such variables for future research with the data.

Dunk 1993). Furthermore, measures of state wealth and resources correlate highly with more innovative states (Walker 1969). Variation in a state's demographics has also been shown to matter in the spread of new ideas or in pressing for policy change outside of the legislative arena. Policy actors with larger state populations may face higher hurdles to enacting a ballot measure given the steeper costs of informing or mobilizing voters (Boehmke 2005; Donovan and Bowler 1998; Lewis 2013). And states located in the southern part of the U.S. are known to behave differently than their peers in the North, Midwest, and West for a host of historical, political, and cultural reasons (Foster 1978; Key 1949).

Institutional availability (i.e., whether a state has access to direct or indirect citizen initiative, statutory legislative referendum, popular referendum) (Füglister 2012; Gilardi and Wasserfallen 2019) as well as the degree of difficulty in pursuing a ballot measure (e.g., amendment to the states constitution) may also influence the diffusion of ballot measures (Dinan 2018; Fay and Wenger 2015; Lupia et al. 2010; Lutz 1994). More hurdles to pursue a measure (e.g., ranging from the number of signatures required for the petition to legislative approval in subsequent sessions and a supermajority of support from the voters) may impede the transfer of policies.

Policy diffusion research identifies interest groups as central characters in the spread of new ideas across jurisdictions (Balla 2001; Garret and Jansa 2015; Haider-Markel 2000, 2001a, 2001b; Karch 2007a; Mintrom 1997; Mintrom and Vergari 1998; Shipan and Volden 2006; Stone 2012). Interest group presence may play an even bigger role in direct-democracy states (Boehmke 2005; Gray et al. 2004). Boehmke's argument, in particular, is that ballot measures provide an additional route for epistemic networks to influence public policy. And since the opportunities for accomplishing one's goals are more plentiful in direct-democracy states, Boehmke suggests this will produce a greater number of interest groups in these states, especially citizen organizations championing and advocating on behalf of underrepresented groups. Of course, interest groups'

impact on the process is easier to imagine than to always see in our models (Banfield 1961; Lowery 2013).

Lastly, policy attributes are also known to influence the adoption as well as the pace of diffusion of new policies (Makse and Volden 2011; Nicholson-Crotty 2009). For example, depending on the policy category—morality, regulatory, development, re-distributive, etc.—the pattern, speed, and determinants of diffusion may differ in important ways. For example, Mooney and Lee (1999) demonstrate that the spread of the death penalty, a morality policy, across U.S. states was rapid, largely driven by value judgments and public opinion about capital punishment rather than any lesson drawing by policymakers. According to the authors, "the decisionmaking process [was] not one of incremental learning but rather it [was] one of competition to validate majority values" (Mooney and Lee 1999). Nicholson-Crotty (2009) point out that energy, environmental, healthcare, tax, trade, and regulatory policies generally diffuse at a slower pace than other policy types. Therefore, controlling for policy area may further elucidate the underlying processes at play.

Data and Methods

Data

I attempt to explore and test the diffusion processes of ballot measures by relying on the NCSL Ballot Measure Database (Jordan and Grossmann 2018; NCSL 2016). To check the potential for diffusion for all ballot measures from 1902–2016, however, similar policies must be identified within the dataset. Intending to match analogous ballot measures across time and space, I drew a random sample of fifty ballot measures (out of the full set of 7,772 initiatives and referendums). For each randomly selected measure, I then searched for keywords to find comparable ballot measures pursued by the same or other states from 1902–2016. This matching exercise produced a sample of 579 ballot measures (or 7.4% of the full set of initiatives and referendums), comprised of measures

paired across states (suggesting possible diffusion) and measures that were not matched with other states (indicating no diffusion). Notably, unlike past policy diffusion studies, this dataset contains both policies that appear to have diffused and have not diffused to other states. Modeling both diffusion successes and failures should help us better flesh out the diffusion dynamics of ballot measures.

Table 3.2 lists the fifty randomly selected ballot measures, along with the first state to pursue the measure, the first year it was attempted, a description of the measure, the type of measure, and how many states also attempted to enact the policy. For more information on my strategy for matching and coding ballot measures, please see Appendix A. Also, to demonstrate that the fifty randomly selected measures mirror the underlying population, please see Figure A.2 and Figure A.3 in the corresponding Appendix.

After gathering this sample of 579 ballot measures (by taking the random 50 measures and matching analogous propositions from the full set), I constructed the relevant data universe for these measures. Since each state can pursue multiple ballot measures in any given year, I examine each ballot measure choice simultaneously. States are at "risk" of pursuing or adopting a particular ballot proposal from the time it was first adopted to the end of the dataset (2016) (as states are still "at risk" of adopting a policy pursued decades ago by other states). As a result, the unit of observation is state-measure-year, rather than state-year, as is most common in policy diffusion studies. This approach is a pooled events history analysis (EHA) (Box-Steffensmeier and Jones 2004) and is an established modeling strategy in the literature (Shipan and Volden 2006, 2008; Volden 2015).

EHA is useful because it examines each ballot measure for each state in each year to determine if the state adopted a specific measure in a given year, distinguishing between external (e.g., learning, imitation) and internal (e.g., state resources, state politics, state institutions, etc.)

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Table 3.2: Description of 50 Randomly Selected Ballot Measures

Policy ID	1st State to Pursue	Yr. Pursued	Ballot Measure Description	Ballot Measure Type	# of States Pursuing
10001	Colorado	2004	Remove obsolete constitutional amendments	Leg. Referendum	1
10002	Arizona	1976	Motor vehicle emissions inspections	Leg. Referendum	1
10003	California	1996	Allow medical marijuana	Initiative	15
10004	Arizona	1972	Regulation around the employment of children	Leg. Referendum	1
10005	Oregon	1996	No discrimination against health care providers	Initiative	1
10006	California	1980	Bonds for Lake Tahoe conservation and restoration	Leg. Referendum	2
10007	Oregon	1990	Use pollution control bonds in OR for related activities	Leg. Referendum	1
10008	Vermont	1903	Permit sale of alcohol or liquor at county or state level	Leg. Referendum	16
10009	Arkansas	1912	Provide free textbooks for schools and students	Initiative	5
10010	New Jersey	1984	Bond for job, science, and technology in NJ	Leg. Referendum	1
10011	Oregon	1910	Repeal of poll taxes	Initiative	9
10012	Arkansas	1914	Establishing children's home and welfare for minors	Initiative	2
10013	Minnesota	1998	Providing constitutional right to hunting, fishing, trapping	Leg. Referendum	5
10014	Alaska	2014	Oil and gas production, taxes, in AK	Pop. Referendum	1
10015	Arizona	1972	Preemption of taxes for municipalities in AZ	Initiative	1
10016	New Jersey	1985	Bonds for solid waste management facilities	Leg. Referendum	3
10017	Washington	1991	Allowing assisted suicide	Initiative	7
10018	Oregon	1974	Allows state employees to be state legislators in OR	Leg. Referendum	1
10019	California	1922	Increasing loans / bonds for veterans' support	Leg. Referendum	4
10020	Michigan	1984	Water and natural resource protection trust fund	Leg. Referendum	4
10021	Massach.	1998	Referendum on deregulation of electric industry in MA	Pop. Referendum	1
10022	Alaska	1982	Claiming state ownership of federal land	Initiative	1
10023	Washington	1972	Transportation bonds and funding	Leg. Referendum	13
10024	Utah	1966	Abolish board of examiners in UT	Leg. Referendum	1
10025	California	1944	Public officers called to active military service	Leg. Referendum	2
10026	California	2003	Preventing classification by race, ethnicity, nat origin	Initiative	1
10027	Massach.	1986	Outlawing abortion	Leg. Referendum	8
10028	Oklahoma	1935	Public assistance and welfare for needy and elderly	Initiative	8
10029	Oregon	1908	Requiring railroads to give public officials free passes	Pop. Referendum	1
10030	California	1911	Legislative sessions	Leg. Referendum	20
10031	Oregon	1920	Voter registration	Leg. Referendum	6
10032	Maine	1964	Guarantee and insure state payment of loans	Leg. Referendum	1
10033	California	1949	State school building, construction, facilities bond	Leg. Referendum	10
10034	Nebraska	1914	Construction of armory	Leg. Referendum	2
10035	Georgia	2000	Property tax exemptions for non-profits	Leg. Referendum	1
10036	North Dak.	1920	Legalize sale of cigarettes	Initiative	1
10037	California	1948	Railroad brakemen	Initiative	1
10038	Pennsyl.	2006	Bonds for vets of Persian Gulf / Afghanistan conflicts	Leg. Referendum	2
10039	California	1928	Allowing mutual water companies	Leg. Referendum	1
10040	California	1986	Elected district attorney	Leg. Referendum	1
10041	California	1952	Oaths for public officials	Leg. Referendum	3
10042	Missouri	1910	Tax levy for higher education	Initiative	2
10043	Montana	1908	Bonds for higher education / universities	Leg. Referendum	17
10044	California	1922	Bonds for energy, utilities, and power	Initiative	9
10045	North Dak.	1934	Regulate where alcoholic beverages are sold	Initiative	1
10046	Missouri	1984	Sales / use tax for soil and water conservation	Leg. Referendum	1
10047	Montana	1914	Establishing an athletic commission	Pop. Referendum	3
10048	California	1984	Disqualification for libelous / slanderous campaigns	Leg. Referendum	1
10049	California	1990	Changes to criminal code and law	Initiative	1
10050	California	1911	Tax exemption for veterans	Leg. Referendum	14

Note: Table above displays 50 ballot measures that were randomly selected from the full Ballot Measure database to be matched across analogous measures pursued across the U.S. states from 1902 - 2016. The table shows the first state to attempt the specific ballot measure, the first year it was attempted, a description of the measure, the type of measure, and how many states also attempted to enact the policy. Source: NCSL (2016) Ballot Measures Database.

explanations (Berry and Berry 1990; Buckley and Westerland 2004; Volden 2006). Potentially, if all of the 50 policies were first adopted in 1902, then all fifty states would be at risk of passing these measures from 1902 through 2016, creating a maximum universe of 285,000 observations: $50_{measures} * 50_{states} * 114_{years} = 285,000_{observations}$. However, because most of these measures came much later in time, the actual universe and risk pool for these initiatives and referendums is much smaller: 146,242 observations. And because of missing variable values, the empirical models rely on 60,000 to 80,000 observations.

The dependent variable is whether a state adopted a ballot measure of interest in a given year. An adoption in one state makes it at risk for diffusion in other states. As is typical with EHA data, the dependent variable takes on a value of zero until the state enacts the policy specific measure in the given year, when it takes on a value of one (Blossfeld, Golsch, and Rohwer 2007). Once the state adopts the measure of interest, it is removed from the dataset for the remaining measure-specific years (as the state is no longer at risk of adopting that specific proposition). But the state remains in the dataset for other ballot measures that it is at risk of enacting.

Variable Operationalization

This longitudinal dataset spanning more than a century provides many rich opportunities to better understand the dynamics of plebiscitary action in the states over time. But the data's breadth also presents challenges in finding relevant explanatory variables that also span this range. Despite major gains in data collection and dissemination of state policy and politics variables, few measures track to the early 1900s. For example, despite Gray and Lowery's (1988) extraordinary efforts to capture state interest group density by sector, these measures only date to the mid-1980s. As such, I use facially valid surrogate measures that cover as much of the timespan as possible. Variables' names, descriptions, descriptive statistics, and sources are referenced in Table A.1 in the Appendix.

In trying to identify the mechanisms driving the propagation of ballot measures across U.S. states, recall that my central hypothesis is Policy Learning (H_2). I anticipate that as more states pursue the analogous ballot measure, laggard states are more likely also to adopt the proposition. I operationalize *Policy Learning* as the cumulative number of states pursuing the given ballot measure.[18] I anticipate a positive relationship between a state learning about available solutions and adopting a given ballot measure.

I test the Imitation Hypothesis (H_3) by relying on four variables to capture the economic, political, and institutional similarities between states: *Similarity in State Revenue per capita*, *Similarity in State Party Control*, *Similarity in Citizen Ideology*, and *Similarity in Difficulty in Amending State Constitution*. The similarity in state revenue per capita relies on Klarner's (2013b) measure of a state's total income divided by the state's population. The similarity in state party control uses Klarner (2013a) and Ranney's (1976) measure, where a 0 indicates Republican control, 1 indicates Democratic control, and 0.5 indicates bipartisan control of the state government. Berry et al.'s (1998, 2010) measure of a state's congressional ideology scores is used to calculate the similarity in citizen ideology variable.[19] And I employ Lupia et al.'s (2010) index of a state's institutional hurdles to amending its constitution via ballot measure to compute the similarity in difficulty changing the state constitution. To construct all the similarity variables, I calculate a state's Euclidean distance from the average of all states in a given year. I then reverse code the variables so that an increase points to greater similarity. These variables give us a sense of how extreme or typical

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[18] Operationalizing policy learning as the success rate of other states pursuing the ballot measures is another way of capturing this learning process. However, such an operationalization mirrors political learning (May 1992) rather than policy learning since it involves drawing lessons about the *political process* to achieve the ballot measure instead of simply learning about the policy solution. Subsequent chapters in this dissertation attempt to parse the difference between policy and political learning. Nonetheless, measuring policy learning here as the success rate of other states pursuing the ballot measure produces similar, if not stronger, findings compared to using the current operationalization.

[19] I include both party control and citizen ideology variables because they capture distinct, albeit related, factors that may affect the passage of a ballot measure. State party control represents the institutional political dimension, while citizen ideology proxies for the public opinion dimension. The Pearson correlation between the two variables is $\varrho=.46$ pointing to a moderate, and not empirically pernicious, relationship.

a given state is relative to the average of all the other states along these yardsticks pertinent to diffusion. Per the Imitation Hypothesis, I expect that as states mirror others on these economic, political, or institutional dimensions (i.e., peer states), they will be more likely to adopt a given ballot measure.[20]

To evaluate the National Environment Hypothesis (H4), I rely on a *Presidential Election Year* dummy variable which is coded one for all years when a presidential election occurred and zero otherwise. Because ballot measures are designed to allow voters a direct say in policy and because national elections offer an opportunity to engage and mobilize citizens around issues, I anticipate a positive coefficient for the presidential election year variable.

In addition to these covariates capturing external pressure, I also include a host of variables to control for the internal determinants of state policy change. For example, I include four dummy variables to account for how states' varying institutional arrangements affect ballot measure adoptions. I control for states that allow direct or indirect citizen initiatives (*Direct Democracy State*), states that permit changes to statutory language via legislative referenda (*Statutory Legislative Referendum State*), and states that grant citizens an opportunity to repeal legislation through popular referenda (*Popular Referendum State*) (Fay and Wenger 2015; Lutz 1994). I anticipate that states' institutional settings largely dictate the pursuit and adoption of new policies, with states that permit these additional avenues to voters to be more likely to adopt a given measure.[21]

I also consider other internal political and demographic factors. For instance, I account for a state's *Electoral Competitiveness*. I suspect that a tighter electoral environment may lead

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[20] An advantage of these variables is that they simultaneously account for a state's own internal context relative to other states' contexts. Because of this, I do not include the root—state revenue per capita, party control, citizen ideology, and difficulty in amending the state constitution—of these similarity variables in the models. Nonetheless, the inclusion of the root variables does not alter the overall findings.

[21] Refer to Table 2.1 for details on each state's access to different types of ballot measures.

legislators to shirk, delegating tough policy decisions to voters via ballot measures so as not to risk electoral defeat, or compelling interest groups to circumvent any legislative impasse at the ballot box. I rely on Ranney's four-year moving average of electoral competitiveness, which is bookended between 0.5 and 1 where higher scores indicate greater competitiveness. Because passing a ballot measure is more challenging in more populous states (Boehmke 2005; Donovan and Bowler 1998; Lewis 2013), I include the natural log of *State Population (Ln)*. I expect a negative coefficient. And because politics in the South are markedly different from other regions (Foster 1978; Key 1949), I include a *Southern State* dummy variable based upon the U.S. Census Bureau's regional classification.

To weigh the role of state-level interest groups in the adoption of ballot measures, I include three proxy variables. First, to capture organized interests' effect on ballot measures invoking moral values, I account for the percentage of a state's *Evangelical Population* that identifies as Evangelical Christian or Mormon. I add a *Union Membership Density* variable capturing the percentage of the state's workforce that is unionized to control for the labor movement's influence. Still, with the hope of including a broader interest group measure, I include a *GINI Inequality Measure* provided by Frank (2009). According to Morehouse's (1981) state-level research on parties and organized interests, states with greater wealth disparity correlate with greater pressure group strength. The argument is that competing interest groups curtail the rights of others producing greater inequality. As such, wider inequality should be a stand-in for greater interest group activity. Therefore, I anticipate a positive relationship between the GINI coefficient and the adoption of a given ballot measure.

Acknowledging the disproportionate number of ballot measures that both California and Oregon have pursued in the past century, I also created *California Dummy* and *Oregon Dummy* variables to remove their potential out-sized influence on any inferences we make. Finally, I also

include three policy topic dummy variables—*Government Reform Measures*, *Bond and Budget Measures*, and *Tax and Revenue Measures*—to account for the three most common policy domains for all types of ballot measures. The policy domain for each measure was coded by NCSL (2016) with most ballot measures coded for multiple policy areas. I opted to categorize each ballot measure by the first policy topic coded by NCSL. Accounting for these variables ensures that no one topic area drives the empirical results.

Methods

I rely on a complementary log-log approach to estimate the parameters for my ballot measure diffusion models. Given the discrete nature of the dependent variable, uncertainties about the exact parametric relationship between the variables, and possible time duration dependence, complementary log-log models are appropriate (Box-Steffensmeier and Jones 2004; Buckley and Westerland 2004). The complementary log-log is better suited for the estimation of sporadic events (Buckley and Westerland 2004), which is the case for this dataset. In fact, out of the 60,000 to 80,000 observations estimated in the models, there are only a couple hundred ballot measure adoptions.

The probability equation for complementary log-log regression is as follows:

$$\Pr(y_i = 1 | x_i) = 1 - \exp\{-\exp(x_i \boldsymbol{\beta'})\},$$

where the probability of a state adopting a specific ballot measure in a given year, $\Pr(y_i = 1)$, is a function of the covariates, x_i, and the coefficients, β, are expressed as hazard ratios in discrete time fashion for each covariate (Box-Steffensmeier and Jones 2004; Long 1997). Complementary log-log

regression parallels that of logistic regression,[22] relying on a complementary log-log link function (instead of a logit-link function) to specify parameters in terms of the hazard ratio of the event occurring to it not occurring (much like Cox model parameters). The coefficients are then exponentiated to be interpreted as hazard ratios. But, because the interpretation of these exponentiated parameters is not always straightforward, I provide predicted probabilities and average marginal effects where appropriate.

To account for temporal dependence—that the probability of pursuing a measure by a state in any year is related to its probability of adoption in previous years—I also include time and time-squared count variables (Beck, Katz, Tucker 1998; Buckley and Westerland 2004). And to reduce potential heteroskedasticity in the error term, thus jeopardizing our inferences, I estimate all the models with robust standard errors clustered by state (Box-Steffensmeier and Jones 2004; Buckley and Westerland 2004).

Results for Diffusion of Ballot Measures

Before empirically testing the *mechanisms* driving ballot measure diffusion, I start by evaluating the Minimal Diffusion Hypothesis (H₁). To do so, I categorize the ballot measures (from the random sample of 50) by the number of states that adopted them. Figure 3.6 is a bar chart displaying the number of ballot measures from the random sample that were pursued by only one state, by 2 – 5 states, by 6 – 14 states, or by 15 or more states. Twenty-four of the measures (48%) appear to have been pursued by only one state. That is, nearly half of the policies *have yet to* diffuse to other jurisdictions. Of course, it is possible that these innovations were pursued and adopted by states in other venues (e.g., legislature, courts, gubernatorial executive order, bureaucratic agency

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[22] Although unlike logit and probit regression, complementary log-log models produce an asymmetric function that approaches zeros more slowly and ones more quickly.

decision). In those cases, the idea may still diffuse but via a different venue not captured here.

Therefore, we are unable to say for sure that these measures did not diffuse. Nonetheless, this

descriptive statistic offers a reference point whereby almost half of all ballot measures have yet to

diffuse.[23] This non-diffusion rate could be much lower or higher in other institutional venues,[24]

depending on the obstacles or openings to achieve policy change in those alternative arenas.

Still looking at Figure 3.6, we see that a sizeable number of measures—13 measures or 26%

of total—were pursued by between two to five states. Added together with the number of measures

that did not diffuse, this suggests that nearly three-quarters of new policies either do not diffuse or

diffuse to a very limited number of jurisdictions.[25] Only 20% of the 50 ballot measures (10 in total)

were pursued by six to fourteen states, and a mere 6% of the measures (3 in total) were pursued by

fifteen or more states. Yet, as Karch et al. (2016) point out, policy scholars have disproportionately

selected these policies that diffuse widely to study and understand policy transfer. In fact, looking at

23 different policies reviewed by Graham, Shipan, and Volden (2013), Karch et al. (2016) find that

the average number of state adopters per policy is 29.3 states. This diffusion rate is not reflective of

the low or non-existent diffusion rate for the overwhelming majority of policy innovations, as

evidenced by this sample of ballot measures.

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[23] Undoubtedly, some of the ballot measures that have yet to spread to other jurisdictions are individual in nature. For example, Colorado legislators asked voters via referendum in 2004 to remove obsolete amendments from the state constitution (Policy ID: 10001). Oregon legislators wanted voter input in 1974 to allow state employees to run for elected office (Policy ID: 10018), while Oregon voters sought to repeal a 1908 statute that required railroads to give elected officials free transit (Policy ID: 10029). Still, many of the other measures that have yet to spread seem ripe for emulation. California's ballot initiative in 1984 disqualifying candidates from office if they are found to have defamed their opponents during the campaign (Policy ID: 10048) is the type of reform that most voters would likely support.
[24] A recent analysis by USA Today in conjunction with The Arizona Republic and the Center for Public Integrity show that over an eight-year period (2010 – 2018), some 10,163 bills were introduced in state legislatures that were essentially copied from bills promoted by interest groups (O'Dell and Penzenstadler 2019). If more than 109,000 bills are introduced in state legislatures every year, then roughly 1.2% of all pieces of legislation introduced at the state-level are copied from interest groups and have the potential to diffuse across states.
[25] Of course, just because the same policy was pursued by another state does not implicate diffusion. Not only is pursuit not equivalent to enactment, but states can simultaneously converge upon a policy solution independently of other states (Bennett 1991; Boehmke 2009b; Freeman 2008).

In sum, Figure 3.6 offers some evidence (even if the sample size for each category is too small to achieve a statistical difference between categories) for the Minimal Diffusion Hypothesis (H_1). Nearly half of the ballot measures did not diffuse, and another quarter of the propositions were only pursued (and not necessarily adopted) by a handful or less of other states. At the very least, this offers additional evidence beyond Karch et al. (2016) that policy scholars are overstating the phenomenon of policy diffusion by selecting cases that have already widely diffused.[26]

Figure 3.6: Number of Ballot Measures from Sample that Have Diffused or Have Yet to Diffuse
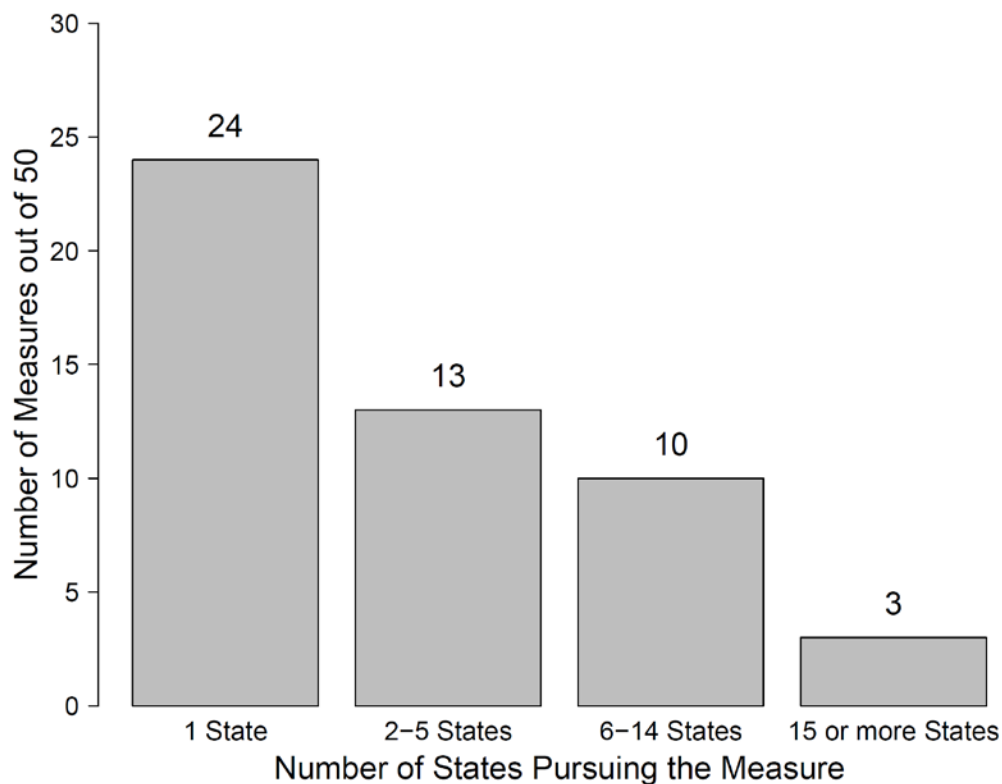
Note: Bar graph displays the number of policies from the 50 ballot measures that were randomly selected from the full Ballot Measure database (1902 – 2016) that were adopted by only one state (i.e., did not diffuse), by 2 – 5 states, by 6 – 14 states, or by 15 or more states. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

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[26] One might wonder whether policy topic area matters in this diffusion process. Are some policies more likely to spread than others? Dividing the 50 ballot measures randomly selected into two groups—(1) those ballot measures only pursued by one state and (2) those ballot measures pursued by more than one state—I categorize the measures by topic area. Figure A.4 in the Appendix provides the topic areas most likely to diffuse and not diffuse, based on the random sample of measures. Because of the small sample size, any conclusions are cautious at best, but from this sample it appears that measures dealing with Bonds and Budgets as well as the Military and Veterans are more likely to be pursued (and potentially diffuse) to other states.

Although there is some evidence that most ballot measures do not diffuse, what factors drive the ballot measures that do diffuse? The next step is to analyze which external and internal factors drive the enactment of these measures across states. Table 3.3 displays these empirical results. Recall that the dependent variable is whether a state adopted a given ballot measure in a given year. Model 1 "Adopt Ballot Measure" accounts for both external (i.e., policy learning, imitation, national environment) and internal (i.e., political, institutional, demographic) forces. Model 2 "Interest Group Influence" contains three variables to account for the role that state-level interest groups may play in the pursuit and adoption of ballot measures. Model 3 "Removing CA & OR" includes dummy variables for all California and Oregon observations so as not to allow two influential observations to cloud our understanding of these diffusion dynamics in the forty-eight other states. Finally, Model 4 "With Key Policy Types" includes dummy variables that control for the three main policy domains represented by initiatives and referendums, so our inferences are unencumbered by the variation due to any one major policy area.

The resounding takeaway from all the models is that some ballot measures, even if not all or most measures, diffuse across the U.S. states. And the main external force for this diffusion is policy learning (H_2), whereby policy actors learn from and emulate the solutions pursued in other states to address common problems. States do not appear to arrive upon these policy solutions independently of one another, but rather seek out, process, and act on this external information. Based upon estimates from Model 4, Figure 3.7 displays the predicted probability of a state adopting a given ballot measure in a given year as the number of other states pursuing the same measure (i.e., policy learning) increases. From the figure we see that a state's risk of adopting a particular measure in any given year remains low: around 0.007 percentage points with no states pursuing the measure. But as ten states pursue, a state's propensity to adopt increases to 0.4 percentage points in any given year.

Table 3.3: Ballot Measure Diffusion Models

Explanatory Variables	Model 1: Adopt Ballot Measure	Model 2: With Interest Groups	Model 3: Removing CA & OR	Model 4: With Key Policy Types
Policy Learning [+]	0.174* (0.015)	0.185* (0.016)	0.185* (0.016)	0.177* (0.021)
Similarity in State Revenue per Capita [+]	-0.002 (0.086)	0.030 (0.071)	0.004 (0.065)	0.001 (0.066)
Similarity in Party Control [+]	1.233 (0.905)	0.343 (0.976)	0.313 (0.825)	0.297 (0.834)
Similarity in Citizen Ideology [+]	-0.015 (0.010)	0.008 (0.014)	-0.003 (0.009)	-0.003 (0.009)
Sim. in Difficulty Amending Constitution [+]	1.050* (0.382)	1.338* (0.386)	1.583* (0.396)	1.598* (0.396)
Presidential Election Year [+]	0.892* (0.175)	0.705* (0.197)	0.724* (0.198)	0.731* (0.194)
Direct Democracy State [+]	1.082* (0.452)	0.870* (0.373)	0.724† (0.374)	0.729* (0.370)
Statutory Leg. Referendum State [+]	-0.031 (0.851)	0.299 (0.623)	0.741 (0.568)	0.762 (0.567)
Popular Referendum State [+]	0.301 (0.929)	0.068 (0.753)	-0.559 (0.680)	-0.567 (0.679)
Electoral Competitiveness [+]	2.009 (1.909)	0.787 (2.041)	1.711 (1.611)	1.711 (1.626)
State Population (Ln) [-]	0.205 (0.352)	0.164 (0.276)	-0.254 (0.205)	-0.245 (0.203)
Southern State [-]	-0.397 (0.634)	-0.215 (0.586)	0.125 (0.588)	0.122 (0.588)
Evangelical Population [-]	---	-0.036* (0.016)	-0.029* (0.013)	-0.030* (0.013)
Union Membership Density [+]	---	-0.012 (0.028)	-0.014 (0.026)	-0.016 (0.026)
GINI Inequality Measure [+]	---	7.244* (3.127)	5.855* (2.853)	6.228* (2.982)
California Dummy [+]	---	---	2.728* (0.604)	2.709* (0.599)
Oregon Dummy [+]	---	---	1.382* (0.350)	1.389* (0.351)
Governmental Reform Measures [+]	---	---	---	-1.011* (0.271)
Bond and Budget Measures [+]	---	---	---	1.487* (0.323)
Tax and Revenue Measures [+]	---	---	---	1.143* (0.340)
Constant	-8.515* (2.978)	-11.801* (3.110)	-8.787* (2.331)	-9.693* (2.300)
N	81,513; 64,241; 64,241; 62,241	Wald χ² (14, 17, 18, 20):	542.46*; 417.66*; 2208.71*; 2099.59*	
AIC / aROC	3049.91; 2309.82; 2246.71; 2141.59 / 0.87; 0.87; 0.88; 0.90	Log Likelihood:	-1509.96; -1136.91; -1104.35; -1049.8	

†p ≤ 0.10, *p ≤ 0.05, two tailed. Dependent variable is likelihood of adopting a given ballot measure. Statistically significant complementary log-log regression coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state, are in parentheses. Models also include a time and time squared count variables to account for temporal dependence; coefficients are omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

Figure 3.7: Predicted Probability of Adopting Ballot Measure as Policy Learning Increases
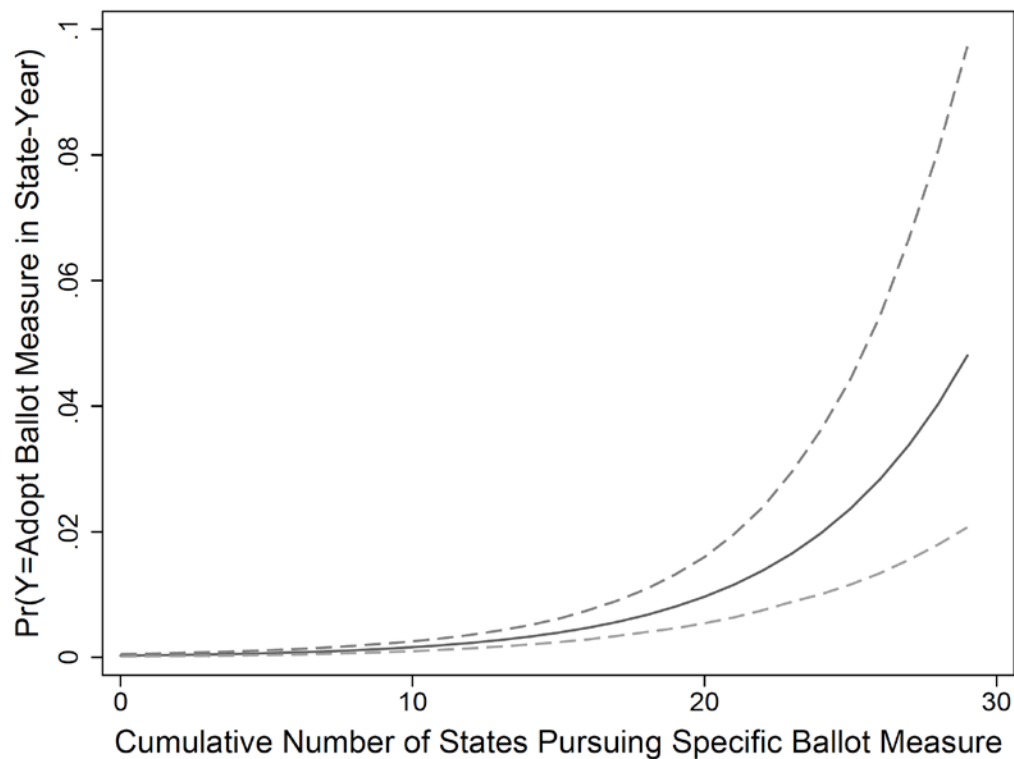
As twenty states pursue the measure, a state's likelihood of enacting rises to 2.3 percentage points in any given year.

Another useful way to interpret policy learning's overall influence on a state's likelihood of adopting a ballot measure is to calculate its Average Marginal Effect (AME). AMEs can be interpreted as the instantaneous rate of change in adopting a ballot measure (i.e., the dependent variable) following a one unit increase in the independent variable. AMEs are computed using the delta method by calculating the marginal effects for every observed value of the independent variable and then averaging across the resulting estimates.[27] In essence, AMEs provide a summary measure of a predictor variable's average influence on the outcome variable of interest by relying on

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[27] Unlike Marginal Effects at the Means (MEMs), which is another common approach, AMEs provide a single statistic using the full distribution of the explanatory variable rather than a few selective values and better capturing the variability of the independent variable.

variables' actual values (rather than averages of those values). Figure 3.8 presents the Average

Marginal Effects for the key variables in Model 4.

Policy learning's AME is 0.1 percentage points, where each additional state that pursues a

given ballot measure increases subsequent states' risk of adopting that measure by 0.1 percentage

points. Although policy learning's effect on a state's probability of adopting a measure may appear

substantively small, these numbers reflect the likelihood of enacting a specific measure in any given

year over the full time a state is at risk. Indeed, the aggregate risk of a state adopting any one of the

ballot measures during a given year in the time period is only 0.3 percentage points. Considering this,

as well as the political and institutional obstacles that policy actors must overcome to achieve policy

change, policy learning's 0.1 marginal effect on the likelihood of adoption is not so trivial.

Figure 3.8: Average Marginal Effects of Key Variables from Diffusion of Ballot Measures Model
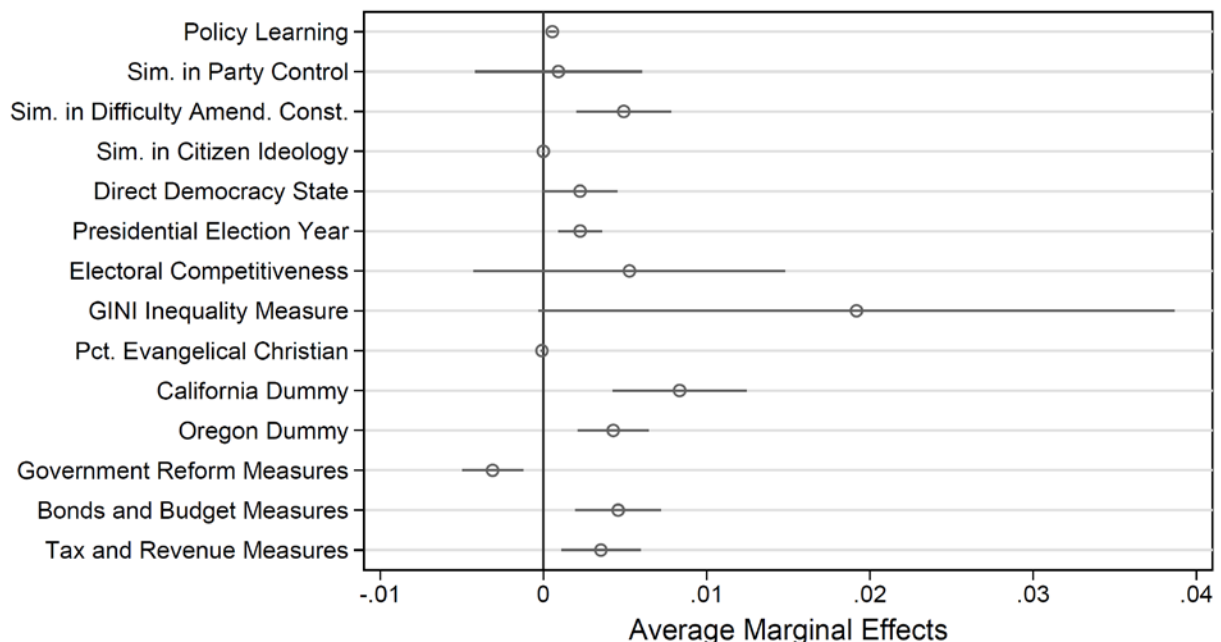
Note: Figure displays Average Marginal Effects (AMEs) calculated for key variables from Model 4 in Table 2.3. AMEs can be interpreted as the instantaneous rate of change in adopting a ballot measure (i.e., the dependent variable) following a one unit increase in the independent variable (located on the Y-axis). AMEs are computed using the delta method by calculating the marginal effects for every observed value of the independent variable and then average across the resulting estimates.

Beyond states looking to and learning about policy solutions pursued by other governments, states also appear to take cues from those with similar institutional hurdles to amending their state constitutions. Offering some support for the Imitation Hypothesis (H_3), states are more likely to adopt a ballot measure if their institutional arrangements mirror others' settings for changing their constitutions. Not surprisingly, states with high hurdles to amending their constitutions (e.g., approval by multiple legislative sessions or a supermajority of voters) are less likely to adopt a given ballot measure. Moving a state one unit closer to the average degree of difficulty in amending a state constitution (e.g., signatures and legislative approval to get measures on the ballot) raises a state's likelihood of adopting the measure by 1.1 percentage points.

As suspected, presidential election years also make states more likely to adopt a ballot measure, supporting the National Environment Hypothesis (H_4). States are 0.3 percentage points more likely to enact a ballot measure during presidential election years than during off-year elections. Also as expected, interest groups appear to play a role in states pursuing and adopting ballot measures. Two of the three variables are statistically significant across the models. States with higher proportions of Evangelical Christians are less likely to pass ballot measures. Perhaps knowing the Evangelical Christians' political clout, legislators and interest groups may be less likely to put some ballot measures (especially those invoking moral values) before voters. States with greater income inequality, thus suggesting stronger interest group presence, also appear more likely to adopt ballot measures. Nonetheless, labor unions' presence in the state workforce does little to predict whether a state will adopt ballot measures, perhaps underscoring organized labor's waning influence in the last half-century.

Most of these results in Table 3.3 reinforce what we know about policy diffusion. And the results hold even when the major ballot players—California and Oregon—are removed from the analyses. But some findings refine our current understanding. For example, it is somewhat surprising

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that only institutional variable to have any influence on the adoption of ballot measures was the direct democracy variable. While direct democracy states were 0.2 percentage points more likely to adopt a ballot measure in any given year, states' that allowed statutory legislative referenda and popular referenda were no more likely to pass ballot measures. The null finding is paradoxical since we might expect policy actors with more avenues available to achieve policy change to utilize those avenues. Of course, this result may be an artifact of the random sample of ballot measures. The three main policy variables also offer insightful results. Ballot measures on reforming government (e.g., legislature, governor, courts, localities) are less likely to be adopted, while those dealing with raising revenue via bonds or taxes are more likely to be enacted. Perhaps these latter measures allow state policymakers to get what they want with direct approval by the electorate or are required by law (as some states require citizen approval for taking on debt or increasing taxes).[28]

Finally, it is worth acknowledging the robustness of these models. All four models in Table 3.3 produce superior aROC statistics, a measure indicating a model's accuracy where a score of 0.5 suggests a random classification and a score of 1.0 suggests a perfect classification. All four models aROC statistics range between 0.87 for Model 1 to 0.90 for Model 4. The results are robust to alternative estimation techniques to boot. The findings are nearly identical to the complementary log-log parameter estimates. In addition, different operationalizations for interest groups, including an education variable, Morehouse's (1981) measure of pressure group strength, and a dummy variable for when a state's Chamber of Commerce was founded had no statistical effect on whether a state enacted a ballot measure.

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[28] Interactions with the policy topic variables and the policy learning variable had no effect. That is, policy learning's role held regardless of the policy domain under consideration by voters. Moreover, including controls for the other ballot measure topic areas had no statistical effect on the dependent variable.

Evaluating Selection Bias

Recall that a concern with past research is the tendency to choose and model policies that knowingly diffuse to explain policy diffusion. But this selection on the dependent variable is akin to only modeling countries that go to war to explain conflict (King, Keohane, and Verba 1993). I leverage the fact that my dataset includes both ballot measures that do *and* do not diffuse to evaluate the potential effect of this selection bias on our understanding of diffusion dynamics.

The Model 4 parameters in Table 3.3 from the previous section were estimated relying on ballot measures that were pursued in only one state and ballot measures pursued by two or more states. I re-estimate Model 4 using data from this latter group: only those ballot measures pursued by two or more states. I then compare Model 4's original estimates (relying on all the ballot measures) with Model 4's re-estimates (relying only on ballot measures that were pursued by two or more states). I do not report the new coefficients here out of consideration of space. While the new estimates largely comport with the original estimates and lead to the substantively similar conclusions, the models are statistically different from one another ($\chi^2_{(22)} = 102.1$, $p<.000$) with the original model producing a slightly improved model fit (aROC =.90 for original Model 4 compared to aROC =.87 for re-estimated Model 4). Furthermore, any difference between estimates of policy learning in the two models misses statistical significance at conventional levels ($\chi^2_{(1)} = 2.22$, $p<.137$).

Even if ill-advised, modeling only those policies that have been pursued by two or more states does not produce substantively different results or interpretations, at least for this small random sample of ballot measures. But what if we model only those ballot measures that have knowingly been pursued by multiple governments, falling prey to what Karch et al. describe as a "pro-innovation bias"? I re-estimate Model 4 relying solely on ballot measures that were pursued in six or more states and compare them to Model 4's original estimates. Again, both models are

statistically distinguishable ($\chi^2_{(22)}$ = 23597.19, p<.000) and the classification of the original model is superior (aROC =.90 for original Model 4 compared to aROC =.86 for re-estimated Model 4).

Although the coefficient estimates for policy learning between the two models are not statistically different, their estimated marginal effects are different. Recall that the original model estimated that an additional state pursuing a given ballot measure increased subsequent states' risk of adopting the measure by 0.1 percentage points. But the revised Model 4, relying only on ballot measures that knowingly diffused, put policy learning's marginal effect at 0.2 percentage points. This estimated effect is twice as large as reality, inflating policy learning's actual impact on policy change. Although the results are not definitive, this suggests that by only modeling policies that have spread widely, we may be overstating policy diffusion's existence in the black box of the policy process.

Conclusion

I admit three main limitations to this research and the inferences we can draw. First, leveling criticism against policy scholars for predominantly siloing our focus to the legislative context and then narrowing my attention to another sole context may seem disingenuous, if not hypocritical. I do turn my attention to the spread of policy ideas across multiple, competing venues in subsequent chapters. What is more, the increase in use and success of ballot measures, as well as the vast institutional variation within states, makes the ballot measure context ripe for exploration.

Second, by only focusing on the ballot measure context, I concede that I may be missing the spread of these policy innovations in other venues. That is, State A may have enacted the new idea via legislative referendum (captured in this data), but State B adopts it in the legislature (not captured in the data). Given this, it is possible I am understating the existence of policy diffusion. But short of having the entire universe of all state policies pursued and enacted across all possible venues, this is a challenging limitation to resolve.

Lastly, like other state politics and policy research, this undertaking is hampered by limited time-series data for key policy, economic, political, interest group, and demographic covariates. Although I capitalize on a massive repository of state-year variables compiled by numerous scholars and aggregated via the "Correlates of State Policy Project" (Jordan and Grossmann 2018), few variables span back to the early 1900s. As a result, several units of observation are missing values and dropped from the models. Moreover, the task of matching analogous ballot measures across some 7,800 initiatives and referendums is a laborious one. Given this, I only present preliminary findings based on a small random, although representative, sample of ballot measures. Because of these limitations, I am unable to fully flesh out answers to initial empirical questions.

Still, by relying on the full set of ballot measures pursued across the U.S. states over the last century, this chapter offers substantial descriptive information about the ebb and flow of the use of and success rate of ballot measures by states over time. Policy actors have relied on legislative referenda, citizen initiatives, and other ballot measures much more frequently since the 1960s, while their use of popular referenda to repeal certain policies has drastically declined over time. Not only has the frequency in use of these measures increased, their rate of enactment (especially for measures referred by state legislatures) has also increased. This variation extends to topic areas as well, with those measures pertaining to governmental institutions or reform, tax and revenue, bonds and budgets, and elections and campaigns comprising nearly half of all measures put before voters.

The empirical results offer further evidence that states do not operate in vacuums. What happens in one state affects the policy decisions of others. The diffusion dynamics of ballot measures largely parallels the diffusion dynamics documented in the myopic legislative context. Policy actors purposively learn about policy solutions elsewhere, as well as look to peer states with similar institutional contexts for potential policy solutions. Despite offering evidence that many ballot propositions do diffuse to other states, however, the evidence also suggests that policy

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scholars run the risk of overstating the occurrence of policy transfer. I find that nearly half of the ballot measures in my sample do not diffuse, and almost three-quarters are only pursued by less than a handful of states. Just six percent of the ballot measures were pursued by fifteen or more states. Furthermore, I show that by only including ballot measures pursued by six or more states in my model, the empirical results inflate key mechanisms' marginal effect on the outcome. These findings should caution all of us from making generalizations about policy diffusion relying on such limited data.

CHAPTER 4: A THEORY OF VENUE DIFFUSION

It is no longer a novel assertion that the public policy choices made in one governmental unit influence the policy choices made in another governmental unit. Five decades of research have provided abundant evidence that governments frequently adopt new policy ideas enacted by prior governments—that innovative policies diffuse. Jack Walker's (1969) and Virginia Gray's (1973) seminal articles exploring patterns of policy adoptions across U.S. states spurred a burgeoning interest in policy diffusion within and beyond the American context. Hundreds of subsequent studies have documented and detailed the transfer of various policy innovations across space and time. Graham, Shipan, and Volden (2013) point to more than 800 publications documenting policy diffusion since 1958, with half of these written in the last decade.[29] Scholars do not dispute that policy diffusion occurs. We recognize that the public policymaking process is dynamic and interdependent across multiple layers of government.

But, as Chapters 2 and 3 highlighted, much of our understanding of this interdependence emanates from research almost entirely focused on the diffusion of (1) the policy output itself (2) from one legislative body to another legislative body. The overwhelming majority of policy diffusion studies have emphasized the transfer of 'policy X' in 'legislative body A' to 'legislative body B.' As a result, we have largely overlooked the potential diffusion of other key parts of the policymaking process beyond the policy itself, such as policy winnowing, the framing of the problem and policy solution, choosing an institutional venue, routing opponents, implementing the policy, evaluating the policy, and spinning the policy evaluation, among other components. And we have not yet fully

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[29] See Graham, Shipan, and Volden (2013) for a comprehensive review of policy diffusion research from the American Politics, Comparative Politics, and International Relations' perspectives. They perform a network analysis of nearly 800 diffusion articles written since 1958 with the aim of identifying the broad themes and conclusions within the respective subfields. They find that, often times, subfields are talking past one another and make a call for greater integration of diffusion research between subfields. Furthermore, they encourage diffusion scholars to go beyond whether or not policies diffuse, asking and answering the more challenging questions of how, where, and when policies diffuse.

analyzed the diffusion of innovations via other institutional venues where policy change can also occur. Put another way, we have a good sense that the innovative policy pursued in one state influences another state's decision to pursue the same policy. But we do not know if, say, State A's decision to pursue an innovation via one institutional venue influences State B's decision to pursue the same innovation via the same institutional venue. Does the adoption of "Policy X" via "Venue Y" in one governmental unit increase the likelihood that "Policy X" is adopted, especially via "Venue Y" in subsequent governmental units?

This chapter builds on past research mapping the patterns of policy adoptions across space and time and lays the theoretical underpinnings for why we might expect venue choice (and possibly other key elements of the policymaking process beyond the innovation itself) also to be copied. More concretely, this chapter relies on a *political* learning explanation, paralleling the policy learning account for the diffusion of innovations, whereby policy actors not only learn about an adopted policy and its effect but also actively learn about the political processes and tactics employed to bring about change in the innovative jurisdictions. Venue shopping is a crucial step in optimizing the chances of a policy's enactment and entrenchment in the political system. Innovator states' choice of institutional venue to attempt a new policy idea may affect early-adopter, early-majority, late-majority, and laggard states' selection of venue to pursue the policy idea. Depending on a state's institutional arrangements, policy actors may follow their predispositions to attempt policy change or learn from the paths being taken in other states, especially those with similar institutional arrangements. If policy diffusion implies that a government's policy choices are conditional on the prior choices of other governments (Gray 1973; Walker 1969), then it is also plausible that a government's choice of venue to pursue a policy is influenced by the prior venue choices of other governments pursuing the innovation. Simply put, venue selection for a policy innovation may also diffuse, a phenomenon I term *venue diffusion*.

Venue Shopping

The process by which innovative policies enter the governmental arena matters. One critical element of this process is venue shopping, the act of strategically choosing among the variety of institutional settings where policy change can occur. Elected officials, policy advocates, interest groups, nonprofit organizations, bureaucrats, concerned citizens—those individuals or groups within or outside the public sector—develop and advance policy solutions for societal problems, relying on their knowledge of and connections within the political system to press for policy change to upend the status quo at the most opportune time (Baumgartner and Jones 1993; Kingdon 1984; Sabatier and Jenkins-Smith 1993). Since there are multiple avenues (both horizontal and vertical) for policy adoption in the U.S. federated and fragmented system with shared jurisdictional authorities, advocates can "venue shop" (Baumgartner and Jones 1993).

These policy promoters, weighing the political, financial, cultural, and institutional constraints, can select the venue they believe will be most feasible and favorable to their problem definition and innovative policy solution, and where they can more equally compete with challengers (Constantelos 2010; Pralle 2003). If policy change does occur, these individuals or groups not only achieve the desired policy outcome but also gain new institutional rules, actors, and constituencies around the policy to help rebuff short- and long-term attempts at reform (Karch 2009; Lubell 2013; Maltzman and Shipan 2008; Pralle 2003). Surely this is partly what E.E. Schattschneider implied with his maxim that "new policies create new politics" (1935: 288). Or as Karch (2009) put it: "successful venue shopping may alter the terrain on which subsequent decisions are made" (38).

Policy entrepreneurs and policy actors pushing for new solutions at the state level are increasingly pursuing policy change in institutional venues other than state legislatures (Miller 2009; NCSL 2016; Piott 2003; Smith and Tolbert 2004, 2007). Conventionally, change actors looking to adopt new policies or reform previously enacted policies would start in the "people's branch." They

would lobby state legislators to introduce a bill, push the policy through various committees, secure a floor vote, and if the bill passed both chambers, reconcile different versions of the legislation in conference and convince the governor to sign it. However, different routes on this classic roadmap are progressively being taken to attempt policy change. Policy promoters are often pursuing solutions to public problems at the ballot box, via gubernatorial executive orders, through state high court rulings, and even within bureaucratic agencies.

Indeed, policy actors are capitalizing on the federated and fragmented U.S. structure, one of the most essential yet often overlooked features of American democracy, to seek policy change. Policy entrepreneurs and actors are turning to alternative institutional venues for a variety of reasons, including greater knowledge and experience with one venue over another (Pralle 2003); increasing polarization and gridlock in state legislatures (Hinchliffe and Lee 2016; Shor and McCarty 2011) and at the federal level (Hetherington and Rudolph 2015; Poole and Rosenthal 1997, 2007); a desire to codify or annul policies in state constitutions (Miller 2009; Fay and Wenger 2015); attempting to preempt other institutions (Boehmke, Osborn, and Schilling 2015; Dumas 2017; Gerber 1996); and a desire for greater popular sovereignty (Bowler and Glazer 2008; Lewis 2013); among others.[30] Although multiple venues may contain various veto points to deny policy change, they also offer multiple opportunities for participation and to pursue change, especially if change agents initially encounter failure in one or more of the venues (Lubell 2013; Pralle 2003).

Frequency of Venue Shopping

Despite this increase in policy activity in other political institutions, it is unclear from the literature how frequently and for which topics entrepreneurs and actors "shop" for venues outside

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[30] These are additional claims that could benefit from further examination, especially exploring how polarization at the federal and state levels may contribute to augmented venue shopping.

the standard legislative process. That is, how often is more than one venue used to pursue policy change? Chapter 3 provided some clues that policy actors pursue ballot measures especially for policies related to government reform, bonds and budgets, and taxes and revenues. But I was unable to account for policy innovations that were pursued as ballot measures in some states and as legislation in other states.

To get an initial sense of the frequency and variation in institutional venue shopping for policy innovations across states, I rely on a sample of 95 diverse innovative policies attempted from 1916 – 2009 compiled by Boehmke and Skinner (2012).[31] The authors acknowledge that while most of the policies were pursued in state legislatures, some were also pursued via ballot measures. But I want to know which policies were only pursued in one state forum or in multiple state arenas. Therefore, for each policy, I researched and coded whether the policy was pursued (1) only in state legislatures; (2) via state legislatures, legislative referenda, or citizen initiatives; or (3) only via legislative referenda or citizen initiative.[32] This straightforward exercise reveals the variation in venue where these innovations were pursued, pointing to the frequency of venue shopping for a given set of policies.

Table 4.1 provides a breakdown of where these 95 policy ideas were pursued. Six out of every ten of the policy innovations in the dataset were only channeled through the traditional state legislative processes. But nearly four out of every ten innovations were endeavored in multiple

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[31] See Table B.1 in the Appendix for the full list of policies, as well as the venues where the policies were pursued, the years of the policies' first and last adoption, the number of states that successfully enacted the innovations, and the rate of adoption. To be sure, this is a convenience sample of policies. However, the dataset includes a diverse group of policies covering a broad array of issue areas: e.g., abortion, criminal justice, economic development, health, gambling, tax, welfare, among others. Moreover, these policies were selected by other researchers (e.g., Boehmke and Skinner 2012; Walker 1969) and not chosen based upon the main interest of this project: the institutional venues where the policies were adopted.

[32] I used a variety of sources to identify the venues where the policies were pursued, including Ballotpedia, LegiScan, LexisNexis, National Conference of State Legislators, among other search databases. I relied on a similar matching strategy used in Chapter 3 for ballot measures (see Appendix A for an explanation of this strategy) to identify which of these 95 policy innovations compiled by Boehmke and Skinner (2012) were pursued as ballot measures, cross-referencing NCSL's Ballot Measure Database (NCSL 2016).

venues, with actors in at least one state pursuing those policies via the state legislature, legislative referendum, or citizen initiative. Meanwhile, two percent of the policies in the dataset were only attempted via a ballot measure. These simple statistics suggest that while most new policies are still being pursued in the "people's branch," the people are also being asked to vote directly on a fair share of innovations. Moreover, these numbers imply that venue shopping occurs and occurs on a fairly regular basis.

Table 4.1: Assessing Venue Choice for Sample of 95 Policies

Policies Pursued via:	Number of Policies	Percentage of Policies
Only State Legislature	57	60%
State Legislature, Legislative Referendum, or Citizen Initiative	36	38%
Only Legislative Referendum or Citizen Initiative	2	2%
Total	95	100%

Note: A sample of 95 diverse policies (1916 – 2009), compiled by Boehmke and Skinner (2012), were assessed for the choice of institutional venue—state legislature, legislative referendum, citizen initiative or popular referendum—where the policies were pursued by at least one state via those venues.

Perhaps the frequency of forum shopping depends on the type of policy pursued. To explore this, I broke down the rate of venue shopping by policy category for the sample of 95 innovations. Table 4.2 displays the findings. Gun legislation, health care policies, welfare laws, women's rights bills, and miscellaneous regulations appeared to witness the least amount of activity outside of state legislatures. Morality policies, however, predominately encompassing abortion, gambling, and gay rights policies, as well as tax and economic policies, experienced higher activity outside the standard legislative context. Not surprisingly, nearly all innovations in the sample were pursued by at least one state legislature, the most popular policy venue (Chubb 1983). But a quarter of the policies were also attempted via legislative referendum by at least one state, and a third of the policies were decided by citizen initiative or popular referendum by at least one state in the union. Although the preceding categorizations are descriptive and narrowly focused on only a few venues (excluding state courts, gubernatorial executive orders, bureaucratic agency decisions, federal forums), they illustrate that venue "shopping around" happens, especially for some policy types.

Table 4.2: Assessing Venue Choice for Sample of 95 Policies by Policy Category

Policy Category	Number of Policies	Percent of Policies within category where at least one state pursued policy via Legislature	Percent of Policies within category where at least one state pursued policy via Legislative Referendum	Percent of Policies within category where at least one state pursued policy via Citizen Initiative / Popular Referendum
Abortion	3	100	67	67
Crime	17	94	29	29
Drugs and Alcohol	7	100	0	29
Economic	4	100	50	50
Education	4	100	25	50
Environmental	4	100	25	25
Gambling	2	100	100	100
Gay Rights	1	0	100	100
Governmental Issues	9	100	44	67
Gun Laws	1	100	0	0
Health	19	100	5	11
Labor Rights	1	100	0	100
Miscellaneous Regulation	5	100	0	20
Racial Issues	1	100	0	100
Tax	4	100	75	50
Transportation	7	100	43	29
Welfare	4	100	0	0
Women's Rights	2	100	0	0
Total or Average	95	98%	26%	34%

Note: A sample of 95 diverse policies (1916 – 2009), compiled by Boehmke and Skinner (2012), were assessed for the choice of institutional venue—state legislature, legislative referendum, citizen initiative or popular referendum—where the policies were pursued by at least one state. The data above reflect the percentage of policies within the different policy categories attempted in the respective institutional venues.

What Motivates Venue Shopping?

Over the years, scholars have advanced various theories for what motivates policy actors to pick different venues to press for policy change. Baumgartner and Jones (1991, 1993) portray venue shopping as a strategic exercise of matching the right policy image frame to the receptive venue. As one example, the authors recount how groups painted a negative, environmentally dangerous image of nuclear power following the Three Mile Island nuclear accident and other incidents to break the decade-long policy monopoly between energy companies and the federal government. These groups used this new image to garner public support and to press for change in multiple receptive venues, including Congress and the courts. Sabatier, Jenkins-Smith, and colleagues, however, suggest that advocacy coalitions frequently venue shop, picking the avenue or avenues where they will have a competitive advantage (Sabatier and Jenkins-Smith 1993; Jenkins-Smith et al. 2014). This narrative

suggests that these groups try to upend the status quo by targeting as many venues as possible, reducing risk through diversification (Boehmke, Gailmard, and Patty 2013; Constantelos 2010; Jourdain, Hug, and Varone 2017).

Still, other scholars acknowledge the challenges in changing policy and the resource limitations of policy advocates. Holyoke, Brown, and Henig (2012) theorize that policy actors consider their resources, opponents' resources, and the venue location of ideologically congruent officials when picking a venue. These change agents prefer to pressure friends instead of foes. And they are especially drawn to venues already working on the issue of interest. According to Lubell and colleagues' "ecology of games" perspective, acknowledging a dynamic policy process where outputs are the "function of decisions made in multiple games over time" (Lubell 2013: 538), policy stakeholders have limited information, limited cognition, and limited resources, thus relying on heuristics to select the institutional venue they believe will optimize the outcome. Over time, more experienced policy advocates may cultivate a particular set of skills and resources for a specific venue, producing a penchant for one forum over others in a policy game (Lubell, Henry, and McCoy 2010; Lubell 2013).

Pralle (2003) also supports the notion that individuals and groups pressing for policy change are boundedly rational, face internal and external constraints, and suffer from a positive feedback loop. Upon selecting a particular venue to advance an issue, the issue monger's decision "shapes the kind of issues and campaigns promoted by the advocacy group, such that it becomes a self-reinforcing process" (Pralle 2003: 243). Rather than pursuing all venues in an instrumental fashion, Pralle suggests that policy actors engage in informed venue shopping. As a result, these policy professionals produce a pseudo path-dependence for one venue over another, relying on the skills, resources, and connections they have developed to advance new causes and defend old ones.

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Ley and Weber (2015) make a significant contribution to the literature by trying to combine these various, sometimes competing, narratives into a new Adaptive Venue Shopping (AVS) framework. They charge that emergent groups tactically choose a venue based on assessments of their own political, legal, and technical strengths; assessments of their opponents' resources and capacity; and the degree to which their opponents control a venue as well as the receptivity of an image within the site (Ley and Weber 2015: 706). These actors rank the venues available to them based on these dimensions, pursuing policy change in the "best" venue where the group maintains a relative advantage in resources over opponents, can gain control of the venue that is favorable to the policy image. Importantly, Ley and Weber add that when policy advocates fail in one forum, they can learn, adapt, and transfer their resources to another institutional venue that may yield a more favorable outcome. While Ley and Weber's (2015) AVS Framework is perhaps the most ardent attempt yet to synthesize the complementary and rival arguments for venue shopping, it does not account for external political learning that may also influence venue choice. The AVS implicitly acknowledges internal learning by individuals and groups (e.g., adapting strategies post-failures) but ignores the interdependence between advocates across peer states. Figure 4.1 summarizes policy actors' primary considerations in picking a venue identified in the literature.

Figure 4.1: Policy Actors' Venue Shopping Considerations
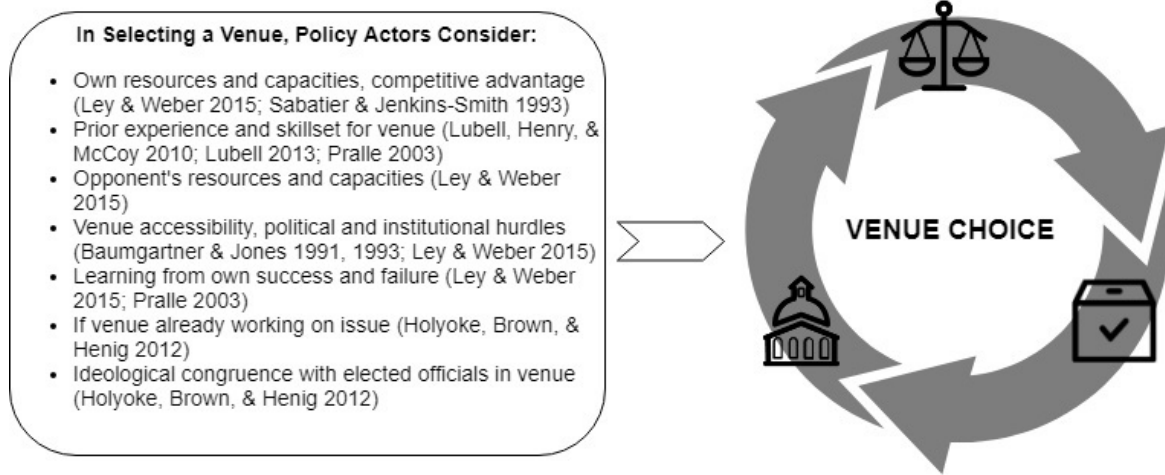
Venue Diffusion and Political Learning

Relying on and integrating the policy diffusion and venue shopping literatures, I conceptualize the venue shopping process in pursuing new policy innovations in the following three ways. First, I differentiate between policy entrepreneurs and policy actors' processes to pick an institutional venue. Much of the literature conflates terminology for the cast of characters that press for policy change, including terms like policy entrepreneur, policy advocate, policy professionals, policy actors, advocacy coalitions, interest groups, mass membership organizations, policy stakeholders, among many other analogs.[33] I define policy entrepreneurs as those innovative individuals or groups within and outside the public sector that are the *first* to pursue a new policy. Policy entrepreneurs, through their "skillful mobilization of substantive justifications and the accurate identification and thoughtful cultivation of allies, can and do bring new policy into being"

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[33] I define "policy entrepreneurs" somewhat differently than other scholars. Mintrom (1997), for example, following others (e.g., Kindgon 1984; Baumgartner and Jones 1993), terms anyone "who seek[s] dynamic policy change" as a policy entrepreneur. I see this label as too general (and encompassing of policy actors) and distinguish between first-movers and followers. Perhaps a more appropriate term for my purposes here might be "policy inventors," although I hesitate to use such a label as there is still a distinction between those who invent solutions (e.g., think tanks, academics) and those who are the first to advance them in the political arena.

(Polsby 1985: 172). I designate policy actors as those individuals or groups within and outside government that might *follow* the lead of entrepreneurs to advocate for the same policy in other governmental jurisdictions. The critical distinction is that policy entrepreneurs innovate and lead; policy actors follow. Policy entrepreneurs present new solutions; policy actors seek out solutions that have been tried elsewhere but are unique to their governmental unit.

Why is this distinction between policy entrepreneurs and policy actors important? Because policy entrepreneurs play a crucial role in strategizing, taking risks, building support, rebuffing opposition, and spurring policy innovation (Kingdon 1984; Polsby 1985). Policy entrepreneurs also interact with and influence policy actors in other states to bring about change in subsequent jurisdictions (Cobb and Elder 1983). The distinction also matters because much like the decisionmaking behavior of early-adopter, early-middle adopter, late-middle adopter, and laggard adopter states is different from the innovator states (Walker 1969; Gray 1973), so too entrepreneurs' venue shopping process should differ from followers' processes to pick a venue.

Second, like other scholars (Lubell, Henry, and McCoy 2010; Lubell 2013; Pralle 2003), I assume those individuals and organizations engaging in venue shopping have limited cognition, limited time, and limited resources. They are strategic and tactical actors, but still *boundedly* rational advocates. Information about policy actors' capacities, opponents' assets, and venue accessibility is not always available, incomplete, or too abundant to process. In turn, the pursuit of policy change via the venue that offers the greatest return on investment is based on these bounded beliefs and limitations. Described by Lubell (2013: 546):

> "[D]ue to cognitive constraints, it is costly for actors to expand their behavioral repertoire to adjust to a new institutional setting. Thus, actors will not optimize their decision making across the ensemble of institutions in which they participate. Instead, actors will develop a series of simplified heuristics that they use to choose the [institutional venue] in which they participate, and how to make decisions within policy institutions of different types."

Indeed, the decision to pursue one venue over another is not always so straightforward, as evidenced by the fact that some actors fail in the process. Much like scholars' conceptualization of venue shopping, Weyland (2005, 2006) emphasizes the bounded rationality of decision makers in pursuing innovations. Analyzing the diffusion of the Chilean pension model throughout Latin America, Weyland argues that policymakers depend on cognitive heuristics and shortcuts when weighing different policy solutions. These include the representativeness heuristic (i.e., relying on perceived initial success), the availability heuristic (i.e., looking to nearby examples), and the anchoring heuristic (i.e., relying on the fact that adopted elsewhere). Bounded rationality is central to venue shopping (Ley and Weber 2015; Lubell 2013; Pralle 2003) and policy diffusion (Gilardi 2010; Mooney 2001; Weyland 2005, 2006).

Third, I propose that external political learning influences the venue shopping process when policy actors consider adopting new ideas previously pursued by policy entrepreneurs and policy actors in other jurisdictions. Pralle (2003) and Ley and Weber (2015) point to an *internal* learning process about future decisions on picking a forum. Pralle acknowledges the existence of a positive feedback loop that keeps individuals and actors invested in the same venue, while Ley and Weber (2015) suggest that policy promoters learn from their failures in a venue. But it is also possible that policy actors learn about the venue shopping done by policy entrepreneurs and actors in other governmental jurisdictions, fulfilling an *external* learning process. Here, I argue that policy actors learn from the venue shopping previously done by policy entrepreneurs and other policy actors. In addition to learning from their own experiences with site selection, policy actors also learn from others' venue shopping.

Collectively, relying on these three frames of venue choice, as well as the prior venue-shopping and policy-diffusion literatures, I theorize that a government's choice of venue to pursue an innovation is influenced by the preceding venue shopping of other governments previously

pursuing the new policy. If policy diffusion implies that the "prior adoption of a trait or practice in a population alters the probability of adoption for the remaining non-adopters" (Strang 1991, 325), then I posit that the prior selection of a forum to pursue a new idea alters the likelihood of selecting the same venue for the remaining non-adopters, a process I call *venue diffusion*.

I charge that the mechanism driving venue diffusion is political learning, whereby policy actors not only learn about a new solution to a current problem from other jurisdictions (i.e., policy learning) but also gain information about the political processes employed (i.e., political learning) to bring about change in the innovative jurisdiction. Articulated by May (1992: 340): "Political learning is concerned with lessons about maneuvering within and manipulation of policy processes in order to advance an idea or problem." One of the key political processes that policy actors learn about from the policy entrepreneur in the innovative jurisdiction is venue choice. Depending on a state's institutional arrangements, policy actors may follow their predispositions to attempt policy change or learn from the successful paths being taken in other states, especially those with similar institutional settings.

Like Figure 4.1 above, Figure 4.2 again illustrates the extensive (although not exhaustive) list of considerations that policy actors might contemplate when shopping for an institutional venue. I add to this list at least one more factor that has been overlooked—political learning: the drawing of lessons from prior policy actors' success rate in a given venue.

Figure 4.2: Policy Actors' Venue Shopping Considerations Also Includes "Political Learning"

In Selecting a Venue, Policy Actors Consider:
- Own resources and capacities, competitive advantage (Ley & Weber 2015; Sabatier & Jenkins-Smith 1993)
- Prior experience and skillset for venue (Lubell, Henry, & McCoy 2010; Lubell 2013; Pralle 2003)
- Opponent's resources and capacities (Ley & Weber 2015)
- Venue accessibility, political and institutional hurdles (Baumgartner & Jones 1991, 1993; Ley & Weber 2015)
- Learning from own success and failure (Ley & Weber 2015; Pralle 2003)
- If venue already working on issue (Holyoke, Brown, & Henig 2012)
- Ideological congruence with elected officials in venue (Holyoke, Brown, & Henig 2012)
- **Political Learning: Which venue(s) have policy entrepreneur or other actors in other jurisdictions chosen to pursue policy?**

VENUE CHOICE

How might political learning drive venue diffusion? As described in previous sections, policy actors within governmental jurisdictions facing societal problems can either look inward or outward for possible solutions. Policy actors can undoubtedly learn from their own experiences or vicariously through the experiences of others within their governmental unit (Volden, Ting, and Carpenter 2008). However, policy actors can also learn from policy entrepreneurs in innovative jurisdictions or other policy actors outside their jurisdictions that have previously taken action on possible solutions. Policy entrepreneurs, those innovative agents within or outside government, propose and advance new policy solutions for current societal problems (Baumgartner and Jones 1993; Elder and Cobb 1984; Kingdom 1984; Mintrom 1997; Polsby 1985). "They may be motivated by personal convictions, ideological zeal, the imperatives of office, or simply self-promotion. In any case, the[y] [sic] often play a critical role in mustering support and sheparding [sic] new issues and ideas to the governmental agenda" (Elder and Cobb 1984: 122).

Counting on their expertise and relying on their connections within the political system, policy entrepreneurs expend energy, resources, and time to research the problem and design a solution (Elder and Cobb 1984; Kingdon 1984). They also spend appreciable effort determining the

most practical political path to enact and implement their new idea. They ruminate over how to define and frame the problem and solution, how to get a spot on the agenda, how to mobilize a coalition of support, how to shape the terms of debate, and how to counter and defeat opponents. And policy entrepreneurs tactically pick the institutional venue in which they believe they have a comparative political and resource advantage, is most accessible and amenable to the policy image, and has the best chance to deliver the win and ensure policy longevity. Importantly, entrepreneurs consider the full set of institutional venues available to them to press for policy change.

While policy entrepreneurs also suffer from bounded rationality, they are the first to put forward a new policy and press to upend the status quo. In doing so, they expend considerably more effort to gain information, study the problem and develop a solution, make contacts and build coalitions, craft arguments in support of the idea, strategize on how to rebuff challengers, and decide the appropriate venue to achieve the policy innovation. Policy entrepreneurs' "bounds" are not as tight as they are for subsequent policy actors. They engage less in satisficing and more in strategizing.

In contrast, policy actors, given their limited cognition and resources (e.g., time, financial and political capital, political access), engage in satisficing to learn about new policy ideas, the policy idea's success, and the political viability of the innovation (Holyoke, Brown, and Henig 2012; May 1992; Mooney 2001; Seljan and Weller 2011; Workman et al. 2009). These organizations and individuals rely on "lesson-drawing," asking themselves "under what circumstances and to what extent would a programme now in effect elsewhere also work here?" (Rose 1991: 4). Beyond the "lesson-drawing" regarding the policy and its effect, these followers also learn about the successful and failed *political processes* and tactics employed to bring about policy change in the innovative jurisdictions. And it is part of the pre-contemplation and knowledge-gathering stage articulated by Rogers (1962).

Seljan and Weller (2011) provide a contemporary example. In addition to emphasizing diffusion of state tax and expenditure limits via direct democracy, the researchers also explicitly model political viability. Rather than lumping together policy and political learning, they disentangle the political viability of a given policy from the diffusion process by assessing whether the policy failure of some states affected neighboring states' decision to pursue the policy. They find that, indeed, states with neighbors who had pursued TELs and failed were far less likely to try to adopt TELs. In short, political learning occurred, impacting the spread of policies across states. This further demonstrates that drawing lessons about the feasibility and political processes to adopt and implement a policy are as crucial as learning about the policy itself.

Recent work by Nicholson-Crotty and Carley (2015) suggests that policy learning is more than Jurisdiction B simply asking "was that policy effective in Jurisdiction A," but also, "can we make that policy work for us?" Policy actors within states are not only concerned with policy outcomes but also with if and how they are best able to implement the policy. This is political learning. The political learning around venue shopping is perhaps best articulated by May (1992: 339):

> "The prima facie evidence for political learning consists of policy advocates' change in political strategy. They may shift arenas for their advocacy from one committee in Congress to another, among branches of government, or among levels of government. They may make strategic use of litigation to call attention to a problem or force decisions. They may emphasise policy arguments that have proven to be more successful in mobilising attention. Or, they may try out new tactics in using the media, mass protests, letter-writing and so on to call attention to a problem or policy proposal."

Policy actors may learn about the success of the policy, successful frames of the problem and solution, successful venues for adoption, successful strategies for implementation, and electoral and political consequences of these events (Fetner 2008; Heclo 1974; May 1992; Sabatier 1988). Rather than gather information about and strategize regarding the return on investment for *all* available venues within a state's set of venues, policy actors take venue choice cues from policy

entrepreneurs and other actors that have previously attempted an innovation. They do not need to rehash the complete venue shopping process (just like they do not need to invent their own solution) because it was previously done for them by prior adopters. Much like policy learning reduces uncertainty about the innovation, political learning helps pare down overabundant information or fill the information gap about which venue may be "best" to bring the innovation to the governmental marketplace. The pursuit of policy change is not a one-off source of learning, but rather an eternal spring of policy and political information.

Political learning may be especially manifest among state- and national-level interest and advocacy groups. Individuals and groups working within a policy network established within one or across many states may be better situated to communicate and share both policy and political successes. To be sure, past diffusion scholarship has demonstrated persuasively that organized groups play a crucial role in spreading policy ideas. For example, Mintrom and colleagues relied on surveys of interest groups to show how policy actors work within inter- and intra-state networks to press for the adoption of education policies across states and localities (Mintrom 1997; Mintrom and Vergari 1998).[34] Haider-Markel (2001) finds that interest group campaigns aided the diffusion of gay-marriage bans. Balla (2001) suggests that states whose insurance commissioner participated in a national-level committee were more likely to adopt a policy innovation. Moreover, Garrett and Jansa (2015) theorize and offer strong evidence that interest and advocacy groups not only affect policy change within a state but also contribute a complex network of information, including model legislation, that facilitates the diffusion of policy ideas across states.

Given the role of state- and national-level organized interest and advocacy groups in the diffusion of new ideas (e.g., Balla 2001; Garret and Jansa 2015; Haider-Markel 2001a; Karch 2007a;

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[34] Nongovernmental organizations and non-state actors can also drive the diffusion of new ideas across transnational networks as well; see True and Mintrom 2001 for one example.

Mintrom 1997; Mintrom and Vergari 1998; Shipan and Volden 2006; Stone 2012), it also seems plausible that such groups could reduce the information or resource costs for affiliated policy actors in choosing an institutional venue. "Epistemic communities organized around a particular policy area, sharing principled and causal beliefs, can profoundly influence policy diffusion, in part by facilitating learning" (Graham, Shipan, and Volden 2013). And "[a]t some level of aggregation, organizations face the same limits to attention as individual decision makers do" (Workman et al. 2009). Hence, networks of interest groups may be especially prone to facilitating political learning for the diffusion of venues, playing a more significant role in the diffusion process than understood initially.

Of course, political learning does not imply indifferent, blind copying of venue choice by policy actors within a state. As Givan et al. (2010: 2) put it: "Diffusion…does not simply mean that tactics or frames are transplanted in whole cloth from one site to another; creative borrowing, adaptation, and political learning are often vital to its success." Just as "policymakers are not agnostic with respect to where they search for [policy] information," they are also not indifferent to where they obtain political information (Parinandi 2013: 245). Policy actors turn to their peers for policy and political information: geographic neighbors, states with similar institutional arrangements and constraints, governmental units with similar ideological or political environments, etc. Communication between and among entrepreneurs and actors is central to this story (Rose 1991). Those motivated to pursue change may communicate with and receive information from multiple sources, including coworkers within agencies, between decision makers at professional conferences, from various correspondences and publications, the media, interest groups, academics, concerned citizens, among others.[35]

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[35] There is abundant anecdotal support for this theory. At a recent roundtable, Nancy Wang and Amelia Quilon, organizers for "Voters not Politicians," told the story of why they decided to press for an end to gerrymandering in Michigan via direct democracy. Early organizers were familiar with the ballot campaign to end legislative redistricting in

Nor does this proposition imply that policy actors will never deviate from the venue paths previously pursued by other actors. It is not that policy actors are never aware of and will never contemplate resources, opponents, venue accessibility, and venue amiability to the policy image, among other considerations. Different venues are more or less receptive to the type of resources possessed by a group (Sabatier and Jenkins-Smith 1999: 143). Indeed, not all forums are available in all the states, and institutional hurdles make some venues more feasible than others (e.g., Boehmke and Patty 2007). Undeniably, policy actors partake in some degree of deliberation and strategy and possibly follow the lead of other states with similar institutional settings. But policy actors will strategize to a lesser degree (and satisfice more) than policy entrepreneurs and other advocates who have previously pursued the innovation. While considering their resources and capacities, their opponents' resources and capacities, political and institutional hurdles, venue accessibility, among other factors, change agents will also weigh the paths previously taken by others.

Also, somewhat challenging the proposition that policy actors attempt policy change in as many available venues as possible (Boehmke, Gailmard, and Patty 2013; Holyoke 2003; Jourdain, Hug, and Varone 2017; Sabatier and Jenkins-Smith 1993), my proposition implies that actors engage in satisficing and select the most appropriate venue(s) for enactment.[36] Policy entrepreneurs and actors are not akin to consumers on a shopping spree with unlimited resources. Instead, these change agents are careful consumers on a resource budget. Nor are policy actors like novice archers

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Ohio and executed a fifty-state survey to learn about successful policies and campaigns around the country. Following the survey, they decided to emulate the citizen redistricting commissions established via ballot initiatives in California and Arizona. (Quilon and Wang 2019). At the same roundtable, Sam Pernick, the organizing director for MI Legalize, the state group promoting the legalization of recreational marijuana, attributed the decision to press for policy change via plebiscite was due to state political factors, prior success with medical marijuana at the ballot box in Michigan in 2008, and seeing the successful recreational cannabis ballot measures in other states (Pernick 2019).

[36] Notably, the number of venues an individual, group, or policy network involves themselves may vary depending on whether these actors are trying to dominate an issue area or to pursue an innovation. Lobbying activity can involve more than just pressing for policy change. In turn, other scholars' proposition that individuals and groups target as many venues as possible, and my proposition that they narrow their focus to push for change in one or a few venues (rather than the complete set) may both hold depending on whether we are discussing general lobbying activity or the pursuit of a new idea. This is yet another area ripe for additional investigation.

shooting as many arrows as possible with the hope that one will land in the bullseye. They do not

pursue a policy in *all* of the venues with the promise of success in one out of many attempts.

Seeking policy change is costly (Buffardi, Pekkanen, and Rathgeb Smith 2014); it requires knowledge

of the political environment and institutions, mobilized support and relationship building, financial

assets, and time, among other resources. In turn, change agents turn to and learn from the political

processes of those who have previously pursued or enacted the policy.

Indeed, selecting a particular venue for policy change may be more experimental than exact

(John 1999; Pralle 2003). This is likely to be the case, especially for policy entrepreneurs as they are

the first to push for the adoption of a new policy. But, the uncertainty of which venue that early-,

mid-, and late-adopters ought to pursue should decline precipitously as the *successful* adoption rate of

a particular policy in one or more venues increases. Much like the effect of policy learning is greatest

for the first few states adopting the innovation with "a smaller added value for each additional

adoption" (Makse and Volden 2011: 117), the impact of political learning on venue choice should

also be most influential for the early adopters, decreasing as more states successfully achieve policy

change via a given path(s). This is learning in practice (Freeman 2008). Given this, I advance the

following hypothesis for a political learning mechanism that drives venue diffusion:

> **Political Learning Hypothesis:** *The likelihood of a state picking a venue to pursue a policy increases as the proportion of other states successfully pursuing the same policy via the corresponding venue increases.*

Undoubtedly, the inverse of this hypothesized relationship is also possible. Political learning

can include both positive and negative signals. As a result, as the proportion of other states

successfully pursuing a policy via a given venue *decreases* over time, implying failure via that venue,

the likelihood that a state also pursues the policy via that same venue should also decrease. Further,

political learning's effect may vary over time. We should not expect a linear relationship between

political learning and choice of venue over the lifetime of the policy, especially if success ebbs and

flows by arena over time. Since policy actors are known to be "adaptive venue shoppers" (Ley and Weber 2015), we should anticipate that they process these external signals of success and failure and update their choice of venue in real time.

Also of particular note, this hypothesis and corresponding measure emphasize "success." As a metric, accounting for success is vital for two reasons. First, the successful pursuit of a policy via a particular venue is the clearest signal that the path chosen worked. Moreover, it is a consistent signal across institutional arenas regardless of variation in venue type. Second, a critique leveled against several of the measures operationalized for learning is that they fail to directly factor in success (Gilardi 2016; Volden, Ting, and Carpenter 2008).[37] Thus, my operationalization of political learning, discussed in more detail in the following empirical chapters, heeds this criticism and directly accounts for the cumulative success and failure of states pursuing a policy via a given venue.

Alternative External Factors Driving Venue Choice

There are, however, plausible alternative explanations for the diffusion of venue selection. Many of the mechanisms that drive policy diffusion may also contribute to venue diffusion. Policy actors within a state are likely to turn to states they perceive as "leaders" or as "peers" for policy solutions. Similarly for venue diffusion, the notion of "peer" can take on a variety of forms, including actors emulating the venue choice of states that are alike along economic, social, political, cultural, or institutional dimensions, geographically proximate, or exhibit shared preferences.

Given this, perhaps policy actors mimic the choice of venue of previous adopting states with similar institutional arrangements or political contexts. Since the set of venue options varies across states, it seems appropriate that if policy actors look externally for policy ideas, gaining both policy

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[37] Of course, "success" can take on different meanings and can be operationalized in different ways. Volden (2006), for example, measures policy success as the degree to which the health insurance amendment lowered the uninsured rate among poor children. Success can also be operationalized as electoral retention (Gilardi 2010) or as a quantification of the policy adoption's impact Gilardi (2015).

and political information about the processes to enact those ideas, they would especially look to states with analogous institutional settings or political environments. For example, in considering pursuing a constitutional amendment, a "direct-democracy" state will likely look to other "direct-democracy" states to emulate their path of enactment, rather than look to states that require multiple sessions, constitutional conventions, or voter supermajority for ways to enshrine the policy. Policy actors might also look to their "peer" states with similar ideological predispositions (Butler et al. 2015; Butler and Pereira 2018; Desmarais, Harden, and Boehmke 2015; Volden 2015; Zelizer 2019); degrees of legislative professionalism (Shipan and Volden 2006, 2014; Volden 2015), judicial professionalism (Squire 2008), difficulty in amending the state constitution (Dinan 2018; Fay and Wenger 2015; Lupia et al. 2010), or another institutional or political attribute. I offer the following hypothesis:

> **Institutional / Political Similarities Hypothesis:** *The likelihood of a state picking a venue to pursue a policy increases as more institutionally and politically similar states opting for the same venue increases.*

Another possibility is that policy actors' choice of venue is the result of a geographic phenomenon (Berry and Berry 1990; Berry and Baybeck 2005; Cohen-Vogel and Ingle. 2007; Walker 1969). Policy promoters may copy the venue choice of contiguous neighboring states. Policy actors in states may look to their neighbors for new ideas *and* follow their neighbors' choice of venue to pursue the idea. In fact, "[s]tate policymakers and citizens look to other states in a satisficing search for solutions to problems, and the states to which they look first are their neighbors, due to familiarity, ease of communication, cross-mixing of media and population, and common values" (Mooney 2001: 105). Such a search may also yield political information about the "best" venue to pursue policy change. Due to the potential for a regional clustering effect of venue shopping, I advance the following alternative hypothesis:

Geographic Neighbor Hypothesis: *The likelihood of a state picking a venue to pursue a policy increases as the proportion of contiguous neighboring states picking the same venue to pursue the policy increases.*

Importantly, I expect the influence of geographic neighbors on venue shopping to be most substantial when neighbors share the same set of venue options. Policy actors' choice of venue within a "non-direct democracy state" may be influenced if neighboring states press for change via the legislature or legislative referenda. But this is less likely if direct democracy is the path for enactment. Moreover, while a regional clustering effect of venue selection is possible, Karch and colleagues' (2016) recent article on the "pro-innovation bias" in diffusion research suggest that scholars may be overstating the existence of geographic diffusion. Examining the adoption of numerous interstate compacts by a handful of states to a plurality of states, they find that by only focusing on and modeling innovations that gain large traction may cause us to underestimate the role of learning and professional associations working across jurisdictions (Karch et al. 2016). Given these caveats, the impact of learning, both political and policy, should overshadow any geographic effect.

Paralleling the policy learning mechanism in policy diffusion, actors and interest groups might select a venue simply because several other states have gone that route. Instead of actively weighing early movers' success rate in a given forum (i.e., political learning) or looking to peer states, policy actors may copy the policy solution and most popular path taken by others. Policy learning and political learning are two different, albeit related, processes (May 1992; Mooney 2001; Rose 1991; Seljan and Weller 2011). Yet deconstructing these two concepts theoretically is a much easier task than parsing them empirically. While political learning encompasses the receipt of information about the success or failure of political strategies (e.g., venue selection) to pursue a policy solution, policy learning covers information about the societal problem and policy idea. Although I anticipate that learning about the number of other states going a route may have a positive effect picking a

path, it is also plausible for policy learning to not affect venue choice. In fact, there may be occasions where political learning exists but policy learning does not. For example, where past research has failed to uncover policy learning as a mechanism driving diffusion—perhaps due to a focusing event, punctuation (Boushey 2010), national attention, simplicity of a policy (Nicholson-Crotty 2009), or another attribute—political learning may still occur with regard to venue selection and other processes even in the absence of policy learning. In effect, policy learning can act as a control to disentangle these two related processes. With this in mind, I propose the following hypothesis:

> **Policy Learning Hypothesis:** *The likelihood of a state picking a venue to pursue a policy increases as the number of other states picking that venue to pursue the policy increases.*

The federal government can often encourage or discourage policy adoption across states (e.g., Allen, Pettus, Haider-Markel 2004; Karch 2009, 2012; Shipan and Volden 2006, 2008; Welch and Thompson 1980). Interdependence is not only horizontal but also vertical. Accounting for the American federated structure, we would expect state-level activity to influence federal action (see Karch and Rosenthal 2015; Lowery, Gray, and Baumgartner 2011) and federal-level activity to impact policymaking in the states. Multiple scholars have demonstrated that policy debates and policymaking in the national arena influence activity in the states. Karch (2006) finds that federal-level intervention on individual development accounts, family caps on welfare, and medical savings accounts had varying impact on states' initiatives with these policies. Similarly, Karch (2012) shows that a nationally televised address by President George W. Bush on stem cell research, in conjunction with a broader debate over stem cell research legislation, increased the likelihood that states would act on the issue. Looking at partial-birth abortion bills, truth-in-sentencing laws, and hate crime legislation, Allen, Pettus, Haider-Markel (2004) show that federal incentives and penalties drive or discourage state-level activity. McCann, Shipan, and Volden (2015) have offered compelling

evidence that even policy ideas not yet enacted at the national level can percolate down to the states, especially among states with legislative capacity and ardent interest group activity.

Ultimately, the federal government can signal to the states its preferences and potential for future national action. Such activity—e.g., congressional bill, presidential executive order, federal agency decision, Supreme Court ruling—may also affect the choice of venue where states pursue innovations. While I do not predict the directionality of influence, it is possible that a federal bureaucratic regulation may cause state legislators to act, congressional legislation may inspire interest groups to pursue state constitutional amendments, or a U.S. Supreme Court opinion may prompt a new plaintiff to seek change at their state high court. These example federal-level interventions can affect the diffusion of the policy as well as the choice of path to pursue that policy. In turn, I propose the following hypothesis to account for federal-level activities that may influence policy actors' process of venue shopping.

> **Federal Intervention Hypothesis:** *The likelihood of a state picking a venue to pursue a policy increases / decreases as the federal government intervenes in the issue area.*

Related is the effect of the national political environment. Outside the scope of actual federal-government activity, national political forces can also influence the adoption of policies and may lead policy actors to pursue one venue over another. Several researchers have shown that the salience of an issue or policy can hasten action across multiple governmental units (Boushey 2010; Makse and Volden 2011; Nicholson-Crotty 2009). Indeed, a crisis or focusing event can force an issue onto the policy agenda. Such punctuations depart from the incremental change and learning that generally characterize the policymaking process (Baumgartner and Jones 1993; Boushey 2010).

Moreover, the timing of certain national events—e.g., presidential elections—may also prompt policy change (Berry and Berry 1990, 1992; Mintrom and Vergari 1998) and the picking of one venue over another. Smith, DeSantis, and Kassel (2006), for example, investigated whether the

slate of anti-gay marriage ballot initiatives across states for the November 2004 presidential election was timed to increase voter turnout. While the authors found no evidence of heightened participation attributable to the ballot measures, accounting for national elections, events, and environmental context is critical to understanding another conceivable external factor influencing venue diffusion. I submit the following hypothesis:

> **National Environment Hypothesis:** *The likelihood of a state picking a venue to pursue a policy increases / decreases as the national environment on the issue area ebbs and flows.*

In particular, I anticipate that greater prominence of an issue will cause policymakers in state legislatures to act. Since elected officials are electorally motivated (Mayhew 1974) and salient issues make it on the public agenda, I expect that state legislatures are the most obvious and least institutionally constrained venue to press for action. While issue salience should influence the pursuit of change via state legislatures, it should have less impact on the other institutional arenas. This may be due to greater institutional hurdles (e.g., signature requirements for a ballot initiative, litigant pressing forward a legal case to state high court) (Lupia et al. 2010; Lutz 1994) or fewer incentives for actors in those venues to address pressing issues.

Internal Factors Driving Venue Choice

These factors above—political learning, institutional and political similarities, geographic neighbor, policy learning, federal intervention, and the national political environment—are the external forces that could dictate policy actors' venue shopping process. These are the external factors that have often been ignored by the venue choice literature because venue shopping has mostly been treated as an internal process. However, venue choice may indeed be an *internal* choice, as current scholarship implies. As such, in addition to accounting for these external forces, I will also

control for key internal determinants of venue choice, including state-level political, economic, institutional, demographic, and interest-group factors.

Important political factors within a state that could drive venue choice include the competitiveness of elections, party control of the governing bodies, the ideological predispositions of officials, or public opinion regarding the policy issue, among others. Close races between legislators may compel them to pursue a policy innovation in the legislature or ask the state electorate to vote directly on the issue (Barrilleaux, Holbrook, and Langer 2002; Holbrook and Van Dunk 1993). Control of the state legislature or governor's office by one political party over another may force out-group policy actors to pursue a more amenable path (Calvert et al. 1989). Indeed, Hinchliffe and Lee (2016) find that increased party competition (i.e., greater structure in roll call voting by party members and a decline in "crossing-the-aisle") of state legislatures to control governing institutions has contributed to greater political polarization at the state-level. Increased polarization can lead to gridlock in the legislature (Hetherington and Rudolph 2015; Shor and McCarty 2011), and may cause policy actors to press for change in alternative venues. Equivalently, in picking an institutional setting, policy advocates may also consider the ideological direction of venue actors, and whether their liberal or conservative predispositions will make them more responsive to the issue (Butler et al. 2015; Desmarais, Harden, and Boehmke 2015; Holyoke, Brown, and Henig 2012; Volden 2015). Finally, policy actors may also factor in where the state's citizens stand on the policy issue. Public opinion may not only spur the adoption of an innovation (Enns and Koch 2013; Erikson, Wright and McIver 1993; Pacheco 2012; Wright, Erikson, and McIver 1987), but also influence the choice of venue (Baumgartner and Jones 1993; Kingdon 1984).

Equally plausible is that a state's own institutional arrangements will dictate venue choice. Rather than paying attention to institutional similarities with earlier adopters, policy actors within a state may consider their institutional hurdles and settings. Evidence abounds that institutions affect

policy diffusion (Füglister 2012; Gilardi and Wasserfallen 2019) and policymaking. For example, Lewis, Schneider, and Jacoby (2015) effectively demonstrate that institutional characteristics directly influence state policy outputs. They find that the "net effect" of five institutional components—power of the state house speaker, legislative professionalism, governor's control over state budget, and term limitedness of legislators and governor—can move states to consider spending more on collective goods (e.g., education, transportation, natural resources, public safety) or particularized benefits (e.g., healthcare, welfare, corrections).

A state's institutional characteristics should also affect venue shopping. A more professionalized legislative body, equipping policymakers with the capacity and resources to understand societal problems and propose adequate solutions, can spur the adoption of innovations (Shipan and Volden 2006; Shipan and Volden 2014; Volden 2015). Greater legislative expertise may persuade or dissuade policy actors from pressing for change via the state legislature. And it may lead to competition for power between different venues (Dilger, Krause, Moffett 1995; Miller, Ringsmuth, and Little 2015). Likewise, the professionalism of the state's highest court may also condition the venue choice of policy actors. Yates, Tankersley, and Brace (2010) show that in more liberal-policy states, the greater judicial professionalism and accountability to citizens (through elections), the higher the uncertainty of outcomes and the more likely citizens will seek out arbitration through the judiciary. Effectively, the institutional structure and professionalism of a state's court send a signal to litigants of their chances of winning at trial. Lastly, the degree of difficulty in pursuing an amendment to the state's constitution may also influence a policy actor's venue selection (Fay and Wenger 2015; Lupia et al. 2010; Lutz 1994). The more hurdles to achieve an amendment (e.g., ranging from the number of signatures required for the petition to a supermajority of support from the voters) may encourage or discourage advocates. In this story

about the importance of picking among institutional arrangements, an essential part of the narrative is considering the settings within one's state.

Policy actors may also weigh internal economic and demographic conditions when deciding on the right venue. As Peterson (1995: 90) put it, "[o]ne should not ignore the political meaning hidden in demographic and economic variables. For example, the taxable resources of a state are not simply an economic factor…the variable also measures the public's demand for public services" (as quoted in Schneider and Jacoby 2014). Socioeconomic factors may serve as a proxy for citizens' policy preferences (Dye 1966; Hofferbert 1974). Measures of state wealth and resources correlate highly with more innovative states (Walker 1969). Furthermore, a wealthier and more educated polity tends to be more engaged in the political system (Leighley and Nagler 2013; Verba, Schlozman, and Brady 1995). Racial and ethnic diversity may also matter (Hero and Tolbert 1996). Nicholson-Crotty (2006) shows that diversity within a state helps legislators to be more representative of the citizenry and rebuff direct democracy (i.e., the tyranny of the majority). These types of economic and demographic variables may steer policy actors to choose one venue over another.

Not least of the potential internal forces on venue selection is the role of state- and local-level interest groups (Gray and Lowery 1996). In selecting a venue, interest groups weigh their resources and capacities, as well as their opponents' resources and capacities (Holyoke, Brown, and Henig 2012; Ley and Weber 2015; Pralle 2003; Sabatier and Jenkins-Smith 1993). They also consider their competitive political, legal, and technical advantages relative to their opponents' strengths (Ley and Weber 2015; Sabatier and Jenkins-Smith 1993; Jenkins-Smith et al. 2014). Current research also suggests that "direct-democracy" states will witness an increase in the number of organized groups as well as higher volatility in the groups' entry into and exit from the political arena (Boehmke 2002,

2005, 2008).[38] Therefore, I will control for state-level interest groups on both sides of a policy issue, accounting for the capacity, resources, or membership size of both friends and foes.

Beyond merely capturing pressure groups' presence and strength, however, I also account for a movement's past success in a venue, as well as the countermovement's past success. We know from the venue shopping literature that policy actors prefer venues that they are familiar with and already engaged in (Holyoke et al. 2012). It is reasonable for policy actors and interest groups to stick with the venue they know, especially if they have been previously successful. As a result, if policy actors or organized interests have already pursued and achieved policy change in one venue, they should be less likely to select another arena. Of course, groups and actors must also weigh their opponents' policy successes in different venues. (Holyoke, Brown, and Henig 2012; Ley and Weber 2015). A movement's success in one venue may force the countermovement to compete in a different venue. Thus, I account for both actors' prior policy successes in a venue and opponents' policy successes.

Collectively, there is a host of internal and external forces that drive the venue-shopping process. Figure 4.3 below illustrates the principal competing and complementary stimuli that policy actors weigh in deciding to take one path over another. My central argument is policy actors, given their limited cognition, resources, and information, engage in satisficing, looking to entrepreneurs and actors in other states that have already pursued the solution to a common societal problem. These policy actors not only learn about the policy but also the political processes taken to enact the

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[38] Boehmke's argument is that ballot initiatives provide an additional route for interest groups to influence public policy. As a result, state legislators—out of concern that the policy will be too far from their ideal point or result in punishment at the polls for not supporting the policy—will vote in line with the median voter, thus mitigating the need for a citizen initiative (Gerber 1996). And since the opportunities for accomplishing one's goals are more plentiful in "direct-democracy" states, Boehmke contends that this will produce a greater number of interest groups in these states, especially citizen organizations championing and advocating on behalf of underrepresented groups. Moreover, the initiative process allows citizen groups to mobilize quickly around an issue, bringing it to the voters; if they fail, the group may fade away, or they may disband if the issue is approved and no longer salient. This contributes to heightened entry and exit volatility for groups in these states.

policy in the other governmental units. Although policy actors weigh their own political, institutional, economic, demographic, policy, and interest-group factors, along with competing external forces, they are also influenced by the successful routes previously trod by others.

Figure 4.3: External and Internal State-Level Forces Influencing Venue Choice

Internal Factors:
*Political Characteristics
*Economic Characteristics
*Institutional Characteristics
*Demographic Characteristics
*Interest Group Influence
*Opposition / Prior Venue Activity

External Factors:
* Political Learning
*Institutional / Political Similarities
*Geographic Neighbor
*Policy Learning
*Federal Gov. Influence
*National Environment
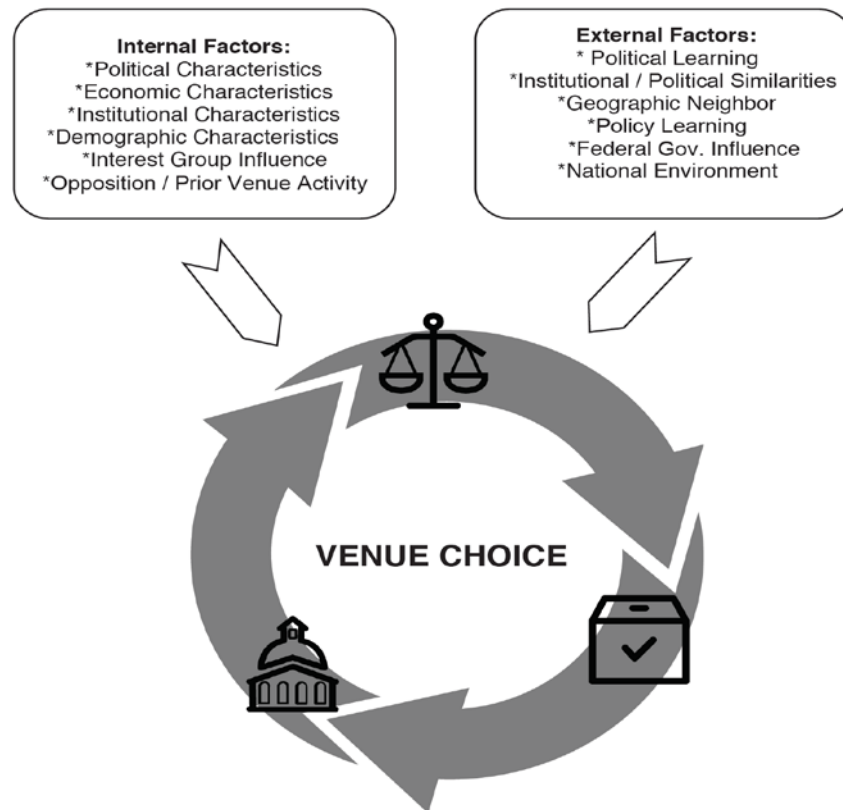
VENUE CHOICE

Implications of Venue Diffusion

Evidence of venue diffusion for a policy innovation across U.S. states is of theoretical import for at least five reasons. First, exploring patterns of venue choice goes beyond traditional diffusion research, which tests if a *policy* spreads. Here, I am interested in seeing if the *choice of venue* in one state to attempt a policy influences the venue shopping process in subsequent states for the same policy. Delving further into the dynamics of diffusion is exactly what several leading scholars have been clamoring for (Berry and Berry 2014; Gilardi 2016; Graham, Shipan, and Volden 2013;

Howlett and Rayner 2008; Shipan and Volden 2012). This research attempts to answer these calls by fusing our knowledge of policy transfer with studies emphasizing venue shopping.

Second, the overwhelming focus of the diffusion scholarship on the transfer of policies from one legislative body to another legislative body does not square with the reality of policy activity in a complex system of multiple institutions. Evidence for the diffusion of venue selection could elucidate a fundamental shift from conventional policymaking via state legislatures to policy activity in alternative institutional venues. This shift may only be evident for some types of policies or may be dependent on certain policy attributes. Nonetheless, the patterns, locations, and speed in which policies are adopted across states may be changing. Moreover, these changes could have important implications for democratic responsiveness and accountability. Legislators may increasingly shirk their responsibilities, citizens may progressively bypass their elected surrogates to vote directly on different policies, state supreme court justices may actively weigh in on public policy, or governors may increasingly push for more considerable influence over policy. The pursuit of a policy via specific forums may even enhance the public's perception of the policy's or venue's legitimacy. Augmented interaction among the multiple layers of government may have an impact on policymaking and decision-making processes, as well as American democracy writ large.

Third, the choice of venue not only has long-term consequences for policy outcomes (i.e., the rejection or longevity of the policy solution) but also short-term influences on the policy's design, implementation, and the constituencies developed around it (Boehmke, Gailmard, Patty 2006; Karch 2009; Ley and Weber 2015; Lubell 2013; Maltzman and Shipan 2008). Political institutions and processes condition policy outcomes and new policies make new politics (Schattschneider 1935). Hence, the diffusion of venue selection might similarly influence the design, implementation, evaluation, and survival of policies. This one decision has serious implications for policy existence and policy entrenchment. It is the product of prior decisions made in multiple

'policy games' and will influence future decisions (Boehmke, Gailmard, Patty 2006; Karch 2009; Lubell 2013). Rather than focus on one policy venue at a time, like the overwhelming majority of the current scholarship, I recognize and empirically account for the fact that "policies are the product of multiple decisions being made in multiple venues over long periods of time" (Ley and Weber 2015: 705). Venue choice matters. And examining venue choice explores a key component of the policymaking process that may spur or stymie diffusion.

Fourth, the integration of the policy diffusion and venue shopping literature sheds further light on venue shopping. Current venue shopping literature conceptualizes the choice of venue one of three ways: (1) as a matching exercise of the policy image to an amenable venue (Baumgartner and Jones 1993); (2) as a strategic selection where policy advocates desire a competitive advantage, seek ideological congruence, or develop a long-term preference (Holyoke, Brown, and Henig 2012; Lubell 2013; Pralle 2003; Sabatier and Jenkins-Smith 1993); or (3) as a balance of their own political, legal, and technical strengths against their opponents and against venue accessibility (Ley and Weber 2015). While some of this scholarship emphasizes internal learning by policy actors about their own past successful or failed venue choices, the literature ignores potential external learning about venue shopping. Evidence for venue diffusion would suggest that the choice of venue may be less strategic and insular than previously thought. Political learning from other policy entrepreneurs and actors that have already taken action may carry weight in making venue shopping decisions.

Finally, if there is evidence that the choice of venue diffuses, then policy actors' learning may not stop with policy solutions or possible paths, but may also extend to the other policy stages: policy design, policy winnowing, agenda setting, implementation, evaluation, the proposal of parallel policies, etc. Moreover, evidence for political learning driving venue selection would suggest that learning between policy actors does not stop with innovative solutions, but also extends to tactical

strategies about how best to bring those innovations to market. Our current understanding of learning may underestimate the extent to which state actors are interdependent.

Ultimately, evidence of venue diffusion may address existing gaps in the diffusion scholarship; shed further light on policy diffusion processes and dynamics; offer additional insights for the venue-shopping literature; and raise new questions for policy change in the "laboratories of American democracy" (Brandeis 1932). Moreover, the theory of venue diffusion in the U.S. state context may also be generalizable to other dyadic relationships within the U.S. (e.g., cities to cities) as well as the comparative context (e.g., nation-states to nation-states).

Conclusion

The operating theory here is that if a government's decision to adopt an innovative policy is conditioned on prior governments' decision to adopt the policy (i.e., policy diffusion), then a government's choice of means to pursue a policy may also be influenced by the prior venue choices of other governments pursuing the innovation (i.e., venue diffusion). I charge that venue diffusion is a function of political learning. I anticipate that those individuals or organizations searching for a policy solution will find both policy entrepreneurs' innovation and choice of venue useful information as the proportion of states successfully pursuing a policy via the same arena accrues. As innovative states and early adopters follow a given successful path, remaining states will likely follow suit. I turn now to test this theory of venue diffusion, as well as political learning's role in the spread of policy innovations and venue shopping processes in the subsequent chapters.

CHAPTER 5: POLITICAL LEARNING AND THE DIFFUSION OF GAY MARRIAGE POLICIES

On June 26, 2015, U.S. Supreme Court Justice Anthony Kennedy writing for the 5-4 majority in the *Obergefell* v. *Hodges* case penned that "No union is more profound that marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family…[Same-sex couples] ask for equal dignity in the eyes of the law. The Constitution grants them that right."[39] The ruling obliged states to issue marriage licenses and guarantee benefits to gay couples under the 14th Amendment's equal protection clause. And it deemed state statutes and amendments prohibiting same-sex marriage unconstitutional. Gay marriage was finally the law of the land.

The *Obergefell* decision was the climax of a decades-long struggle for civil rights by LGBT advocates, on the one hand, and traditional family values by religious conservatives, on the other hand. Few public policies evoked such passionate debate about morality and equality, spurred such stark evolutions in opinion, and captivated such public attention as same-sex marriage. From the national government's "sexuality regime" and Lavender scare in the 1940s-1950s to root out federal workers and the 1969 Stonewall riots by LGBT individuals to collectively assert their right to be gay, to the AIDS epidemic and the passage of anti-discrimination and hate-crime legislation, the pursuit of LGBT rights under the law has been long and arduous. And the quest remains unfinished.[40]

Yet the watershed moment in the timeline for gay rights came in 1993 when the Hawaiian Supreme Court remanded the *Baehr* v. *Lewin* case[41] involving three same-sex couples that were

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[39] Obergefell v. Hodges, 576 U.S. 28 (2015)

[40] For a comprehensive narrative and review of the historical struggle for LGBT rights, see Hirshman (2012); Mucciaroni (2008, 2011); Smith (2008); or Valelly (2012). For a jurisprudential overview of gay rights and marriage equality, as well as the legal protections that are still necessary for LGBT individuals, see Engel (2016). To learn more about gay rights advocates' current efforts, read Mezey (2017). Finally, for information about the struggle for same-sex marriage in other parts of the Western Hemisphere and world, see Pierceson, Piatti-Crocker, and Schulenberg (2010) and Pierceson (2013).

[41] *Baehr* v. *Lewin*, 74 Haw. 530, 852 P.2d 44 (1993) originally, although renamed *Baehr* v. *Miike* in 1996 when the Lawrence H. Miike became the new State Director of Health for Hawaii.

denied marriage licenses back to the trial court (Dorf and Tarrow 2014; Fetner 2008; Gallagher and Bull 2001; Hollander and Patapan 2016; Hume 2011; Keck 2009; Lewis 2011; Pierceson 2013; Smith 2008; Stone 2012). Rather than denying the appeal, the justices called on the state to explain the compelling interest it had in restricting marriage only to heterosexual couples. The *Baehr* case was not the first state case where LGBT individuals sued to marry.[42] But the ruling was the first time a state court of last resort had left open the possibility of equal marriage rights for gays and lesbians.

What ensued was a swift and tactical countermobilization against gay marriage by the religious right and conservatives via state legislatures and ballot initiatives. Evoking threats to America's cultural and familial fabric and garnering broad public support, opponents were able to achieve statutory and constitutional bans on same-sex unions in two-thirds of the states by the mid-2000s. Congress even passed the Defense of Marriage Act (DOMA) in 1996, defining marriage for federal purposes as a union between a man and woman and allowing states to deny same-sex unions performed in other jurisdictions. Meanwhile, gay marriage proponents continued to methodically pursue equal rights in state and federal courts and legislatures. LGBT groups achieved early wins for gay marriage in Vermont, Massachusetts, Connecticut, and Iowa, followed by a cascade of success in federal court following the Supreme Court's 2013 decision in *United States* v. *Windsor* overturning DOMA. In the end, gay rights advocates prevailed.

The movement for and countermovement against gay marriage offer prima facie evidence for my principal arguments that: (1) the diffusion dynamics of a policy vary when the innovation spreads across multiple venues; and (2) the venue choice to pursue a policy in one state influences the venue shopping process in subsequent states. This chapter is dedicated to disentangling the first claim. The next chapter tackles the second assertion. Recall from prior sections that policy scholars

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[42] Minnesota was the first state in 1971 to decide a suit from same-sex couples denied a marriage license. Legal challenges from gay couples followed in other states too in the 1970s and 1980s, including in Washington, Kentucky, Alaska, Florida, Hawaii, Illinois, Iowa, New Hampshire, South Dakota, and Utah (Haider-Markel 2001b; Soule 2004).

have mainly mapped the patterns of policy diffusion in one venue: state legislatures. Even where researchers have modeled policy transmission in other venues (e.g., cities, courts, bureaucracies, nation-states), the focus has still been on *one* arena. Therefore, we know little about how new policy ideas propagate across competing institutional venues.

You may also remember that prior research has identified *policy learning*, whereby policy actors facing too little or too much information learn about solutions already adopted in other jurisdictions, as a central mechanism driving the diffusion of innovations. Because of the myopic focus on a univariate avenue, little has been documented about the *political learning* that occurs in the policy diffusion process. I contend that policy actors also draw lessons from the tactical choices policy entrepreneurs and early movers made to pursue a new idea and then rely on that information to make their own political choices. For example, a critical factor in pressing for policy change is the optimal institutional venue to achieve the desired results. I theorize that policy actors satisfice, learn from and follow the previous institutional paths successfully taken in other states. In short, as knowledge about the successful paths increases, following states should also be more likely to change policy via those venues.

Relying on the policy case of gay marriage, I leverage the spread of anti- and pro-gay marriage policies across multiple state venues to unpack the diffusion dynamics of these policies across competing institutions. The empirical results establish political learning as a central predictor of states outlawing and legalizing gay marriage. Policy actors learning about the successful paths pursued in other states increases a state's likelihood of prohibiting marriage equality via the legislature by 3.9 percentage points and via legislative referendum by 33.8 percentage points. Similarly, political learning raises a state's risk of allowing same-sex unions via the "people's branch" by 4.9 percentage points. Because a state's average risk of changing policy in any given year is under two percent, these marginal effects are both substantively large and meaningful. Political learning's

effect on policy change via citizen initiatives, state courts, and federal courts is less clear, but the empirical results point to a positive, but limited effect. Collectively, political learning's impact on policy adoption is more substantial compared to other known external mechanisms driving policy diffusion, including policy learning, regional effects, federal government involvement, and the national environment.

Beyond establishing political learning's role in the diffusion process, however, this chapter also makes the case for and employs a repeated-events, competing-risks multinomial logistic regression model to better test the external and internal factors affecting policy change within and across different venues. This modeling approach provides not only a superior fit of Event History data than standard logistic regression where multiple venues are involved, but also better maps the underlying policy process unfolding across competing venues. Ultimately, the results clarify our understanding from prior scholarship on the diffusion of same-sex marriage bans, while also offering original results for the dissemination of pro-gay marriage policies. I provide evidence that policy actors do not restrain themselves to one venue but utilize the available avenues that will maximize the chances of policy success. To help determine the most favorable avenue, policy advocates consider their institutional arrangements, political contexts, interest group pressures, past policy activity on related topics, and even opponents' policy successes. But they also take external cues, especially political learning, into account. Rather than making these decisions in isolation, policy actors rely on outside information about the success of other states to help achieve policy change in their own states.

Why the Policy Case of Gay Marriage?

The fight over gay marriage is especially illustrative of my broader theoretical claims for three reasons. First, to explore the diffusion dynamics of a policy in multiple venues, you need a

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policy that has been pursued in more than one forum. Variation on the dependent variable is required (King, Keohane, and Verba 1994). The case of gay marriage provides such variation, whereby opponents pressed for bans on same-sex unions by route of state legislatures, legislative referendums, and citizen initiatives. Proponents fought for marriage equality in state and federal courts, and state legislatures. Moreover, multiple policy changes occurred within states in different venues, with several jurisdictions adopting but later reversing a ban on same-sex marriage.[43] I can leverage the multidimensionality of this policy area to examine whether policy diffusion diverges depending on the venue in consideration.

Second, the adoption of anti-gay-marriage policies has been extensively documented and empirically analyzed by many excellent scholars: Barclay and Fisher 2003, 2008; Camp 2008; Haider-Markel 2000, 2001a, 2001b; Hume 2011; Lewis 2011; Lupia et al. 2010; Soule 2004; Taylor et al. 2012. These studies, however, narrowly focused on *one* venue (e.g., legislature, constitutional amendments, courts) (Haider-Markel 2001a, 2001b; Hume 2011; Keck 2009; Lupia et al. 2010; Soule 2004) or failed to account for competing venues in their models (Barclay and Fisher 2003). Only Barclay and Fisher (2008) and Lewis (2011b) consider the spread of same-sex marriage bans via multiple arenas. But both stop short of concurrently modeling the pursuit of these policies via different institutional settings. Furthermore, none of the current articles explore or model the transmission of pro-same-sex marriage policies, despite the known effects of countermovements on policy adoption (Meyer and Staggenborg 1996). As a result, gaps in our understanding of policy

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[43] Consider the example of Hawaii, where in 1993 the state supreme court left open the possibility of same-sex couples marrying. Following this in 1998, citizens approved a constitutional amendment via a legislative referendum granting the legislature the authority to prohibit same-sex marriage. However, most recently in 2013, the Hawaiian legislature passed a bill overturning their prior ban and legalizing gay marriage.

diffusion for this policy area remain.[44] And offering evidence of different diffusion dynamics and venue diffusion in a previously and broadly researched policy area further validates my claims here.

Third, gay marriage is a helpful lens because of its policy attributes. Both anti- and pro-gay marriage laws are technically-simple, highly salient, morality policies involving cross-cutting cleavages. Past scholars have demonstrated that these types of policies diffuse differently compared to other policy types (Boushey 2010; Hollander and Patapan 2016; Makse and Volden 2011; Mooney 2001; Mooney and Lee 1999; Mooney and Schuldt 2008; Nicholson-Crotty 2009; Pierce and Miller 1999). Morality policies tend to spread rapidly due to competition over societal and cultural values rather than due to any incremental learning (Mooney and Lee 1999). Thus, this policy area may also be the most challenging to find evidence of political learning in the policy adoption and venue shopping processes in other states. Even limited evidence of political learning's effect may underscore its existence in different policy domains.

Mobilization for and Counter-Mobilization Against Gay Marriage

The fight over gay rights pre-dated the Hawaiian Supreme Court's *Baehr* v. *Lewin* ruling in 1993. From the 1920s through the 1960s and beyond, gays and lesbians fought for the freedom to publicly associate and congregate (Valelly 2012). Throughout the 1970s to 1990s, gay rights groups around the country pushed for anti-discrimination policies, overturning sodomy bans, and adopting hate crimes legislation. For example, LGBT college students at Michigan State University in East Lansing, Michigan helped pass the first nondiscrimination ordinance for the city that included sexual orientation in 1972 (Fetner 2008). Slowly but surely the LGBT community was achieving social

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[44] In some ways, the pursuit of pro-gay marriage policies is the equivalent of a policy reversal (Eyestone 1977; Lowry 2005). The diffusion dynamics of reversals are different from adoptions: they rarely embody geographic patterns, the speed is more gradual, and different institutional and interest-group factors drive the diffusion of these disinnovations.

change, predominately at the local level by dint of municipalities, universities, and corporations' employment and human resource practices, but occasionally at the state level too (Fetner 2008).

But as the gay rights movement gradually gained traction, the anti-gay countermovement materialized more swiftly. In 1977, Anita Bryant—famed singer, television celebrity, and former beauty queen, turned anti-gay activist—founded "Save Our Children" and successfully repealed an anti-discrimination ordinance protecting LGBT individuals in Miami-Dade County. Her celebrity status helped catapult the campaign against gay rights to the national spotlight (Fetner 2001, 2008). The nascent anti-gay countermovement quickly integrated into the "Moral Majority" and then the religious right, dwarfing the gay rights movement (Fetner 2001, 2008; Smith 2008). According to Tina Fetner (2008: xiv-xv):

> "The size of the religious right, whether measured in membership, size of organizations, revenue, or other resources, was dramatically greater than that of the lesbian and gay movement. If opposing movement activism were a head-to-head battle of strength, the religious right would have crushed the lesbian and gay movement outright."

The Christian right pressed for keeping anti-sodomy laws; overturning newly passed domestic partnership laws; restricting the rights of people with AIDS; and limiting LGBT-individuals' ability to retain custody of their children, serve as foster parents, or adopt (Conger 2009; Donovan, Wenzel, and Bowler 2000; Fetner 2008; Stone 2012; Wald et al. 1996). The U.S. Supreme Court's *Bowers* v. *Hardwick*[45] ruling in 1986 that "there [was] no such thing as a fundamental right to commit homosexual sodomy" further emboldened the religious right.

Groups such as Focus on the Family, Family Research Council, Concerned Women for America, Christian Voice, and Traditional Values Coalition pursued restrictions on gay rights at the local and state levels via multiple venues (Conger 2009; Fetner 2008; Green 2000; Haider-Markel

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[45] Bowers v. Hardwick, 478 U.S. 186 (1986)

2000; Stone 2012; Wald et al. 1996). The religious right was especially successful in making their case directly to the voters through popular referendums and citizen initiatives (Fetner 2008; Stone 2012). For example, in 1991, Colorado for Family Values, a conservative Christian organization, sponsored Amendment 2, a ballot measure that eliminated existing and future gay rights laws in the state. Proponents argued Amendment 2 was necessary so LGBT individuals did not acquire "special rights." The amendment passed although the U.S. Supreme Court later overturned it in *Romer* v. *Evans*.[46] In 1992, similar groups in Oregon lobbied for Ballot Measure 9, which required the firing of LGBT public school teachers and outspoken allies of the gay community, along with the removal of all books from government-funded libraries that discussed homosexuality (Stone 2012). Gay rights groups were able to defeat Ballot Measure 9 in Oregon, but the religious right spread similar tactics and initiatives to other states and localities (Fetner 2008).

Yet, it was the Hawaiian Supreme Court's *Baehr* ruling that was the tipping point for both social movements. While not an affirmative ruling, the decision was an opening for gay marriage in Hawaii and across the states. It caught the attention of LGBT rights groups and activists, many of whom previously believed pursuing equal marriage rights was antithetical to the movement or a fool's errand (Fetner 2008). The court ruling galvanized the religious right and conservative lawmakers (Gallagher and Bull 2001). For them, it was further proof the gay rights movement was eroding traditional family values and morality in America. Fundamentalist Christian churches and conservative religious groups amped up their mobilization against gay rights, especially same-sex marriage (Fetner 2008). By 1994, one-third of the religious right's voter guides directly mentioned the fight against gay rights. Anti-gay groups even tried to paint LGBT rights as the right to pedophilia (Gallagher and Bull 2011).

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[46] Romer v. Evans, 517 U.S. 620 (1996)

Due to pressure from these interests and backed by popular support, elected officials across the country acted quickly (Haider-Markel 2000, 2001). Republican-led, and even some Democratic-led, state legislatures were fearful their states would have to recognize same-sex unions performed in Hawaii due to the U.S. Constitution's and their state constitutions' full faith and credit clauses. Politicians began considering bans on gay marriage performed in their states and the recognition of same-sex unions solemnized in other states (Gallagher and Bull 2001). By the early 2000s, thirty-five state legislatures had passed statutory language prohibiting same-sex marriage. Conservatives and the Christian right were also successful at the federal level, convincing Congress to pass and President Bill Clinton to sign the Defense of Marriage Act (DOMA) into law in 1996. DOMA defined marriage for federal purposes as a union between "one man and one woman," simultaneously allowing states to disregard the full faith and credit clause of the U.S. Constitution in recognizing same-sex unions performed in other states.

But the opposition groups did not stop with state and federal statutory language forbidding equal marriage rights for gays and lesbians. Capitalizing on early public support, they also proactively pressed for constitutional amendments via legislative referendum and citizen initiatives prohibiting gay marriage, civil unions, domestic partnerships, and anything akin to marriage for same-sex couples. Doing so circumscribed legislative and judicial efforts by the gay rights movement to overturn these restrictions. The only way to annul these so-called "super-DOMAs" was to reverse public opinion and return to the ballot box (Stone 2012) or head to federal court. By 2008, more than thirty states enshrined the ban on gay marriage in their constitutions by passing legislative referenda or ballot measures.[47]

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[47] The religious right even had hopes for a U.S. constitutional amendment "to protect the institution of marriage." Delighting these groups, President George W. Bush called for such an amendment in his 2004 State of the Union Speech (CNN 2004). Although a federal ban was never adopted, the right's overall proactive opposition was widely successful.

Figure 5.1: Adoption of Gay Marriage Bans by U.S. State by Venues, 1995 – 2010
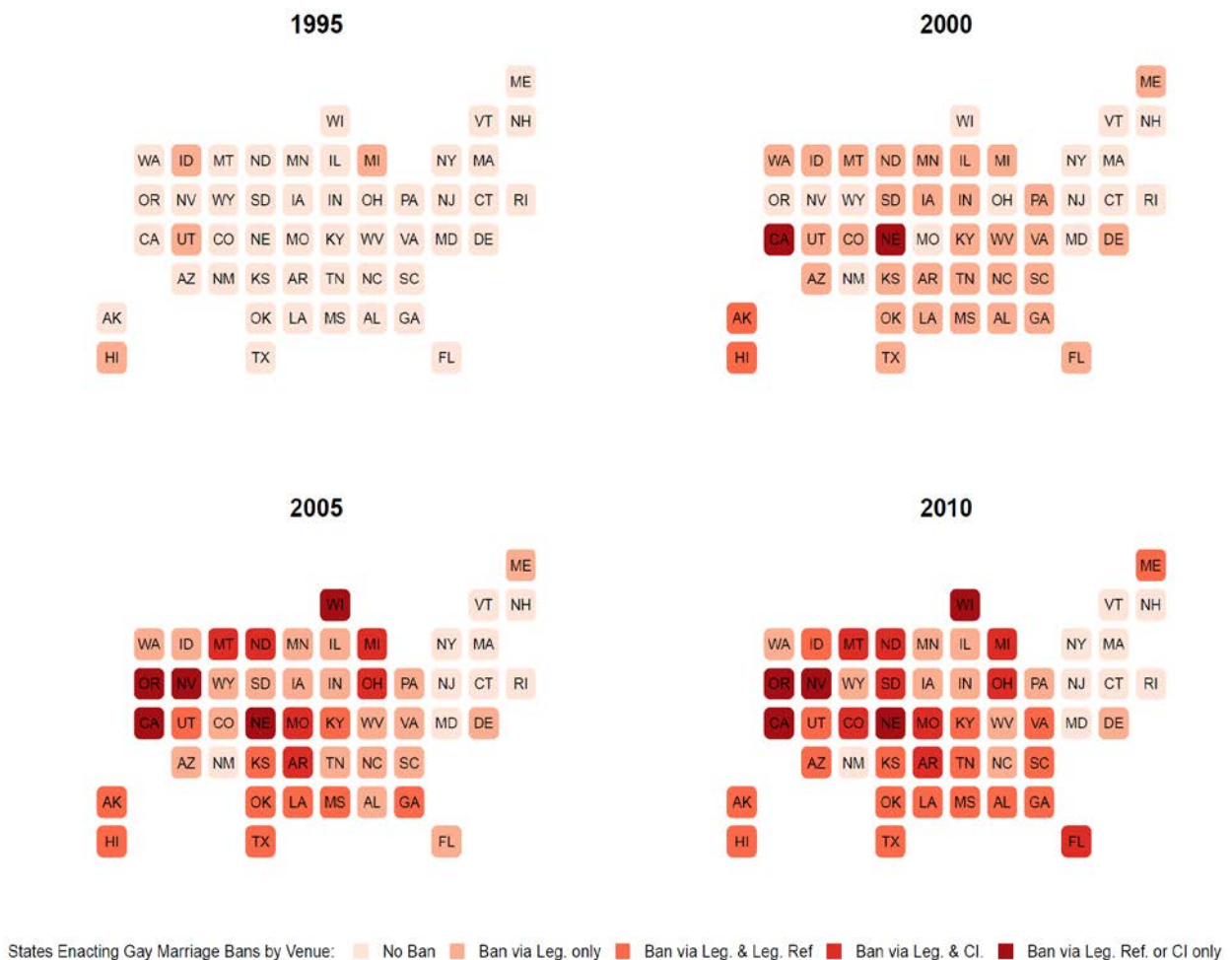
Notes: State maps display adoption of anti-gay marriage statutes and constitutional amendments by venue in 1995, 2000, 2005, and 2010. "Leg" = Legislature, "Leg. Ref" = Legislative Referendum, "CI" = Citizen Initiative. States adopted bans on same-sex unions via the legislature, legislative referendum, citizen initiative, or multiple of these venues at different points in time. See Tables D.1 and D.2 in the Appendix for a full chronology of anti- and pro-gay marriage policies pursued in every state.

Figure 5.1 better displays each state's adoption of gay marriage bans by venue type from 1993 – 2015. [48] Showing four snapshots in time—1995, 2000, 2005, and 2010—the maps illustrate how dozens of states pressed for prohibitions on same-sex unions via state legislatures, legislative referenda, and citizen initiatives. By 2000, 33 state legislatures had favorably adopted statutory language against marriage equality, while two state legislatures (Hawaii and Alaska) also asked voters

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[48] As discussed in Chapter 2 and Chapter 3, not all states have the same set of venues available to pursue policy change. Delaware, for example, is the only state that does not allow the legislature to put forward a referendum to its electorate. Only 24 states allow their citizens to directly appeal to the voters on statutory or constitutional matters. See the Appendix for a full chronology of the anti-gay-marriage policies pursued and adopted in every state.

via referenda to enshrine "traditional marriage" into their constitutions, and two other states (California and Nebraska) sought to protect the status quo via citizen initiatives. Just five years later, most of the states that had circumscribed gay marriage statutorily also circumscribed it constitutionally via legislative referenda and plebiscite. By 2010, the overwhelming majority of states had prohibited same-sex unions via the legislature, legislative referendum, citizen initiative, or via multiple of these avenues. The religious right's vast and sweeping countermovement against gay marriage at the subnational and federal levels was hugely successful.

Before the *Baehr* ruling, same-sex marriage had not been a top priority for the gay rights movement. Many in the LGBT community eschewed marriage as a "patriarchal, heterosexual institution" (Fetner 2008). They saw any fight for gay marriage as "assimilationist" to heterosexual culture. Still, for others in the movement, same-sex marriage was an equal rights issue. Given the internal disagreement, most gay rights groups sideline the issue and instead focused their attention on pressing for anti-discrimination and hate crime laws (Fetner 2008). The *Baehr* decision and massive countermovement by the religious right changed that.

Gay rights activists and groups such as the Federation of Statewide LGBT Political Organizations (later known as Equality Federation), Freedom to Marry, Gay and Lesbian Alliance Against Defamation (GLAAD), National Gay and Lesbian Taskforce, and Lambda Legal pursued an incremental strategy. They filed lawsuits in other states, methodically selecting courts they believed would be receptive to their cause (Andersen 2005; Rayside 2005). Policy actors pursued subsequent litigation in Alaska, Vermont, Massachusetts, and California, among other state courts. However, the right's countermobilization forced LGBT interests to fight in multiple venues, including state capitals and at the ballot box.[49] Playing defense, gay allies were sometimes forced to support

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[49] Still, a wide disparity in resources existed between the religious right and gay rights movement. According to Linda Hirshman (2012: 344), "only 3.4 percent of all gay and lesbian adults contribute more than thirty-five dollars to any

discordant legislation to mitigate the potential damage caused by more severe policy action. For example, gay rights leaders and Democratic party officials in Washington voted to override the governor's veto of a gay marriage ban so the bill would not end up as a ballot measure and further hurt Democrats on the ticket (Haider-Markel 2000). Playing offense, following legal victories in Vermont and Massachusetts, gay rights groups lobbied legislatures in California, Connecticut, New Hampshire, and Oregon. Even though only the latter three extended rights to same-sex couples, and only by way of domestic partnerships and civil unions, state legislatures became a viable venue to press for policy change proactively.[50] Although a rarer route, LGBT activists also pursued same-sex marriage via legislative referendum (Maryland) and citizen initiative (Maine).[51]

As more state courts and capitols authorized same-sex unions and as public opinion shifted, gay rights groups finally turned their attention to the federal courts. In particular, the U.S. Supreme Court's 2003 5-4 ruling in *Lawrence* v. *Texas*, overturning the 1986 *Bowers v. Hardwick* precedent and states' bans on sodomy, made the federal courts a more attractive venue. Similarly, the Court's 2013 *United States v. Windsor* decision invalidating the federal Defense of Marriage Act (DOMA) precipitated a flood of federal lawsuits and opinions in favor of same-sex marriage.

Although all states had legislatures, state high courts, or federal courts at their disposal to try to protect minority rights, the diffusion of pro-gay marriage policies was not as sweeping compared to the religious right's activities. LGBT interest groups were not as successful. Sixteen state legislatures considered adopting civil unions or same-sex marriage, with fourteen following through,

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identifiable gay cause. The ten largest anti-gay organizations—Focus on the Family and the like—have twice the $500 million in revenues of all the gay organizations put together."

[50] For coding purposes, I treat civil unions as synonymous with same-sex marriage since the adoption of civil unions were innovative in that they guaranteed the right of gay persons to legally codify their relationships and access state services and benefits. That said, I recognize the controversial distinction between these policy prescriptions.

[51] It is worth noting that gay rights groups did not limit their mobilization to state legislatures, state and federal courts. They also augmented their voices via blogs and social media outlets, organized meetings and marches, and engaged in civil disobedience. Gay rights groups also used their clout to shame corporations and private law firms that maintained or defended anti-gay policies (Hirshman 2012). Likewise, the religious right utilized its extensive network of churches, members, and media outlets to gain the ear of elected officials and the mass public (Fetner 2008).

the best success rate of any of the avenues pursued. Meanwhile, gay rights groups litigated in seventeen state supreme courts, with slightly more than half of those courts ruling in favor of marriage equality. Finally, mostly following the U.S. Supreme' Court's 2013 *United States v. Windsor* ruling against the national DOMA law, some thirty states filed suits in federal court with two-thirds of those states prevailing. The gay rights movement did achieve success in most of the venues it pressed for change, but their effort was more gradual and concentrated.

Figure 5.2 illustrates each state's successful adoption (or lack thereof) of pro-gay marriage policies via state legislature, state supreme court, or federal court at four points in time from 2000 to 2015. Only the first state venue where marriage equality was successfully achieved is represented. For example, civil unions for same-sex couples were achieved in Vermont via the state supreme court in 1999, but Vermont's legislature passed full marriage equality ten years later. The state maps only record Vermont's first successful venue. In stark contrast to the anti-gay marriage movement's success, by 2005 only Connecticut, Massachusetts, and Vermont allowed same-sex couples to codify their relationships legally. The Connecticut legislature granted civil unions while both Massachusetts and Vermont's state high courts mandated state action to provide equal protection for gay couples. Several subsequent state courts and legislatures took action, and five years later, one-fifth of the states allowed same-sex unions in some capacity. By early 2015, just a little over two decades after Hawaii's *Baehr* v. *Lewin* decision, and through further state legislative, state court, and federal legal action, an overwhelming majority of Americans lived in states permitting gay marriage. Later that same year, the gay rights movement's fight for marriage equality culminated in victory following the U.S. Supreme Court's *Obergefell* v. *Hodges* decision.

Figure 5.2: Adoption of Pro-Gay Marriage Policies by U.S. State by Venues, 1995 – 2010
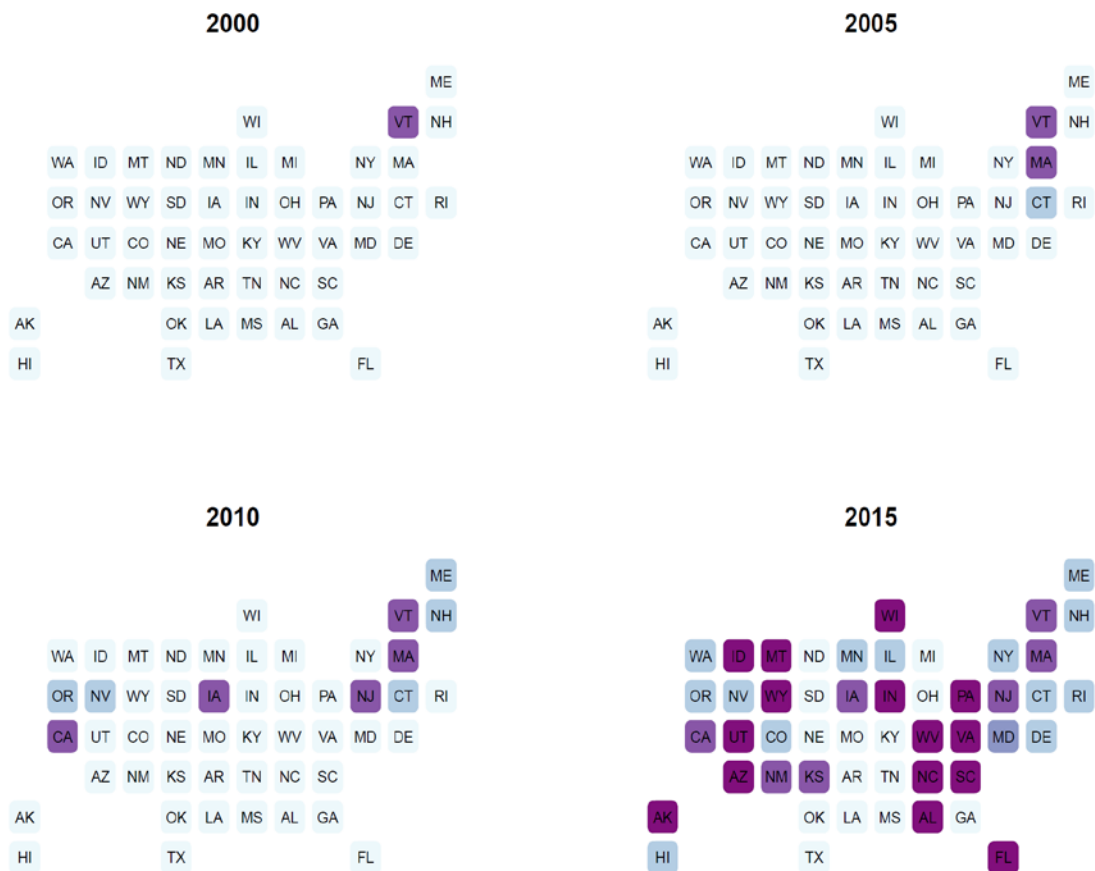
Notes: State maps display adoption of pro-gay marriage policies by venue in 2000, 2005, 2010, and 2015. "Leg" = Legislature, "Leg. Ref" = Legislative Referendum, "CI" = Citizen Initiative, "St. Court" = State Court, and "Fed. Court" = Federal Court. States pursued same-sex unions via the legislature, legislative referendum, citizen initiative, state courts, federal courts, or multiple venues at different points in time. Only the first venue in a state where marriage equality was successfully achieved is represented here. See Tables D.1 and D.2 in the Appendix for a full chronology of anti- and pro-gay marriage policies pursued in every state.

This historical account of the movement for and countermovement against gay marriage by way of multiple institutional venues documents the spread of anti- and pro-gay marriage policies. But homophily in policy adoption is not the same as policy diffusion. The latter involves external forces at play even after considering internal forces. The next section details what other scholars have found regarding the spread of anti-gay marriage policies, how accounting for political learning and countermobilization efforts might matter, and how we can further leverage our understanding the dynamics of diffusion by modeling policies' propagation via multiple arenas.

Past Diffusion Research of Gay Marriage Policies

Multiple scholars have studied the adoption of gay marriage bans across U.S. states (Barclay and Fisher 2003, 2008; Camp 2008; Haider-Markel 2000, 2001a, 2001b; Hume 2011; Lewis 2011; Lupia et al. 2010; Soule 2004). Not surprisingly following the narrative above, Haider-Markel (2001) found that national- and state-level conservative religious groups drove the transmission of statutory gay marriage bans. This conclusion challenged the thinking at the time—that states primarily looked to and pursued the policies adopted by their geographic neighbors (Berry and Berry 1990; Walker 1969). Rather, Haider-Markel's results coincided with the concurrent findings that the diffusion of morality policies behaves differently relative to other issue areas (Mooney 2001; Mooney and Lee 1995, 1999). Instead of following an incremental learning or even geographic process, policies involving competition around values appear to spread more rapidly (Boushey 2010) and are more dependent on public opinion than outside forces.

Barclay and Fisher (2003) attributed the passage of legislative bans to their timing during election years, the percentage of residents with a college education, the number of localities in the state that provided domestic partnership coverage, and the strength of an LGBT presence in the state. Similarly, Soule (2004) showed that a state's adoption of a statutory ban on same-sex marriage was mostly due to a state's prior policy activity on sodomy bans and hate crime legislation, citizen ideology, interest group activity by the religious right and gay rights movement, and Congress's passage of DOMA in 1996. Meanwhile, Barclay and Fisher (2008) were the only scholars to test (albeit indirectly) and offer some evidence of policy learning.

Hume (2011), Lupia et al. (2010), and Lewis (2011, 2013), however, offer institutional explanations for states' adoption of anti-gay marriage policies, especially constitutional amendments outlawing same-sex unions. Hume (2011) attributes that the adoption of constitutional amendments

banning gay marriage to the capacity of state high courts. Policy actors in states with more professionalized courts of last resort that are more likely to protect minority rights appear to press for constitutional bans to curb the judiciary's power. Lupia et al. (2010) find that a state's degree of difficulty in amending its constitution largely dictates whether a state enshrines a traditional definition of marriage into its canon. Direct democracy states, for example, were much more likely to pursue and adopt such amendments, compared to non-direct democracy states. Lewis's (2011, 2013) research further supports this conclusion. Depending on different measures for a state's level and use of direct democracy, Lewis shows that states permitting plebiscitary action were indeed more likely to adopt laws banning gay marriage.

Taken altogether, past research trying to parse the internal and external forces driving anti-gay marriage policies has identified the following factors: national and state interest groups, federal-level influence from Congress or the Supreme Court, and the ease of amending state laws or constitutions, among other internal institutional factors. While these certainly comprise many of the pieces, the puzzle remains incomplete. I believe four key parts are still missing.

Four Missing Pieces to the Puzzle

First, scholarship on this policy has largely treated the adoption of a statute, constitutional amendment via legislative referendum, or constitutional amendment via citizen initiative as equivalent. Researchers' focus was on the propensity to adopt rather than the arena where the policy was adopted. Typical of past diffusion scholarship, the policy output—gay marriage ban—rather than the input—venue to achieve such prohibitions—was the star. Because institutional settings are crucial to policy change and the policy process, the variation on venue should also be accounted for in our models. For those policy ideas only pursued via one forum, institutional variables specific to that venue would suffice. But for the number of innovations pursued over multiple paths, the

variation across and competition between institutional arrangements need to be accounted for to correctly capture the external and internal mechanisms at play. Incorporating the different, competing arenas in our modeling strategies allows us to determine which factors matter for achieving policy change in a venue. This richer understanding will further help unpack the remaining black box of the policy process.

The second piece absent from our understanding of the fight for marriage equality is accounting for pro-gay marriage policy successes in our models. Knowing the power and role of interest groups in the policy process (Balla 2001; Gray and Lowery 1996; Mintrom 1997; Nownes and Lipinski 2005; Wolak et al. 2002), earlier research did control for the presence, size, and capacity of both the religious right and gay rights interest groups. In fact, numerous different measures over the years have been employed to capture the religious right and gay rights movements' state-level interest group presence. To operationalize the religious right, scholars have relied on percentage of state population that identifies as Evangelical Protestant or Roman Catholic (Fleischmann and Moyer 2009; Haider-Markel 2007; Thomas and Hrebenar 2008), the number of state-affiliated Focus on the Family Councils (Soule 2004), the ratio of religious right interest groups to total groups in the state (Conger and Djupe 2016), among other approaches. To measure the gay rights movement, researchers have used the membership rate per capita in national LGBT groups (Haider-Markel 2001a, 2001b), estimates of proportion of state residents identifying as LGBT (Taylor et. al 2012), the number of openly-gay state legislators (Haider-Markel 2007), the number of Gay and Lesbian community centers or pro-gay groups in the state (Kane 2003; Soule 2004), or the proportion of LGBT groups to total interests in the state (Conger and Djupe 2016), to name a few.

Despite these excellent attempts to account for the role of interest groups in the diffusion process of anti-gay marriage policies, most of the research failed to account for the gay rights movements' policy successes on the marriage front. Lewis (2011) is the only article to my knowledge

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that includes whether states had allowed civil unions or domestic partnerships in some capacity. Lewis finds that states with such laws were more likely to adopt bans on same-sex marriage since they had provided an "alternative" for same-sex couples, although it is unclear whether these "alternatives" preceded or succeeded the bans. Still, despite recognizing the reciprocal nature between social movements and countermovements (Austen-Smith and Wright 1994; Meyer and Staggenborg 1996), we do not know how the successful adoption of pro-gay marriage policies affected the spread of anti-gay marriage policies.

Paralleling the second omission in our understanding of the policy fight over gay marriage, the third missing piece of the puzzle is that no scholar has examined the diffusion of affirmative same-sex marriage policies. This is somewhat surprising because it was the possibility of same-sex unions in Hawaii that galvanized the countermobilization on the right. And although the transmission of pro-gay marriage innovations was more gradual than the acute diffusion of anti-gay marriage policies, they were innovations, nonetheless. Scholars likely overlooked the adoption of pro-gay marriage policies because most wins occurred so late in the cycle of the movement, between 2005 and 2015. But researchers may have also marginalized the fight for marriage equality because success happened initially via state supreme courts rather than in state capitols and at the ballot box. As Chapter 3 pointed out, save for a few dozen articles, diffusion scholars have largely discounted policies that spread outside the legislative context.

The fourth piece missing from the puzzle in our understanding of the policy activity around gay rights is accounting for the *political learning* that happens. Recall from Chapter 4 that May (1992) identified two fundamental types of learning in the policy process: *policy learning* and *political learning*. Policy learning involves drawing lessons from the "social construction of the policy problems, the scope of policy, or policy goals," or even about the viability of the policy innovation, its design, and implementation (May 1992: 332). Since the diffusion process is treated as an incremental learning

process, scholars have proposed policy learning as a key mechanism for the spread of new ideas (Gilardi 2010, 2016; Shipan and Volden 2008). Researchers have modeled policy learning as the cumulative number or proportion of states successfully adopting the innovation, the degree to which the policy achieved its intended outcome (Volden 2006), or the policy's impact (Gilardi 2016; Shipan and Volden 2014).

But diffusion scholars' prioritization of policy learning has sidelined the political learning that also occurs. Political learning is the gaining of information about how to "maneuver within and manipulate the policy process to advance an idea or policy" (May 1992: 340; see also Freeman 2008; Rose 1991). Political learning it is part of the pre-contemplation and knowledge-gathering stage articulated by Rogers (1962). As policy actors learn about available solutions to a common problem, they also learn *how* to feasibly pursue the policy proposal (May 1992). It is possible that political learning matters as much or more than policy learning in explaining the spread of policy adoptions across governmental jurisdictions. Only one scholarly work to my knowledge has tried to test empirically the impact of political learning. Seljan and Weller (2011) found evidence that the failure of states to adopt tax and expenditure limits via direct democracy affected neighboring states' decisions to pursue the policy. Policy actors in states drew lessons from early movers about the feasibility and political process, thus affecting their choice whether to seek a policy change.

As Chapter 4 laid out, an essential aspect of political learning is gaining information about the most favorable venue to pursue policy change. Although policy actors certainly consider their capacities, institutional settings, and political environments in shopping for a favorable venue (Holyoke, Brown, and Henig 2012; Sabatier and Jenkins-Smith 1993), they also might look to and learn from others (Ley and Weber 2015; Pralle 2003). Policy actors, facing limited time, attention, and resources, are boundedly rational (Lubell 2003). Thus, they satisfice and decide which path to take by considering, at least partly, where other policy entrepreneurs and actors have successfully

achieved policy change. Given the vast interdependencies in the policy process, it is more likely that policy actors learn from the venue shopping processes in previous states.

I mainly expect political learning to have a positive effect on the venue shopping process of others. Nonetheless, Pacheco (2017) reminds us that policy actors also learn from failures and that policy diffusion is not always a positive feedback process. For example, the pursuit of a specific venue or passage of a policy in one state may yield positive spillover effects in neighboring states, thus inducing free-rider dynamics (Franzese and Hayes 2006; Pacheco 2017) and no need for neighboring states to pursue or adopt the given policy. Therefore, political learning may also produce a negative effect on venue choice or policy enactment.

Because venue shopping is such an integral part of the agenda-setting process, I opt to model *political learning* as the cumulative proportion of states that were successful when they pursued a policy innovation *via a given venue* in a particular year. While policy learning involves seeing how many other states adopt a new idea irrespective of the venue, political learning involves seeing which paths are most favorable. I believe political learning has been sidelined in the past because scholars have focused on how an innovation has spread from one legislative context to another legislative context. When only one forum is involved, variation in the dependent variable does not exist and empirically parsing political learning (success via a given venue) from policy learning (success overall) is near impossible. Importantly, political learning still occurs in these myopic contexts but is too entangled with policy learning to tell them apart. Therefore, when an innovation is pursued in multiple arenas, we can leverage this variation to determine the effect of both learning processes.[52]

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[52] It is worth pointing out, however, that political learning could be captured in other ways. Although, I measure political learning as the proportion of states that pursue a new policy *and* successfully adopt the policy via a given venue, the theory of political learning involves more than simply looking for the most successful path. For example, states may strategically look to others similar along an institutional dimension. Policy scholars have shown that direct democracy states behave differently than non-direct democracy states (Boehmke 2005; Bowler and Donovan 2004; Lewis 2011, 2013). And diffusion scholars find that policy actors look to states with similar degrees of legislative professionalism, supreme court professionalism, and difficulty in amending state constitutions (Fay and Wenger 2015; Hume 2011; Lupia et al. 2010; Shipan and Volden 2006; Yates, Tankersley, and Brace 2010). These actions imply a purposive search of

Since past research missed these four pieces of the gay marriage diffusion puzzle—accounting for adoption via multiple venues, acknowledging opposition success, mapping the spread of pro-gay marriage policies, and considering political learning, I revisit these elements in the succeeding sections. Specifically, I retest the prior conclusions reached by scholars on the dissemination of anti-same-sex marriage policies by including pro-gay marriage policy successes and political learning in the analyses. I also model the spread of anti- and pro-gay marriage policies across *multiple* institutions, leveraging the variation afforded the different arenas. Finally, I explain how these results better inform our understanding of policy diffusion in the context of gay marriage and beyond.

The Diffusion of Gay Marriage Policies: Expectations

Building on past research regarding the internal and external forces that drive policy change, and adding the missed pieces discussed above, I lay out revised expectations for why anti- and pro-gay marriage policies may have spread across U.S. states. As discussed in the previous section, political learning—drawing lessons from the successful tactics and venues pursued in earlier adopters—may drive the successful adoption of both anti- and pro-same-sex union policies. In the context of gay marriage, I anticipate that as conservative actors and fundamentalist Christian organizations successfully enact a ban on gay marriage via a venue in one state, subsequent actors will learn from others' calculations in picking a venue to achieve triumph in their state when they pursue similar bans. Likewise, as more gay rights groups effectively achieve marriage equality by way of a venue, actors in other states will learn from these tactical maneuvers and be more successful in pursuing pro-gay marriage policies in their states. I expect that political knowledge gained from the

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institutional information to aid in picking a venue. Looking to one's institutional peers may also suggest political learning. Thus, political learning may merit an even broader measurement strategy.

successful venue shopping strategy in one subunit will transfer to and make policy actors more effective in achieving that policy in their state. Successful policy adoption should be more likely precisely because subsequent actors largely follow the venue choice of like-minded predecessors. As such, I propose the following central hypothesis:

H₁: Political Learning: *The likelihood of a state adopting an anti-gay (pro-gay) marriage policy increases as the proportion of states successfully pursuing that policy via a given venue increases.*

However, prior scholarship has identified plausible, alternative external mechanisms that may also influence the adoption of gay marriage policies. In facing a common societal problem, policy actors may satisfice and look for available solutions, regardless of how or where those solutions got adopted. As initial states adopt such policies, others will learn about the available solutions and follow suit (Shipan and Volden 2008; Karch et al. 2016). Nonetheless, since the fight over same-sex marriage involves a morality policy area, few scholars expect an incremental learning process (Mooney 2001; Mooney and Lee 1995, 1999). Instead, scholars expect an acute response driven by contagion and public opinion. Still, Barclay and Fisher (2008) indirectly test the policy learning mechanism and do find some evidence that states are more likely to pursue a ban on same-sex unions as the number of other states considering such bans increases. As such, I offer the following hypothesis:

H₂: Policy Learning: *The likelihood of a state adopting an anti-gay (pro-gay) marriage policy increases as the number of other states adopting the policy increases.*

Another possibility is that policy actors may emulate the policy adoption of peer states. Perhaps states look to and copy the policies adopted by their contiguous geographic neighbors (Berry and Berry 1990; Berry and Baybeck 2005; Cohen-Vogel and Ingle 2007). In the search for potential solutions, it may be easiest to look next door. Although Haider-Markel (2001) did not find

evidence of a regional diffusion effect, Hume (2011) and Lewis (2011) observed an effect in their models. To test this mechanism, I put forward the following hypothesis:

> **H₃: Geographic Neighbor:** *The likelihood of a state adopting an anti-gay (pro-gay) marriage policy increases as the proportion of contiguous neighboring states adopting the same policy increases.*

The federal government can often encourage or discourage policy adoption across states (e.g., Karch 2006, 2012; Shipan and Volden 2006, 2008). Pertinent for my examination of same-sex marriage policies, Congress passed the Defense of Marriage Act (DOMA) in 1996 defining marriage for federal purposes as a union between a man and woman and allowing states to reject same-sex unions performed in other states. Moreover, the Supreme Court's 2003 ruling in *Lawrence* v. *Texas* struck down the states' anti-sodomy laws, while the High Court's 2013 ruling in *United States* v. *Windsor* invalidated DOMA. Federal government involvement in the fragmented American system could influence the spread of both anti- and pro-gay-marriage policies across sub-national units. Hence, I hypothesize:

> **H₄: Federal-Level Intervention:** *The likelihood of a state adopting an anti-gay (pro-gay) marriage policy increases / decreases as federal-level intervention in the issue area occurs.*

Related to direct federal-government activity on the issue, the national political environment can also affect the adoption of policies. Multiple researchers have demonstrated that the salience of an problem or policy can hasten or hinder action across governmental units (Boushey 2010; Makse and Volden 2011; Nicholson-Crotty 2009). Crisis or focusing events can force and sustain an issue on the policy agenda (Baumgartner and Jones 1993). As national attention increases, policymakers and interest groups may be more or less likely to enact a particular policy. Because state legislators are electorally motivated and the least institutionally constrained to press for policy change, I anticipate that national attention will increase or decrease state legislatures' propensity to act. In addition, the timing of certain national events, such as presidential elections, may also prompt policy

action (Berry and Berry 1990, 1992; Mintrom and Vergari 1998) Although Smith, DeSantis, and Kassel (2006) do not find evidence that anti-gay marriage ballot measures increased turnout during the November 2004 presidential election, the timing of the propositions could have influenced the constituency that turned up at the poles. Given the potential for the national context to increase or decrease the adoption of such policies, I submit the following hypothesis:

> **H₅: National Environment:** *The likelihood of a state pursuing a policy via a given venue increases / decreases as the national environment on the issue area ebbs and flows.*

Prior research has also identified how interest group activity can affect policy adoption (Boehmke 2005; Mintrom and Vergari 1998). As the narrative above recounting the mobilization for and countermovement against gay marriage explained, conservative and religious right networks and gay rights groups were pivotal to the passage of anti- and pro-gay marriage policies (Barclay and Fisher 2003; Haider-Markel 2000, 2001; Haider-Markel and Meier 2003; Lewis 2011; Soule 2004). Although past scholars accounted for the size, capacity, or resources of these organized interests, they failed to account for the success of the opposing side. Numerous studies have documented how one side's actions can spur a response by the opposite side (Austen-Smith and Wright 1994; Conger and Djupe 2016; Kane 2010; Meyer and Staggenborg 1996; Stone 2012). Even the fear or threat of action by the opposition can produce "anticipatory countermobilizations" (Dorf and Tarrow 2014). As such, in addition to controlling for the size of state-level interests in the fight over gay marriage, I also account for the opposition's policy wins regardless of the venue where they occurred. In the context of anti-gay marriage policies, this implies that the enactment of marriage equality in some states should influence the policy action by the religious right. In contrast, the passage of policies curtailing same-sex unions should affect the LGBT epistemic community's efforts to press for policy change. I propose:

H₆: Opposition Success: *The likelihood of a state adopting an anti-gay (pro-gay) marriage policy increases as the number of opposition policy successes increase.*

In summary, I expect that political learning, gaining information about successful paths taken by early movers, will affect the adoption of anti- or pro-gay marriage policies in subsequent states. However, other external forces---including, how many other states pass the policy, whether state neighbors enact, federal government involvement and national environment contexts, and policy successes by the opposition---could also drive subnational policy activity on gay marriage. Still, state internal factors should also influence policy change. Although I do not list out separate hypotheses for these internal forces, based upon previous policy diffusion research, I anticipate that a state's institutional arrangements, political context, interest group pressure, prior policy adoptions, and demographic determinants could explain why it prohibits or permits same-sex unions. I turn now to a systematic analysis of my hypotheses.

Data and Methods

Data

In this section, I re-examine the policy diffusion of anti-gay marriage policies by resolving the four missing pieces of past research. To do so, I constructed the relevant data universe of anti- and pro-gay marriage policies pursued and adopted via multiple institutional venues across U.S. states. Unlike most policy diffusion studies that model binary policy adoptions irrespective of venue, my claims rest on accounting for *successful and failed policy attempts via multiple venues*. For example, California's legislature failed to pass a ban on same-sex unions in 1997, but a Californian citizen initiative proscribing gay marriage did succeed in 2000. Standard diffusion models would only record California's adoption of the innovation in 2000, ignoring the rich information from California's legislative attempt in 1997. Because policy actors not only learn about new innovations but also draw

lessons from the fruitful and foiled political tactics (including choice of venue) employed in earlier

states to pursue those innovations, accounting for this in the data is crucial to telling the story.

As such, I searched for and compiled successful and failed anti- and pro-gay marriage policy

attempts via manifold forums in all U.S. states since the early 1970s. I relied on and triangulated data

from myriad sources, including Freedom to Marry (2015), Haider-Markel (2000, 2001), Hume

(2011), Keck (2009), Lewis (2011), National Conference of State Legislatures (NCSL), the National

Gay and Lesbian Task Force (2013), Pinello (2015), Stewart (2015), and Thompson (1994). See

Tables C.1 and C.2 in the Appendix for a full chronology of the anti- and pro-gay marriage policies

pursued by venue type in each U.S. state.[53]

For my purposes here, states enter the risk set of adopting an anti- or pro- gay marriage

policy following Hawaii Supreme Court's *Baehr* decision in 1993 and exit the set before or on 2015

when the *Obergefell* ruling settled the issue. Although other state courts adjudicated similar cases

decades before the Baehr ruling and even though Hawaii's high court later ruled against same-sex

marriage, the opinion was the first genuine opening for gay marriage in America.[54] Furthermore, if a

state passed a statutory or regulatory restriction before 1993, it is also not included in the risk set.[55]

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[53] A few additional notes regarding the anti- and pro-gay marriage events included in the chronology and analyses: I only incorporate civil unions and domestic partnerships that extended governmental and legal benefits to same-sex couples mirroring the benefits provided via marriage. Only those state court cases appealed to and taken up by a state's highest court are included in the analyses. Court cases, legislation, or executive orders extending rights of divorce to same-sex couples are also not included as events since those policies did not affirm a right to a union for gay couples. In the same vein, although multiple court cases and policies over the decades dealt with other gay rights issues, the policy events here explicitly pertain to marriage equality. Finally, legislative votes to convene a state constitutional convention, with the possibility of voting on gay marriage issues, are also not considered in the analyses because conventions rarely occur (e.g., once every ten years for many states) and open the door for policy considerations in other issue areas.
[54] Minnesota's Supreme Court was the first state court to uphold a definition of marriage as between one man and one woman in 1971 (*Baker* v. *Nelson*), with at least ten other state courts issuing similar rulings: Washington, Kentucky, Alaska, Florida, Hawaii, Illinois, Iowa, New Hampshire, South Dakota, and Utah (Haider-Markel 2001b; Soule 2004)
[55] Several states adopted direct or indirect statutory or regulatory language denying same-sex couples the right to marry prior to the 1993 ruling in Hawaii. I document that eleven states had such laws on the books or in their family code: Arizona in 1975; Florida in 1977; Indiana in 1986; Louisiana in 1988; Maryland in 1973; New Hampshire in 1987; Oklahoma in 1975; Texas 1973; Utah in 1977; Virginia in 1975; Wyoming in 1977 (Freedom to Marry 2015; National Gay and Lesbian Task Force 2013; Soule 2004; Stewart 2015; and Thompson 1994). California's legislature passed similar legislation in 1977 but was never signed into law by the governor. Nonetheless, even accounting for the states that had previously adopted such policies with a dummy variable, the key findings in this chapter remain.

The key dependent variable in this section is whether a state adopted an anti-gay marriage policy via the legislature, legislative referendum, or citizen initiative in a given state-year from 1993 – 2015.[56] Accordingly, the unit of analysis is state-venue-year, where units take on a value of 0 until states adopt a prohibition on same-sex unions via the given forum, when those state-venue-years take on a value of 1. Since states are at risk of passing an anti-gay marriage policy via three venues at the same point in time, this affords a maximum of $50_{states} * 3_{venues} * 23_{years} =$

$3,450_{observations}$. To account for the risk of policy adoption via each arena, I pool the observations from each venue into one dataset. Those states that do not permit citizen initiatives are controlled for in the models since they are not at risk of adopting an anti-gay marriage policy via a citizen ballot measure.

In Event History Analysis, the traditional approach to modeling policy diffusion, units depart the risk set after experiencing the event of interest. Here, states may leave the risk set for one venue upon adopting a policy in that venue but remain in the risk set for the other venues until they enact policies in those venues. Importantly, however, because several states continued to pursue additional bans via the same venue even after adopting an initial ban (e.g., Idaho, Texas, Utah, Virginia via legislature), there is a possibility of repeated events in the dataset. That is, states may experience additional unordered events after initial adoptions in a given venue. Therefore, states exit the risk set after they have successfully adopted an anti-gay marriage policy via a given forum, or after enacting additional policies via those venues if they were possible (Boehmke 2009a; Box-Steffensmeier and Jones 2004; Box-Steffensmeier and Zorn 2002; Buckley and Westerland 2004; Jones and Branton 2005).

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[56] Two states—Alabama and Mississippi—pursued limited same-sex marriage bans via gubernatorial executive orders in 1996. This venue option is not included in the pooled models because the events were rare; because both states enacted bans via their legislatures in 1998 and 1997, respectively; and because adding this additional venue could inflate the number of zeros and potentially overleverage the ones in the dataset (Boehmke 2009b).

For instance, the Idaho Legislature amended its marriage laws in 1995 defining marital union as between a man and a woman. Idaho's legislature passed further language prohibiting the recognition of same-sex unions performed in other states in 1996. As a result, Idaho does not drop out of the dataset for the legislative venue units until 1996 due to the repeated event, even though it successfully passed its first bill in 1995. As a point of clarification, *successful* policy enactment implies the passage *and* implementation of the policy. If a state legislature adopted statutory language prohibiting same-sex unions but the governor vetoed the legislation, this event would not be coded as a success.

Variable Operationalization

The Political Learning hypothesis (H_1) holds that as the proportion of states that successfully pursue an anti-gay marriage policy via a given venue increases, other states will be more likely to adopt a similar policy. I operationalize my main independent variable—***Political Learning***—as the total number of states that successfully adopted the policy via the given venue at time t, divided by the total number of states that pursued the policy via that venue at time t. Fundamentally, the political learning variable is a proportion variable capturing the cumulative success rate in each distinct venue by a given year.[57]

To illustrate further, consider political learning's numerical values for states pursuing prohibitions on same-sex unions via legislative action at three points in time: 1993, 1994, and 1997. In 1993, following the Hawaiian Supreme Court's *Baehr* decision, no state legislature pushed to proscribe gay marriage that year, so the political learning variable takes on a value of 0 for those fifty state-venue-year units. By 1994, the Hawaiian legislature was the first to pass specific statutory

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[57] $Political\ Learning_{by\ venue} = \dfrac{Cumulative\ number\ of\ states\ that\ successfully\ adopted\ policy\ in\ the\ given\ venue\ by\ time\ t}{Cumulative\ number\ of\ states\ that\ pursued\ policy\ in\ the\ given\ venue\ by\ time\ t}$

language banning same-sex marriage. Because the success rate in that arena in 1994 was one hundred percent (with only Hawaii trying and successfully adopting the bill), the political learning variable takes on a value of 1.0 for those fifty state-venue-year units. At that point, all the states (i.e., Hawaii) that tried to pass statutory language outlawing gay marriage via the legislature succeeded. However, by 1997, only 27 out of 33 state legislatures had successfully banned gay marriage. Therefore, political learning takes on a value of 0.818 for those fifty state-venue-year units in 1997. Still, political learning's values for observations associated with legislative referenda or citizen initiatives take on a value of 0 for 1993, 1994, and 1997 because action in these venues did not occur until 1998 and 2000 for legislative referenda and citizen initiatives, respectively. Importantly, political learning's values for states are contingent on and thus vary by the venue under consideration.

I anticipate a positive coefficient for political learning across all venues. As more states successfully alter the status quo via a given site, policy actors in other states will learn from this, thus increasing their propensity for success in their states. Nonetheless, depending on the success rate via a given venue, political learning may be attenuated. Moreover, a negative coefficient could still offer evidence of political learning, perhaps pointing to a complicated policy process in leader states convincing laggard states to shy away from that arena.

The second mechanism articulated in H_2 is Policy Learning, where a state's potential for adopting an anti-gay marriage policy is partly a function of other states' decisions to pass a ban on same-sex unions. I measure *Policy Learning* in two different ways. In one approach, I capture policy learning as the cumulative number of states opting to prohibit gay marriage irrespective of venue. For a different approach, I operationalize policy learning as three separate variables: *Policy Learning from Legislature*, *Policy Learning from Legislative Referendum*, and *Policy Learning from Citizen Initiative*. Each variable captures the cumulative number of states enacting a gay marriage ban by the respective venue type. Regardless of the measurement approach, I

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anticipate that as more states adopt an anti-gay marriage policy, other states will learn from these "policy solutions" and be more likely to follow.

To test the regional effect hypothesis (H$_3$), I created the ***Geographic Neighbor*** variable as the proportion of geographically contiguous neighbors that had adopted an anti-gay marriage policy regardless of venue. I rely on Berry and Berry's (1990) classification of geographic neighbors, with one exception: I treat Alaska and Hawaii as a neighbor pair. I expect that as more of a state's neighbors prohibit same-sex marriage, the state will also be more likely to block equal rights for gay couples. I expect a positive coefficient for this variable.

The Federal-Level Intervention hypothesis (H$_4$) predicts that federal government involvement in an issue will lead to an increase or decrease in state-level policy activity depending on the type of engagement. In the context of efforts to curtail same-sex marriage, I capture federal-level intervention with two variables. First, ***Federal Government DOMA*** takes on a value of 1 for the years following the Congress's passage of the Defense of Marriage Act in 1996. I suppose that the national government's action to outlaw the federal recognition of gay marriage would spur states to take similar action. However, it is also conceivable that early and massive state-level action snowballed, convincing the federal government to act (Shipan and Volden 2006). Therefore, a negative relationship between the DOMA variable and policy adoption is also possible. Second, ***Lawrence*** v. ***Texas Supreme Court Decision*** takes on a value of 1 for the years following the U.S. Supreme Court's 2003 ruling declaring sodomy bans unconstitutional. Following this at-the-time "controversial" decision and the religious right's response (Smith 2008), I anticipate that states will be more likely to adopt an anti-gay marriage policy, especially state constitutional bans via legislative referendum or plebiscitary action.

To test the National Environment Hypothesis (H$_5$), where heightened national attention around an issue should spur or stall policy change, I rely on two variables. To capture national

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salience around marriage equality, I construct a **NYT Issue Salience** variable providing the

cumulative number of *New York Times'* stories on gay marriage during the year. I am agnostic as to

whether such heightened attention will have a positive or negative effect on a state's policy adoption.

On the one hand, greater issue awareness could spark a backlash, pushing policy actors and the

public to call for further bans. On the other hand, increased focus on the issue and LGBT

community could slow restrictions of minority rights. Presidential elections also tend to put

contentious issues in the spotlight and provide opportunities to mobilize fellow partisans around a

cause. I suggest that states will be more likely to adopt an anti-gay marriage ban during presidential

election years. I depend on **Presidential Election Year**, where a value of 1 represents a national

election in that calendar year.

To test the last external mechanism, opposition policy success, I construct a **Pro-Gay**

marriage Counter variable which comprises the cumulative number of pro-gay marriage policies

adopted across the country by year. Following the Opposition Success hypothesis (H_6), I predict

greater opposition success and adoption of pro-gay marriage policies will foster an increase in

countermovement efforts to adopt anti-gay marriage policies. In turn, I anticipate a positive

coefficient for this variable.

External factors, however, are not the only drivers of policy change. Internal institutional,

political, interest group, policy environment, and demographic factors may also affect whether a

state adopts an anti- or pro-gay marriage policy, regardless of what other states do. For a state's

institutional attributes, I include three key variables previously found to influence the policy process:

legislative professionalism, state supreme court professionalism, and ease of amending the state

constitution. We know that legislatures with more considerable resources and capacity are more

likely to act (Squire 2007; Bowen and Greene 2014). More professional legislatures may try to

preempt policy activity in other venues to achieve an outcome more in line with legislators'

preferences (Boehmke et al. 2015; Boehmke and Shipan 2015; Dumas 2017; Gerber 1996). Or, depending on how contentious the issue, more astute and electorally mindful legislators may "pass the buck" to other venues, allowing the electorate to decide via legislative referendum or an interest group's citizen initiative. I rely on Bowen and Greene's (2014) first dimension measure of *Legislative Professionalism*, where higher values indicate a more professional state house and senate. Overall, I assume legislative professionalism will have a positive effect on policy adoption.

The professionalization of a state's court of last resort may also influence a policy's success or failure (Squire 2008; Yates, Tankersley, and Brace 2010). Hume (2011) finds that supreme courts with higher capacity are more likely to adopt constitutional amendments banning gay marriage since opponents of same-sex unions feared the more professionalized judiciary would use its power to curb any legislative action on the issue. I concur with Hume's (2011) expectations and use Squire's (2008) measure of *State Supreme Court Professionalism*, where higher values indicate a more resource-ready and qualified judiciary. The degree in difficulty in amending a state's constitution may also help or hinder policy adoption, especially constitutional bans to prohibit gay marriage (Dinan 2018; Fay and Wenger 2015; Hume 2011; Lupia et al. 2010; Lutz 1994). I follow Lupia et al.'s (2010) operationalization of *Difficulty Amending State Constitution* as a range from 1 for states that only require enough signatures for an amendment to make it on the ballot to 4 for states that require both legislative approval via multiple sessions and a voter supermajority to modify the constitution. Essentially, direct democracy states that allow direct or indirect citizen initiatives score lower on the scale, while non-direct democracy states score higher on the scale capturing difficulty in amending the state constitution. I suppose that as the institutional hurdles to achieve policy change increase, the likelihood of adopting an anti-gay marriage policy will decrease.

Turning to political considerations, I include three variables. Because the partisan control of legislative and executive branches of government could explain the enactment of pro- or anti-gay

marriage policies (Calvert et al. 1989; Camp 2008; Goggin et al. 1990; Hinchliffe and Lee 2016), I control for *State Government Party Control*. The covariate takes on a value of 0 for unified Republican control, 0.5 for bipartisan control, and 1 for unified Democratic control of both state legislative chambers and governor's mansion. I expect that states with bipartisan or Democratic control of state government will be less likely to adopt a ban on same-sex unions. Similarly, the ideological direction of actors within a venue might make them more responsive to an issue (Brace and Hall 2001; Butler et al. 2015; Desmarais, Harden, and Boehmke 2015; Holyoke, Brown, and Henig 2012; Volden 2015). In turn, I control for *State Supreme Court Ideology* using Bonica and Woodruff's (2015) measure, where positive scores indicate a more conservative judiciary. Since more liberal state supreme court justices may have a greater penchant for protecting minority rights, I predict a positive coefficient for this variable. Successful adoption of a same-sex marriage bill or ban may also depend on public attitudes toward gay marriage (Enns and Koch 2013; Erikson, Wright and McIver 1993; Lax and Phillips 2009; Pacheco 2011, 2014; Wright, Erikson, and McIver 1987). Relying on Lewis and Jacobsmeier's (2017) new state-level estimates of *Public Support for Gay Marriage* from their MRP analysis, I anticipate more favorable attitudes will make the adoption of a ban less likely.

Given national, state, and local religious right organizations' role in advancing bans on same-sex unions throughout the U.S. and given the counter efforts by national and subnational LGBT networks, I also control for state-level interest groups' influence on policy change. Despite scholars offering different measures to capture interest-group presence and pressure, no current measures are the same for the religious right and gay rights groups, nor do they cover the full time period. As such, I follow other scholars' lead (Colvin 2004; Fleischmann and Moyer 2009; Lax and Phillips 2009; Lewis 2011) and rely on the percentage of a state's population that identifies as Evangelical Christian or member of the Church of Jesus Christ of Latter-day Saints as a surrogate for the

conservative religious groups.[58] I proxy gay rights groups' presence in a state as the percentage of the population that identifies as LGBT. Both measures come from estimates provided by Taylor et al. (2019). I suppose a positive coefficient for the *Evangelical Population* variable and a negative coefficient for the *LGBT Population* variable.

Because policy makes mass politics (Campbell 2012), a state's prior policy adoptions related to gay rights may also drive a state's propensity to prohibit or permit same-sex unions. I consider whether a state adopted and had in place a ban on sodomy, which were frequently used to target gay couples engaged in consensual sex. *Sodomy Ban* takes on a value of 1 if a state still had a ban on the books.[59] Much like Soule (2004), I suppose states with sodomy bans are more likely to adopt an anti-gay marriage policy. I also include whether a state passed *LGBT Hate Crime Law* to increase penalties for crimes committed against individuals based on sexual orientation. I expect a negative coefficient for this variable since states receptive to seeking justice for gays as a protected class should be less likely to deny marriage equality to LGBT individuals (Earl and Soule 2001).

Finally, following past advice on known determinants of policy change related to gay marriage, I also include three state-level demographic controls. First, I include the percentage *Racial / Ethnic Minority Population* for a state since African Americans and Latinos were less supportive of gay marriage than their white counterparts (Colvin 2004; Lewis and Gossett 2008). Second, I consider the percentage of a state's residents 25-years old and older that have earned a college degree. As a state's *Population with College Degree* increases, I suppose a decrease in the propensity to adopt a ban on gay marriage since higher education breeds greater tolerance (Barclay

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[58] Although members of the Mormon Church (Church of Jesus Christ of Latter-day Saints) are not directly correspondent to conservative Evangelical Christians, leaders from both groups oppose gay marriage. Hence, I include both groups in the Evangelical Population measure. By omitting Mormons from the measure, conservative religious influence would be minimized in many Western states.

[59] Following the 2003 U.S. Supreme Court Lawrence v. Texas decision, sodomy bans were declared unconstitutional. States with bans in the dataset prior to 2003 retain their 2003 values through 2015. Even though the Court ruling deemed those policies unconstitutional, those values remain in the dataset as they are indicative of the state's prior policy context and propensity with regard to the issue of gay marriage.

and Fisher 2003; Fleischmann and Moyer 2009; Haider-Markel and Meier 1996, 2003). Third, I control for the natural log of **State Population**, since more populous states tend to protect minority rights and thus less likely to pass anti-gay measures (Donovan and Bowler 1998). I expect a positive coefficient for the first covariate and negative coefficients for the following two variables. As an additional note, if variables were missing an observation for a given year, linear interpolation was used to fill the missing value. See Table C.3 in the Appendix for these variables' descriptions, summary statistics, and sources for the anti-gay marriage models.

Methods

Early diffusion studies (e.g., Eyestone 1977; Gray 1973) mapped the spread of policies by modeling the cumulative proportion of states adopting the policy at time t. The method produced the characteristic sinusoidal curve charting the ratio of states that adopted the policy, with steeper slopes suggesting a more rapid diffusion and flatter curves indicating a gradual transmission across states. While this approach captured the propagation of policies across jurisdictions, it did not account for the mechanisms that might cause policy adoption.

Berry and Berry's (1990) article employing Event History Analysis (EHA) to examine the spread of lottery policies across U.S. states changed that. EHA has now become the tool of choice for documenting and analyzing policy diffusion. It is useful because it accounts for policy adoption in each state in each year (state-year unit of analysis), allowing covariates to distinguish between internal (e.g., state resources, politics, institutional settings, opinion) and external (e.g., policy learning, geographic neighbors, federal pressure) factors (Blossfeld, Golsch, and Rohwer 2007; Box-Steffensmeier and Jones 2004; Buckley and Westerland 2004; Volden 2006). EHA is akin to survival or duration analysis where the model determines the "hazard" or "risk" rate of a state pursuing an

innovative policy at a given point of time. Once the state has adopted a policy, it is no longer at risk and drops out of the dataset. The flexible approach still produces the distinctive s-curve for the cumulative frequency of policy adoption across the states reminiscent of early studies. And this approach simultaneously controls for internal and external predictors modeling the mechanisms driving the policy diffusion while appropriately treating censored data.

Many policy diffusion scholars have relied on logistic regression to estimate this type of discrete-time data, calculating a unit's likelihood of policy adoption in a given year. For purposes of comparison with prior diffusion research on this topic, I start with logistic regression to estimate the EHA data. Logistic regression gets its name because a logit link function is used to specify parameters in terms of the log-odds ratio of the probability of the event occurring to it not occurring. The coefficients then are interpreted relative to the log-odds of the event occurring. But, because the interpretation of log-odds is not always straightforward, I provide predicted probabilities and odds-ratios where appropriate. The probability equation for logistic regression is as follows:

$$\Pr(y_i = 1 | x_i) = \frac{\exp{(x_i \beta)}}{1 + \exp{(x_i \beta)}},$$

where the probability of a state adopting a policy, $\Pr(y_i = 1)$, is a function of the covariates, x_i, and the coefficients, β, are expressed as exponentiated logit parameters for each covariate (Box-Steffensmeier and Jones 2004; Long 1997). Results from the logistic regression models for the adoption of gay marriage bans are presented below in Models 1 – 3.

Although standard EHA and logistic regression are useful "hammers," their ubiquity has resulted in scholars treating all cases of policy diffusions as nails. Boehmke (2009a: 229) put it best that the field "has reached a point of diminishing marginal returns from the standard EHA model." Much of the past diffusion research on anti-same-sex marriage policies either focuses solely on policy adoption in one venue (e.g., legislature, legislative referendum, and citizen initiative), or treats

all gay marriage bans as equal, regardless of the path pursued. Yet the external and internal forces

influencing policy change could behave differently for each institutional arena. And there may even

be inter-venue dynamics at play affecting the spread of these innovations.[60]

To account for this, I rely on multinomial, rather than binary, logistic regression. The

multinomial logistic model is a "series of 'linked' logit models" (Box-Steffensmeier and Jones 2004;

Long 1997). For anti-gay marriage policies, there are four separate avenues ($k\ categories$) a state

could take: (0) No Policy Adoption, (1) Adoption via Legislature, (2) Adoption via Legislative

Referendum, and (3) Adoption via Citizen Initiative. Thus, the model estimates three separate

equations ($k-1\ equations$) which are then referenced to a chosen baseline category. In this case,

the reference category is "No Policy Adoption." Although three separate "stand-alone" logit

equations are estimated with the same baseline, the advantage of the multinomial logit in this

context is that it models the competing risk of states enacting a policy via one available venue over

another venue, allowing different covariate estimates for each forum (Boehmke 2009a; Box-

Steffensmeier and Jones 2004; Long 1997). I prioritize uniqueness over parsimony (Boehmke

2009a). This approach should unpack the external and internal factors driving policy change in one

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[60] There have also been more recent adaptations and advances in modeling policy diffusion. Regarding estimators, Cox proportional hazards, complementary log-log, or rare events logit models make fewer assumptions about the functional form of the data generating process (Box-Steffensmeier and Jones 2004). Borrowing from the international relations conflict literature that models disputes between pairs of countries, Volden (2006) introduced the policy diffusion community to a dyadic approach. Treating states as dyads provides a richer specification of the diffusion process by more fully examining the relationship between states. But the nature of the dyadic data structure also increases the number of zeros in the dataset (Gilardi and Füglister 2008), potentially producing "apparent emulations" in the data even if they do not exist in reality (Boehmke 2009b). Given this potential risk, and because I am more interested in the adoption via a particular venue (rather than direct interdependence between states), I opt for a monadic data structure. Furthermore, I employ a multinomial logistic regression estimation strategy. Interpreting coefficients for state dyads across multiple venues may prove too challenging. Other scholars have run separate analyses for each policy component, comparing the determinant covariates across the different models. Taylor et al. (2012), for instance, use a two-stage seemingly unrelated regression model to account for the spread of fourteen different LGBT antidiscrimination policies. In the first stage, they estimate separate EHA models for each policy. In the second stage, they rely on join parameter estimates and covariance matrices to calculate the standard errors for the covariates. Using Chi-squared tests, they can check the difference in covariates by policy. This approach allows them to see how each law's complexity and content affect its diffusion relative to the other policies. See Boehmke (2009a) for several excellent recommendations for when to perform separate or pooled analyses.

venue, as well as help uncover inter-venue dynamics within states.[61] This modeling strategy could be

applied to other policy contexts involving multiple policy components or venues.[62]

I present the probability equation for multinomial logistic regression:

$$\Pr(y_i = m | x_i) = \frac{\exp{(x_i \beta_m)}}{1 + \sum_{j=4}^{J-1} \exp{(x_i \beta_j)}},$$

where the probability of a state adopting a policy via a given venue m, $\Pr{(y_i = 1, 2, 3, 4)}$, is a

function of the covariates, x_i, all relative to the baseline of "Not Adopting a Policy." The

coefficients by venue, β_m, are expressed as exponentiated logit parameters for each covariate (Box-

Steffensmeier and Jones 2004; Long 1997). Although displaying and interpreting multinomial logistic

regression results is more challenging than for dichotomous logistic regression models, maximum

likelihood can be used to estimate the model and the coefficients are interpretable as logit

coefficients, though relative to the baseline category. Again, because log-odds coefficients are not

intuitive and comparisons across venue categories is necessary, I provide predicted probabilities,

odds ratios, or marginal effects where appropriate to ease the interpretation of key covariates.

Before proceeding to the results from the binary and then multinomial logistic regression

models, a brief discussion about the potential for dependency in the duration data is required. A

state's passage of a policy via a venue in a given year may generate dependencies across the other

venues within the year since states remain at risk in the other forums. To account for this potential

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[61] Recall that the key independent variable of interest, political learning, as a venue-specific variable takes on different values for the respective venues under consideration and thus different values for the separate logit equations.

[62] A key assumption of multinomial logit models is that the possible choices are independent of one another: Independence of Irrelevant Alternatives (IIA). Here, for example, that means that the venue choice of legislative referendum is independent from the venue choice of citizen initiative. I believe there are strong theoretical reasons to treat the choices as separate venues, especially given the separate institutional contexts for each venue. Because of the IIA constraint (and the potential for its violation), some scholars prefer a multinomial probit model, which does not depend on the IIA assumption, but is susceptible to estimation challenges (Dow and Endersby 2004; Kropko 2008). However, Kropko's (2008) computer simulations show that multinomial logit models provide more accurate results than multinomial probit models "even when the IIA assumption is severely violated." And Dow and Endersby (2004) contend that multinomial probit's penchant for weak identification can produce misleading findings and suggest employing multinomial logit. For these reasons, I use multinomial logit models.

heteroskedasticity within a state-year, I cluster all standard errors by state-year (Box-Steffensmeier and Jones 2004; Primo et al. 2007). And to correct for temporal dependence—that the probability of adoption by a state in one year is related to its likelihood of passage in previous years—that may exist, I include a time counter variable (see Beck, Katz, Tucker 1998; Buckley and Westerland 2004). Without this time variable, I would be assuming that the probability of a state adopting a policy in a given year does not change over time, which is highly unlikely. Controlling for time has the added benefit of accounting for the possibility that cohort replacement (i.e., the substitution of older generations with younger generations) drives changes in public opinion and support for gay marriage policies (Harrison and Michelson 2017; Lax and Phillips 2009; Lewis and Gossett 2008).

Results for Anti-Gay Marriage Policies

Table 5.1 contains the results for three separate binary logistic regression models to examine the spread of anti-gay marriage policies across the U.S. states from 1993 – 2015. As a reminder the, dependent variable for all three models is the likelihood of a state adopting a ban on gay marriage in any given year, regardless of venue.

Attempting to replicate the base findings from prior work on the diffusion of anti-gay marriage policies, Model 1 ("Standard") provides the point estimates for a typical model in the diffusion literature. Essentially, Model 1 analyzes the event history data without tackling the four gaps that I identified from earlier scholarship in this area.[63] From the results in the first column, we see the only external factors that appear to influence a state's propensity to adopt a statutory or

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[63] There are, however, three important differences in these models compared to preceding work. First, I include far more external and internal explanations for policy adoption than any prior article. I do so for theoretical motivations and to incorporate prior works' specific contributions in telling the underlying story. Second, in contrast with earlier work that only examined the spread of anti-gay marriage policies via one venue or without regard to venue, the dataset here is comprised of pooled observations for each state-venue. Units only exit the venue subset if a state adopts a ban via that venue and remains in the other venue subsets until enacting a ban in those alternative venues. Although venue specific information is included in the data, I am not leveraging this information yet. I will do so in the subsequent analyses. Finally, my data also included repeated events where states may have added additional statutory bans.

constitutional ban were the U.S. Supreme Court's *Lawrence* v. *Texas* decision and presidential election years. Looking at internal factors, state governments controlled by the Democratic Party and with higher public support for same-sex unions were less likely to adopt a gay marriage ban. Of note, neither the policy learning nor geographic neighbor variables were statistically reliable at conventional levels ($\alpha=.05$), paralleling findings from earlier works (Haider-Markel 2001a).

To investigate further the potential role of policy learning, whereby states adopt an anti-gay marriage policy as more and more states enact bans, I rely on the second measurement approach for the Policy Learning Hypothesis. Instead of capturing policy learning as the aggregate number of bans passed by year, I break those bans out by venue, providing the cumulative number of bans adopted by venue-year. Model 2 ("Standard +") includes these three separate policy learning covariates along with the pro-gay marriage counter variable, which controls for the gay rights movement's policy successes. These more refined policy learning variables indicate that states were more likely to adopt a gay marriage ban as the number of states enacted bans via legislative referendum and the legislature (although the latter misses statistical reliability at conventional levels).[64] Political party control of state government still seems to matter, with Democratically controlled states still less likely. But the effect from other external and internal factors is not statistically distinguishable from zero.

Neither of Model 1 nor Model 2, however, account for the role of political learning, where policy actors gain information about the venues that prior states have used to impede marriage

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[64] A standard deviation increase (about 7 states) in the number of states adopting a constitutional ban via legislative referendum increases a state's odds of adopting an anti-gay marriage policy by a factor of 7.93, holding all other variables constant. For policy learning from legislative action, an increase of nearly 13 states adopting statutory language outlawing gay marriage increases a state's odds of adopting a ban by nearly six-fold (5.88, p<.09).

Table 5.1: Policy Diffusion of Anti-Gay Marriage Policies using Binary Logistic Regression

Explanatory Variables	Model 1: Standard	Model 2: Standard +	Model 3: Standard + Pol Learn
Political Learning [+]	---	---	**3.652*** **(0.371)**
Policy Learning [+]	0.076 (0.046)	---	---
Policy Learn from Leg [+]	---	0.137† (0.081)	**0.223*** **(0.083)**
Policy Learn from Leg Ref [+]	---	**0.274*** **(0.132)**	**0.283*** **(0.144)**
Policy Learn from Cit Init [+]	---	-0.123 (0.234)	0.825 (0.585)
Geographic Neighbor [+]	0.644 (0.553)	0.790 (0.551)	0.825 (0.585)
Federal Government DOMA [-/+]	-0.124 (0.961)	-0.465 (1.030)	-0.911 (1.243)
Lawrence v. *Texas* Sup. Ct. Decision [+]	**1.517*** **(0.729)**	1.749 (1.381)	3.700 (2.00)
NYT Issue Salience [+]	-0.001 (0.006)	0.007 (0.008)	-0.002 (0.010)
Presidential Election Year [+]	**1.014*** **(0.459)**	0.849 (0.517)	0.964 (0.674)
Pro-Gay Marriage Counter [+]	---	0.033 (0.085)	**0.207*** **(0.085)**
Legislative Professionalism [+]	0.023 (0.110)	0.006 (0.112)	0.018 (0.118)
State Supreme Court Professionalism [+]	1.166 (1.210)	1.114 (1.223)	1.016 (1.300)
Difficulty Amending Constitution [-]	-0.193 (0.164)	-0.183 (0.162)	-0.171 (0.169)
State Gov. Party Control [-]	**-.883*** **(0.375)**	**-0.953*** **(0.389)**	**-1.013*** **(0.406)**
State Supreme Court Ideology [+]	0.022 (0.295)	0.205 (0.311)	0.215 (0.327)
Public Support for Gay Marriage [-]	**-0.077*** **(0.037)**	-0.034 (0.043)	-0.017 (0.047)
Evangelical Population [+]	0.008 (0.018)	0.021 (0.019)	0.027 (0.020)
LGBT Population [-]	0.228 (0.365)	0.164 (0.376)	0.151 (0.394)
Sodomy Ban [+]	0.137 (0.327)	0.187 (0.326)	0.246 (0.346)
LGBT Hate Crime Law [-]	0.353 (0.373)	0.374 (0.389)	0.412 (0.407)
Racial/Ethnic Minority Population [+]	0.012 (0.013)	0.012 (0.012)	0.014 (0.013)
Population with College Degree [-]	-0.013 (0.039)	-0.017 (0.040)	-0.024 (0.043)
State Population (Ln) [-]	-0.192 (0.216)	-0.186 (0.216)	-0.208 (0.233)
Constant	-0.567 (1.912)	-1.524 (2.094)	-2.032 (2.316)
N	2451	2451	2451
Wald χ² (20), (23), (24) / Log Likelihood	**102.12*** / -276.99	**102.22*** / -272.57	**338.79*** / -246.19
AIC / aROC	595.98 / 0.817	593.14 / 0.827	542.39 / 0.881

†p ≤ 0.10, *p ≤ 0.05, two tailed. Dependent variable is likelihood of adopting anti-gay marriage policy (irrespective of venue). Statistically significant logistic regression coefficients are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

equality successfully. Model 3 ("Standard + Political Learning") includes the political learning variable, along with the opposition success and policy-learning-by-venue variables added in Model 2. Political learning's effect is both statistically significant and substantively large. Increasing political learning by one standard deviation (a 40% rise in success via a given venue) increases the probability of a state enacting a gay marriage ban, on average, by 6.8 points. Put differently, moving from an environment where all states fail via one venue to an environment where all states succeed in that venue maximizes political learnings' marginal effect on policy adoption by 9.4 percentage points.[65] On its face, this effect may not seem impressive. But because the probability of adopting a ban in any given state in any given year is under 3 percent, an increase of nine points is comparably large and substantively meaningful.

In addition to political learning's effect, Model 3 also shows that the opposition's policy successes (i.e., permitting same-sex unions) in other states increases the risk of a backlash in other states. For every additional state that allowed gay marriage, the risk of another state prohibiting gay marriage, on average, rose by 0.6 percentage points. Both results suggest that policy actors in one state learn from and react to policy actions in other states perpetrated by their own network and by the opposition.[66]

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[65] This is the Average Marginal Effect (AME), where the marginal effect of political learning is calculated as the difference in the two probabilities of all observations at their current values in a state of no political learning (i.e., no state successfully adopts policy via the given venue) and a state of perfect political learning (i.e., all states successfully adopt policy via given venue). I prefer AMEs to mean marginal effects (MEMs) because it relies on all units' variable values rather than the means of those values.

[66] Figure C.1 in the Appendix plots the predicted probabilities of a state adopting an anti-gay marriage policy as political learning, policy learning via legislatures, policy learning via legislative referenda, and the cumulative number of enacted pro-gay-marriage policies increase. The figure in the top-left quadrant displays the predicted probability of a state adopting an anti-gay marriage policy via any venue in any given year as they learn from the successful paths taken in earlier states. The increase in probability appears linear until a success rate of 80 percent, which causes the slope of the predicted probabilities to take a marked upturn. This drastic change in slope is likely due to gay marriage bans' low failure rate, with most bans successfully adopted across the three competing venues. Nevertheless, the increase in probability of a state adopting an anti-gay marriage policy in any given year rises to 2 percent as political learning spans its full scale. Policy learning via the legislature and legislative referendum (top-right and bottom-left quadrants, respectively) also have an effect. Both predicted probability slopes are relatively flat until at least 20 states adopt a ban via the legislature and 10 states enact a ban via legislative referendum. Then the predicted effect on policy change appears more acute, with an increase in likelihood of laggard states adopting a ban of .04 and .12 in any given year as the sizeable number of legislatures and legislative referenda adopt prohibitions, respectively. Finally, the predicted probability slope

The upshot of these initial three models is that policy actors appear to learn about the tactics used and paths successfully taken in early mover states, thus making them more likely to succeed in their state. Although states learn about available solutions adopted in other states (i.e., policy learning), they also become informed about how prior states were successful (i.e., political learning). Policy actors also try to counteract the opposition's policy success. Including political learning and opposition policy success in the models reveals a richer and more accurate understanding of the external forces driving policy change across the states. Indeed, all the indicators of model fit point to Model 3 as being the superior model.[67]

Nonetheless, it is worth noting that several of the external and internal factors that previous research found to affect states' adoption of gay marriage bans do not appear to play a role here. For example, states do not appear to emulate their neighbors. Furthermore, legislative and state supreme court professionalism, degree of difficulty in amending the state constitution, prior policy activity on gay rights, and demographic controls have a limited influence on the spread of gay marriage bans.[68] Perhaps most surprisingly, the proxies for the religious right and gay rights movements did not predict policy adoption. There are two possible reasons for this. First, it is possible these pressure groups' influence is captured by the political learning, opposition policy success, or policy learning variables. Organized interests, especially national groups, are the most likely candidates to share the political and policy knowledge gained in one state with other states. And because there are no

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for pro-gay marriage policy success (bottom-right quadrant) follows the typical sinusoidal curve. As more states adopt pro-gay marriage policies, the propensity of adopting a ban also increases. However, causality should not be inferred from this relationship, as both anti- and pro-gay marriage policy wins increased over time.

[67] McFadden's pseudo R^2 increases from 0.157 in Model 1 to 0.25 in Model 3. The Akaike information criterion (AIC) also drops across the models, from a high of 595.98 in Model 1 to a low of 542.39 in Model 3, indicating that Model 3 is a higher quality model and may better represent the data-generating process. As further evidence, the area under the Receiver Operating Characteristic (aROC) curve improves in accuracy across the three models.

[68] It is worth mentioning that even though these variables were not statistically significant, the signs of their coefficients were largely in the anticipated direction. Of course, there were a few exceptions to this including the LGBT population and hate-crime legislation variables. Congress's passage of DOMA also appeared to dampen rather than incite a state's propensity to adopt a gay marriage ban. Again, this may be because states' responses were more acute than the federal government's response. In fact, it is possible that the heightened degree of subnational activity had a snowball effect on the national government's decision to act.

consistent longitudinal measures for the religious right and gay rights movements at the national

level, and because these groups are not monoliths, I do not control for their national-level influence.

Second, as previously discussed, the binary logistic regression model is not the best strategy for

estimating a dynamic policy process happening via multiple, competing venues.

Modeling a state's propensity of adopting anti-gay marriage policies without regard to the

venue where such policies are adopted is problematic. Policy actors can pursue bans on same-sex

unions via multiple, competing institutional arenas—state legislatures, legislative referenda, and

citizen initiatives—in the same year. Thus, states are not merely at risk of enacting a gay marriage

ban, but rather at risk of adopting a gay marriage ban via available venues at multiple points in time.

Yet the current and typical EHA modeling strategy, binary logistic regression, fails to produce the

respective probabilities and coefficients associated with adopting anti-gay marriage policies via

competing arenas (Blossfeld, Golsch, and Rohwer 2007; Box-Steffensmeier and Jones 2004; Buckley

and Westerland 2004; Cann and Whilhelm 2011). As discussed above in the Empirical Estimation

Strategy section, I believe the more appropriate and informative modeling scheme is to employ a

multinomial model. Although not as parsimonious as estimating a single coefficient for each

variable, I leverage the competing venues to estimate separate coefficients for each independent

variable by arena. This sheds light on which variables matter in the diffusion processes by

institutional avenue.

Because the data include repeated events and states are at risk of selecting one venue over

another (Cann and Wilhelm 2011), I use a repeated events competing risk multinomial logistic

regression model to estimate the population parameters. In addition to estimating the data with

multinomial logistic regression, I also add two new state-level controls. First, a prime assumption of

multinomial logit is that each state is at risk of selecting each venue. To allow for this and

acknowledge that 26 states do not permit direct or indirect citizen initiatives, I include a dummy

variable, *Direct Democracy*, to control for this difference and retain the non-direct-democracy states in the dataset. Moreover, it allows me to examine further whether and how direct democracy states may behave differently than their counterparts (Boehmke 2005; Bowler and Donovan 2004; Lewis 2011, 2013). I anticipate that direct democracy states will be more likely to pass a ban on gay marriage, especially via citizen initiative.[69] The second control that I include is whether a state adopted a prior anti-gay marriage policy via another venue. The *Prior Anti-GM Policy* variable is a running tally for the prior policy events on this issue in other venues. I anticipate that states that previously adopted a ban on gay marriage in other arenas will be less likely to enact in the respective venue. Both variables should better disentangle the inter-venue dynamics at play.

Table 5.2 includes the repeated-events, competing risk multinomial logistic regression results for the adoption of gay marriage bans via state legislatures, legislative referenda, and citizen initiatives, relative to the reference category of not passing an anti-gay marriage policy.[70] Although not reflected in the table, the average probability of a state adopting a gay marriage ban in any given year was quite low: 1.6 points for an enactment via the legislature, 0.7 for passing a ban via legislative referendum, and 0.6 for outlawing gay marriage via citizen initiative. However, as the results show, multiple factors increased or decreased a state's propensity to adopt an anti-gay marriage policy via a particular venue.

To aid in the interpretation of the multinomial logistic regression coefficients, I present the Average Marginal Effects for the main predictors of states adopting a gay marriage ban in Figure 5.3.

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[69] An additional institutional variable could be included to control for the fact that Delaware is the only state that does not allow referenda referred by the legislature to ensure they are not at risk of adopting a ban via referendum. Including a Delaware dummy variable does not change the results in any of the models.

[70] Likelihood ratio tests indicate that almost none of the venue choices should be combined, except for the possible combination of legislative referendum and citizen initiative when compared to each other. And despite known problems with IIA tests and their irreproducibility (Allison 2012; Cheng and Long 2007; Dow and Endersby 2004), I carry out several IIA tests. By and large, the results suggest there are no violations of the IIA assumption. We can also have a great deal of confidence in the model fit given a McFadden's pseudo R^2 of 0.497, and an aROC curve statistic of 0.928, suggesting a very high model classification.

Table 5.2: Policy Diffusion of Anti-Gay Marriage Policies using Mult. Logistic Regression

Explanatory Variables	Legislature	Leg. Referendum	Citizen Initiative
Political Learning [+]	4.001* (0.392)	61.930* (13.628)	1.277 (1.386)
Policy Learn from Leg [+]	-0.010 (0.608)	-1.965* (0.594)	2.279 (1.466)
Policy Learn from Leg Ref [+]	-0.569 (0.495)	0.811* (0.374)	0.359 (0.553)
Policy Learn from Cit Init [+]	-0.308 (1.841)	-0.438 (0.796)	-0.227 (0.895)
Geographic Neighbor [+]	0.531 (0.899)	3.006† (1.803)	- 9.907* (2.970)
Federal Government DOMA [-/+]	2.876 (8.001)	71.933* (17.616)	-12.232 (19.876)
Lawrence v. *Texas* Sup. Ct. Decision [+]	-3.231 (8.132)	7.950† (4.224)	-3.408 (4.103)
NYT Issue Salience [+]	0.089 (0.120)	0.019 (0.029)	0.014 (0.025)
Presidential Election Year [+]	-0.635 (1.588)	1.078 (0.615)	2.312 (1.454)
Pro-Gay Marriage Counter [+]	-1.957 (2.699)	0.050 (0.217)	-0.382 (0.762)
Legislative Professionalism [+]	-0.149 (0.179)	0.160 (0.405)	-0.397 (0.611)
State Supreme Court Professionalism [+]	4.313† (2.247)	4.847 (5.194)	-8.200 (7.703)
Difficulty Amending Constitution [-]	0.177 (0.682)	0.022 (0.584)	-20.892* (4.753)
Direct Democracy [-/+]	0.778 (0.657)	-0.694 (1.142)	17.256* (3.427)
State Gov. Party Control [-]	-1.752* (0.682)	-0.203 (1.077)	4.184† (2.316)
State Supreme Court Ideology [+]	0.070 (0.446)	1.753† (1.056)	-5.470* (2.077)
Public Support for Gay Marriage [-]	-0.146 (0.103)	-0.137 (0.151)	-0.122 (0.112)
Evangelical Population [+]	0.004 (0.035)	0.107† (0.064)	-0.485* (0.125)
LGBT Population [-]	-0.479 (0.948)	0.133 (0.852)	-4.718* (1.846)
Prior Anti-GM Policy [-]	-2.324* (0.968)	-0.847 (0.573)	-6.126* (1.282)
Sodomy Ban [+]	0.569 (0.575)	0.577 (1.006)	0.741 (1.519)
LGBT Hate Crime Law [-]	0.278 (0.844)	1.130 (1.076)	-0.408 (1.403)
Racial/Ethnic Minority Population [+]	0.013 (0.027)	0.085* (0.042)	-0.090 (0.914)
Population with College Degree [-]	0.016 (0.074)	0.187 (0.130)	-0.316† (0.179)
State Population (Ln) [-]	0.171 (2.344)	-1.358 (0.839)	1.638 (1.456)
Constant	-6.243 (6.022)	-77.813* (14.245)	-39.161* (19.689)

N	2451	Wald χ²(78):	2126.34*
AIC / aROC	566.00 / 0.928	Log Likelihood:	-202.00

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing risks model estimated using multinomial logit model. DV is likelihood of adopting anti-gay marriage policy by venue. DV has four categories; baseline category is not adopting an anti-gay marriage policy. Statistically significant coefficients are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted due to space considerations. The hypothesized direction of the IV effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

Recall from Chapter 3 that average marginal effects for discrete variables can be interpreted as the difference between being in one hypothetical state (e.g., pre-*Lawrence* decision) and being in another hypothetical state (e.g., post-*Lawrence* decision), with all the other covariates held at their same values. And average marginal effects for continuous variables can be interpreted as the instantaneous rate of change in the dependent variable following a small (i.e., unit) increase in the explanatory variable.

The central predictor of interest here, political learning, the process of gaining tactical knowledge from other states about the most favorable venue to achieve policy change, influenced a state's likelihood of enacting a gay marriage ban. The average marginal effect of political learning on a state's likelihood of prohibiting same-sex marriage via the legislature was 3.9 percentage points. Political learning appears to have an even larger impact on states adopting proscriptions via legislative referendum, with an astounding marginal effect of 33.8 percentage points. The gap in political learning's effect between legislatures and legislative referendum is not surprising since legislators may have required more political information from prior states to pass a constitutional amendment than statutory language. As expected, the political learning variable for the citizen initiative venue is positive, but it is not statistically reliable, and its marginal effect is not distinguishable from zero. Perhaps, because fewer than half of the states permit citizen-driven ballot measures, direct democracy states are less able to look to and learn from other direct democracy states. It also may be that, given the varying requirements across direct democracy states to get an initiative on the ballot, the transfer of political knowledge regarding this venue is attenuated.

As we can see from Figure 5.3, political learning's influence on policy adoption outweighed all other external factors, except for the post-DOMA variable. Political learning appears to play an even larger role than policy learning and other known determinants of policy diffusion. For

Figure 5.3: Average Marginal Effects for Key Anti-Gay Marriage Policy Predictors
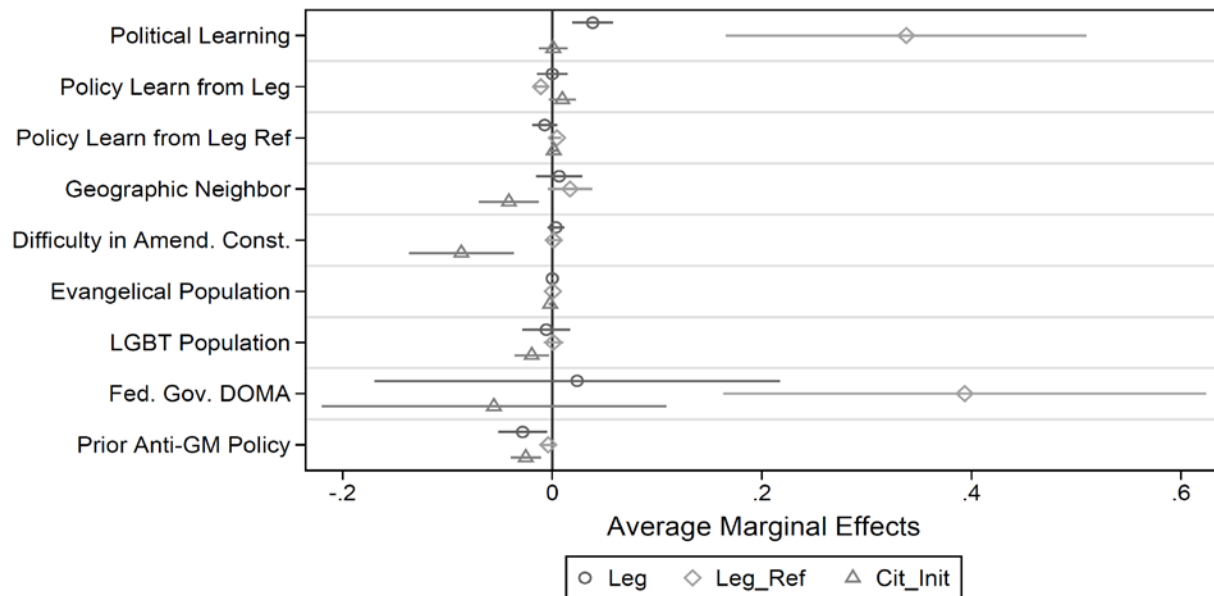
predicted probability plots of political learning's impact on the adoption of anti-gay marriage policies across the three venues, see Figure C.2 in the Appendix.

Turning to the other external factors, policy learning mattered for adopting a ban by way of legislative referenda. Some states were less likely to prohibit gay marriage via legislative referendum as more state legislatures enacted statutory bans. Perhaps those states may have been willing to pass statutory language prohibiting gay marriage but may have been less willing to enshrine such language in their constitutions. Still, other states were 0.5 percentage points more likely to adopt a constitutional ban via legislative referendum in any given year as the number of other states going that route increased. States also took cues from their neighbors, at least when considering whether to pass a constitutional ban on gay marriage. A 40% increase in the proportion of neighbors enacting a ban via legislative referendum raised a state's propensity to adopt a similar measure by one percent in a given year. Direct democracy states, however, were less likely to pursue a ban via

citizen initiative as their direct-democracy neighbors did so, to the tune of 0.6 percentage points in a given year with the 40% shift.

Federal government activity also appears to have spurred state-level activity in some arenas. Congress's passage of DOMA in 1996 increased a state's marginal probability of adopting a ban via legislative referendum by 39.4 percentage points. While the U.S. Supreme Court's *Lawrence* decision further augmented a state's risk of passing a ban via legislative referendum. States also were more likely to adopt a legislative referendum during presidential election years too.

Considering the internal factors influencing policy adoption, states' own institutional arrangements played a role. Direct-democracy states with higher hurdles to amending their constitutions were less likely to adopt a constitutional ban via citizen initiative. A one-unit shift on the four-point difficulty in amending constitution scale (with 1 being direct democracy states with only signature requirements and 4 being passing a legislative majority and voter supermajority), decreased the likelihood of a state adopting via citizen initiative by 0.6 points in a given year. States with more professionalized supreme courts also saw greater activity in their legislatures; perhaps policymakers passed statutory bans to signal their policy preference to the judiciary (Barclay and Fisher 2008).

Internal political factors similarly help explain a state's decision to oppose gay marriage. Democratically-controlled states were less likely to outlaw same-sex marriage via the legislature than Republican-controlled state governments. As a result, states with Democrats in charge of the state capitol were more likely to see a citizen initiative adopted. Even shifting from a bipartisan controlled government to a Democratically-controlled government increased the risk of passing a ban via citizen initiative by 0.9 points in a given year. Interestingly, the results also indicate that states with a more conservative supreme court were less likely to pursue a ban via citizen initiative, but more

likely to pursue one via legislative referendum. Knowing their supreme court was more conservative, legislators may have felt more confident putting a ban up for a vote to the state electorate.

State interest group strength and capacity also comes into clearer focus with the multinomial model. States with a higher Evangelical and Mormon populations were more likely to adopt a constitutional ban via legislative referendum than citizen initiative. And states with a greater number of residents identifying as LGBT were also less likely to enshrine a traditional definition of marriage into their constitutions. A one percent increase in a state's proportion of LGBT residents decreased its probability of adopting a ban by 0.6 percentage points in a given year. A state's previous policy activity on the issue also determined subsequent policy action. States that had adopted a statutory ban via the legislature were less likely to do so again (despite states like Idaho, Texas, Utah, and Virginia passing multiple pieces of legislation). And direct-democracy states that had previously passed a statutory ban lowered their marginal probability of adopting another ban via citizen initiative by 2.5 percentage points. That said, the gay rights movements' cumulative policy successes appear to bear little on the religious right's successes in the state, at least when adoption is broken down by venue.[71]

Overall, by leveraging multinomial modeling, I have refined our understanding of the diffusion process for anti-gay marriage policies. The main reason for mixed findings from past studies on this topic is largely because venue type was omitted from the models. Once the arena is accounted for, we can better see which factors drive policy change in these respective venues. Regardless, the upshot from these results is that policy actors are more likely to adopt a policy in a given venue as they learn about other states successfully adopting the policy in that venue. Such

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[71] A state's demographic context similarly helps explain a policy change. As a state's proportion of racial and ethnic minorities increased, the state was more likely to adopt a ban via legislative referendum. This could be due to lower levels of support for gay marriage among African Americans and Latinos, or this variable could serve as a proxy for southern states. Education also appears to play a role, with more educated states less likely to adopt a ban via citizen initiative (although the coefficient just misses the $\alpha = .05$ threshold for significance).

influence occurs even when considering alternative external factors and states' own institutional, political, interest group, policy, and demographic contexts.

Diffusion of Pro-Gay Marriage Policies

The previous empirical results offer initial evidence that political learning affects states' likelihood of passing anti-gay marriage policies. But what explains the spread of *pro-gay marriage policies* across U.S. states? Although more gradual and later than the religious right's countermobilization against gay rights, the pro-gay marriage movement pushed for equality via the state courts, state legislatures, and finally in the federal courts. This section is dedicated to unpacking the external and internal forces driving the legalization of same-sex unions.

The same hypotheses detailing the external mechanisms driving anti-gay marriage policies mostly apply here too, although for many of the hypotheses I anticipate a reverse outcome (e.g., Democratically-controlled states more likely to pass same-sex unions, greater LGBT population more likely to permit gay marriage). Likewise, I rely on many of the same variables from the anti-gay marriage models for the pro-gay marriage models, except for the following four changes. First, I opt to combine policy learning into one variable for the sake of parsimony. Second, for the federal-government involvement (H4) hypothesis, instead of *DOMA* and *Lawrence* variables, I rely on a binary *U.S.* v. *Windsor Sup Ct. Decision* variable because the 2013 precedent-setting ruling declared a portion of the federal DOMA unconstitutional.[72] This case likely encouraged more federal courts to grant gay marriage in states filing lawsuits and may have spurred action in other venues. Third, I employ the Prior Anti-GM Policy variable to capture opposition policy success and

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[72] I do not include the 2003 U.S. Supreme Court's Lawrence v. Texas and presidential election year variables in the analyses. Both variables perfectly predict dozens of observations making it challenging for the model to estimate parameters' standard errors and the model's overall likelihood-ratio test. Given this, I opt to exclude them from the analyses. Nevertheless, including them in the model does not affect the key takeaways.

a Prior Pro-GM Policy to account for the gay rights movements' prior policy wins in a state. Lastly, I control for federal court ideology within a state. Since states are at risk of enacting gay marriage via the federal courts, I also control for the mean *District Court Ideology* of federal district-court judges, using Bonica et al.'s (2017) aggregated measure at the state level. More positive scores indicate a more conservative district court. In turn, I anticipate that states may be less likely to see same-sex marriage with more conservative federal courts.[73] Table C.4 in the Appendix provides descriptions, summary statistics, and sources for the variables included in the pro-gay marriage models.

To empirically test the diffusion of pro-gay marriage policies, I similarly rely on a pooled dataset of state-years by venue, where states are at risk of allowing same-sex marriage (or the equivalent via civil unions) through the legislature, state courts, or federal courts from 1993 to 2015. Again, as is typical of event history data, a state takes on a value of zero until it successfully enacts gay marriage in a given venue, when those state-venue-years convert to a one and drop out of the dataset.[74] However, states remain in the dataset for other available forums, and if they pursue additional gay marriage policies (e.g., change from civil unions to full marriage equality) via the same venue. Following the modeling logic for the diffusion of anti-gay marriage policies, I similarly rely on a repeated-events, competing-risks multinomial logistic regression model to estimate the external and internal coefficients for the spread of marriage equality policies across venues.[75]

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[73] I do not control for the difficulty in amending the state's constitution or whether states permit direct-democracy since those are not current venues under consideration. That said, robustness checks that add those variables do not alter the overall findings.

[74] Success here is defined as successful enactment (not just pass) of pro-gay-marriage policy. If a federal district court ruled in favor of gay-marriage, but the circuit court stayed the case and never allowed its implementation, the unit remains coded a zero. The one exception is for the 1993 *Baehr* v. *Lewin* case in Hawaii; although that case did not result in the successful enactment of same-sex marriage, the partial success from the Hawaiian Supreme Court (remanding it back to the trial court) led to precipitation of pro- and anti-policy activity across the states. This unit takes on a value of 1 in 1993, but a 0 in 1999 for the repeated event when the Hawaiian Supreme Court rules against gay marriage because the electorate adopted a constitutional amendment prohibiting same-sex unions.

[75] As is good practice, I also estimate robust standard errors clustered on state-year and include a time counter variable to guard against heteroskedasticity of error within state-years and temporal dependency (Beck, Katz, Tucker 1998; Box-Steffensmeier and Jones 2004; Buckley and Westerland 2004; Primo et al. 2007).

Results for Pro-Gay Marriage Policies

Table 5.3 contains the results from the repeated-events, competing-risks multinomial logistic regression model of pro-gay marriage policies via state legislatures, state courts, and federal courts, with "No Policy Adoption" as the baseline category.[76] Although not displayed in the table results, the probability of a state adopting a pro-gay marriage policy via any venue in any given year is quite low. The average risk of a state adopting via the legislature or federal courts in a given year is 0.006, while the probability via state courts is only 0.003. This is not shocking since policy inaction is the status-quo.

As before with the spread of gay marriage bans, political learning plays a central role in the diffusion of same-sex-union policies. A one-standard-deviation increase (36%) in states' success rate via legislatures increases a subsequent state's likelihood of allowing gay marriage via the legislature by 4.5 percentage points in a given year. The same positive shift in the success rate for the federal courts augments a state's propensity to adopt a pro-gay marriage policy by 0.1 percentage points in a given year. Although suggesting a positive relationship between political learning and legalizing gay marriage in state courts, the coefficient is not statistically reliable. It is possible that given the low success rate in prior state courts (only 53% overall), subsequent states may have been less sure of their chances via their judiciary. Figure C.3 in the Appendix provides the predicted probability plots

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[76] As with the anti-gay marriage multinomial model, I test the Independence of Irrelevant Alternatives (IIA) assumption. The test results suggest that the separate venues to pursue pro-gay marriage policies are not independent and the categories should be combined. However, there are strong theoretical reasons to treat the choices as separate venues, especially given the separate institutions for each venue. Furthermore, there are known problems with IIA tests and their irreproducibility (Allison 2012; Cheng and Long 2007; Dow and Endersby 2004), thus I put little weight on these test statistics. I believe we can have a great deal of confidence in these results as well. Nearly 54% of the variance in the dependent variable ($R^2 = 0.537$) was explained with the model, while the accuracy of the model was also relatively high (aROC statistic = 0.741).

Table 5.3: Policy Diffusion of Pro-Gay Marriage Policies using Mult. Logistic Regression

Explanatory Variables	Legislature	State Court	Federal Court
Political Learning [+]	**14.643*** **(4.994)**	1.215 (0.837)	0.882† (0.463)
Policy Learn [+]	**-0.192*** **(0.084)**	-0.029 (0.084)	**0.337*** **(0.097)**
Geographic Neighbor [+]	-1.781 (2.058)	**-3.735*** **(1.673)**	**2.966*** **(1.517)**
U.S. v. *Windsor* Sup. Ct. Decision [+]	3.040 (1.350)	2.812† (1.699)	-1.502 (2.328)
NYT Issue Salience [+]	0.004 (0.010)	0.006 (0.008)	**0.037*** **(0.012)**
Prior Anti-GM Policy [-]	-0.028 (0.635)	-0.510 (1.400)	0.642 (0.674)
Legislative Professionalism [+]	0.015 (0.623)	0.367 (0.366)	0.416 (0.582)
State Supreme Court Professionalism [+]	3.473 (5.539)	0.659 (5.174)	-5.768 (4.190)
State Gov. Party Control [+]	0.512 (1.439)	-0.287 (1.916)	1.289 (1.529)
State Supreme Court Ideology [-]	-2.217 (1.822)	-0.912 (1.000)	-1.935† (1.140)
District Court Ideology [-]	0.795 (1.082)	-1.327 (0.911)	**1.391*** **(0.672)**
Public Support for Gay Marriage [+]	0.070 (0.073)	0.000 (0.066)	**0.220*** **(0.060)**
Evangelical Population [-]	-0.078 (0.080)	-0.155 (0.147)	**0.128*** **(0.059)**
LGBT Population [+]	1.193 (0.736)	-0.748 (0.655)	-0.533 (0.633)
Prior Pro-GM Policy [-]	**-3.259*** **(0.878)**	-1.503 (1.115)	**-3.700*** **(1.022)**
Sodomy Ban [-]	**-14.102*** **(1.110)**	0.689 (1.509)	1.105 (0.906)
LGBT Hate Crime Law [+]	**16.539*** **(1.177)**	2.017 (1.242)	0.445 (1.089)
Racial/Ethnic Minority Population [-]	-0.039 (0.044)	-0.009 (0.044)	-0.000 (0.028)
Population with College Degree [+]	0.086 (0.139)	0.074 (0.151)	0.010 (0.100)
State Population (Ln) [+]	-0.448 (0.881)	-0.718 (0.539)	0.583 (0.606)
Constant	**-38.673*** **(7.041)**	-3.322 (6.151)	**-21.486*** **(5.805)**
N	3253	Wald $\chi^2_{(63)}$:	4745.143*
AIC / aROC	410.12 / 0.741	Log Likelihood:	-139.06

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of adopting pro-gay marriage policy by venue. Dependent variable has four categories, baseline category is not adopting a pro-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

for enacting pro-gay marriage policies by forum as political learning increases.[77]

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[77] The risk of adopting via state legislatures is relatively flat until 80% of states are successful that route when the probability takes a drastic turn upward. The probability of adopting via state and federal courts is almost linearly related to other states' success. As political learning increases, states are more likely to adopt via those venues.

From Figure 5.4, we can see political learning's marginal effect on the probability a state allows same-sex unions. Although political learning exhibits a relatively smaller effect compared to the anti-gay marriage context, its impact is still substantively meaningful. The average marginal effect on enactment via state and federal courts is 0.2 and 0.3 points, respectively (although both just miss statistical significance at the α=.05). Meanwhile, political learning's effect on legalizing gay marriage via the state legislature is 4.9 percentage points. The only variable with a slightly larger marginal effect was whether a state had previously adopted an LGBT hate-crime law.

Looking at the other external factors, states were additionally susceptible to the cumulative adoption of pro-gay marriage policies across the U.S., especially in state legislatures and federal courts, although the marginal effect was relatively small.[78] Meanwhile, states also paid attention to

Figure 5.4: Average Marginal Effects for Key Pro-Gay Marriage Policy Predictors

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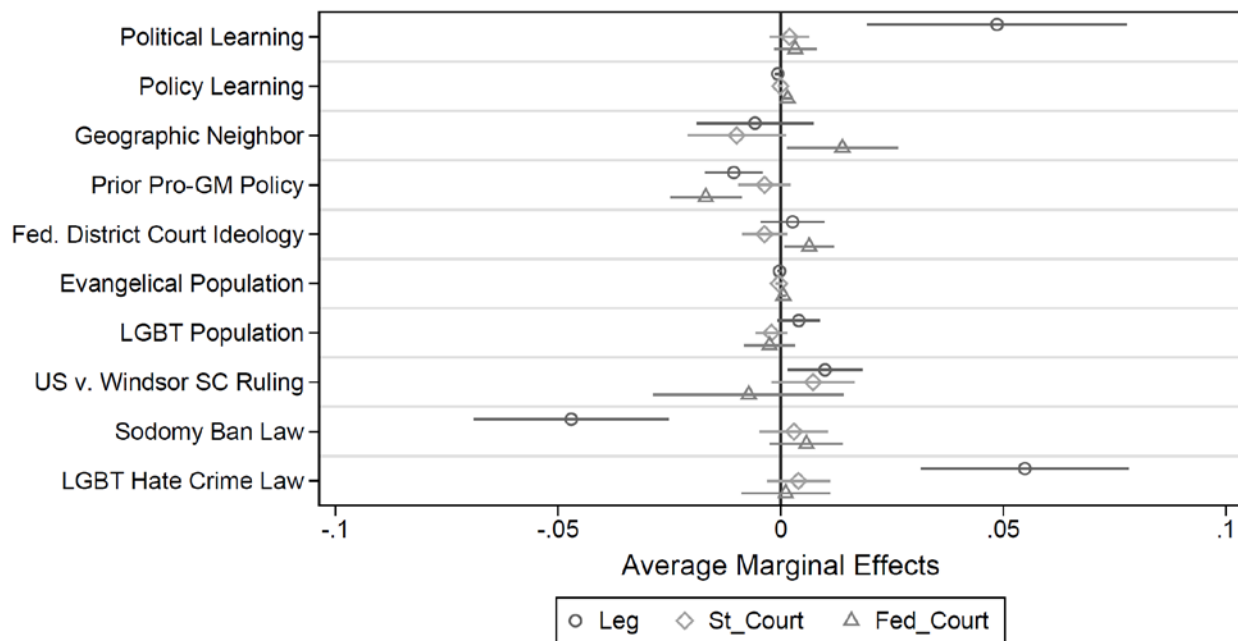
[78] For an increase of one additional state allowing same-sex unions via the legislature, subsequent states were 0.1 percentage point less likely to also adopt via the legislature. States were, however, more likely to legalize gay marriage via the federal courts as more states granted same-sex unions. Twelve additional states permitting gay marriage (a one-standard-deviation shift) increased a state's propensity of guaranteeing LGBT minority rights via federal courts by 5.7 percentage points. This policy learning effect is likely due to the U.S. Supreme Court's *Windsor* decision declaring the federal DOMA law unconstitutional. Subsequent district and circuit courts relied on that precedent to rule in favor of marriage equality. Given this federal intervention, policy actors may have seen the federal courts as a more favorable venue or legislators may have felt less pressure to respond to interest group activity as another viable outlet emerged.

their neighbors' policy activity. State judiciaries were 0.2 percentage points less likely to permit same-sex unions as a quarter of a state's neighbors allowed gay marriage via the state courts. Perhaps judges witnessed the political fallout for having allowed gay marriage in neighboring states (e.g., recall of judges in Iowa following state supreme court's affirmative decision in 2009), and, consequently, were fearful of succumbing to the same fate. The geographic neighbor variable for the federal courts is also positive and significant. This result is likely an artifact of multiple states belonging to the same federal circuit. Where circuit courts upheld or overturned lower federal-district-court decisions, these rulings impacted multiple states within the same circuit. Thus, the regional effect of looking to and learning from neighbors may be inflated here. Interestingly, the U.S. Supreme Court 2013 *Windsor* decision made state supreme court's slightly more likely to legalize gay marriage, while the federal courts were less likely to grant marriage equality. It is possible the variance from the *Windsor* decision is correlated with the policy learning and geographic neighbor variables, thus disguising the ruling's effect on the federal courts.[79]

Turning to internal factors, states' institutional settings appear to explain little in the successful enactment of pro-gay marriage policies. But states' political contexts offer more leverage. Broader state public support for gay marriage is predictive of success in the federal courts; a ten percent increase in the public's approval of gay marriage increases a state's likelihood of enacting same-sex unions via the federal courts by nearly two points. Unexpectedly, it appears that a state's probability of successfully enacting gay marriage via the federal courts *increases* as the district courts become more *conservative*. Importantly, this is relative to the baseline category of not enacting gay marriage, rather than compared to the other venues. Still, this result may be due to the broad measurement strategy using the aggregate of federal district judges' ideologies in the state, estimated

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[79] Indeed, they are correlated at $\varrho=0.8699$ and $\varrho=0.5870$, respectively. Likewise, the salience variable is also correlated with the *Windsor* ruling. Although states were unlikely to achieve success via the federal courts because of heightened national attention, the increase in salience is associated with a higher probability of success via the federal courts.

by Bonica et al.'s (2017). Or it could be due to the model not accounting for the corresponding circuit court's ideology, where district court rulings were upheld or overturned.

Regarding the role of state interest groups, states with higher Christian Evangelical and Mormon populations were less likely to see pro-gay marriage activity via the state legislature and state high court. As a result, policy actors in those states appear to have turned to the federal courts. A ten percent increase in a state's Evangelical population augmented a state's risk of legalizing gay marriage via the federal courts by one percentage point in a given year. Essentially, where gay rights activists perceived state-level venues foreclosed to them because of greater countermobilization, they turned to federal-level venues that may have been more receptive, especially following the *Windsor* decision. Yet, because the other coefficients for Evangelical Population and LGBT Population are not statistically significant does not imply organized interests did not play a role in the diffusion of gay marriage policies. On the contrary, it is possible state- and national-level interest groups' role is partially captured via the political learning, policy learning, and prior pro-gay marriage policy variables.[80]

Finally, a strong predictor of a state ensuring marriage equality via its legislature is the state's prior policy activity on anti-sodomy and LGBT hate crime laws. States banning consensual gay sex had a 4.7 percentage point lower average marginal risk of enacting gay marriage than states without sodomy bans. At the same time, states that had previously passed an LGBT hate crime law had a 5.5 percentage point higher marginal probability of adopting same-sex marriage compared to states without such measures. Taken as a whole, the adoption of pro-gay marriage policies across the U.S. states was due to a combination of internal and external factors. Although not as evident as in the

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[80] The latter variable controls for the number of pro-gay marriage policies adopted by the state in other venues (rather than the one under consideration). It turns out that as states have legalized some aspect of gay marriage (e.g., civil unions) in one venue, they are less likely to do so in the others. For every additional pro-gay marriage policy adopted by a state in another venue, a state's probability of adopting an equivalent policy via the legislature, state court, and federal courts decreases by 0.5, 0.2, and 0.6 points, respectively. This is to be expected since prior adoption arguably makes future adoption unnecessary.

anti-gay marriage models, political learning played a major role in the adoption of pro-gay marriage policies across, especially in state legislatures and federal courts.

Robustness Checks

Are these results robust to different modeling strategies? Given the discrete nature of the dependent variable and uncertainties about the exact parametric relationship between the variables, I estimated the population's coefficients using a complementary log-log model and Cox proportional hazards model (Box-Steffensmeier and Jones 2004; Buckley and Westerland 2004). As explained in Chapter 3, the complementary log-log allows for the estimation of rare events, while the Cox model makes no assumptions about the functional form of the hazard rate. Results for the anti-gay marriage and pro-gay marriage models are in the Appendix (Tables C.5, C.6, C.7, C.8). The results are mostly consistent with the findings presented here.[81] Still, perhaps these results are due to the measurement decisions for several of the discrete or time-varying explanatory variables. As a further robustness check, I used different operationalizations for dozens of the determinants and re-ran the main multinomial logistic regression models.[82] None of the different operationalizations nor the new

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[81] Some readers may also be concerned about the clustering of errors to account for potential heteroskedasticity at the state-year level rather than the state level (Cameron and Miller 2015). Typically, such a narrow clustering would result in a cluster of one observation (which makes the clustering irrelevant). But in this case, one cluster represents four possible policy options (i.e., no action, action via the legislature, action via legislative referendum, and action via citizen initiative) for a state in a given year. Because there is variation within a state year to make these decisions, I opt to cluster at the state-year level, following the lead of prior research (Karch et al. 2016; Makse and Volden 2011; Shipan and Volden 2006). Nonetheless, Tables D.9 and D.10 in the Appendix reveal that clustering the models' standard errors at the state level do not lead to substantively different results.

[82] For example, replacing Bowen and Greene's (2014) first dimensional measure of legislative professionalism with their second axis measure; using Shor and McCarty's (2011) state house and state senate chamber ideological measures instead of party control; including different measures of citizen ideology (Berry et al. 2010; Enns and Koch 2013); swapping Bonica and Woodruff's (2015) state supreme court ideology measure for Windett et al.'s (2015); depending on different proxies for religious right and gay rights interest group strength (Button et al. 1997; CenterLink (2016); Conger and Djupe 2016; Equality Federation Institute and Movement Advancement Projects; Family Research Council; Taylor et al. 2019); and employing different operationalizations for effectiveness of direct democracy (Bowler and Donovan 2004; Lewis and Jacobsmeier 2017) or difficulty in amending state constitution (Lutz 1994) did not lead to different takeaways. Furthermore, the inclusion of other internal forces also known to affect policy change, such as House speaker power (Mooney 2013), state term limits (Miller et al. 2018; Sarbaugh-Thompson 2010), legislative polarization (Conger and Djupe 2016), electoral competitiveness (Ranney 1976); election of state high court judges (Hume 2011); and policy innovativeness (Boehmke and Skinner 2012) did not alter the overarching findings.

measures yielded substantively different conclusions. In short, I believe these findings are robust to various modeling and measurement strategies.

Is Political Learning Simply Policy Learning?

A key question is whether the operationalization of political learning is simply a surrogate for policy learning. Policy research has paid much more attention to policy learning, the gaining of information about the policy problem, solutions, and implementation, than political learning, the drawing of lessons about how best to work within and pursue change via a policy process. Scholars have operationalized policy learning as the cumulative number or proportion of total states adopting the innovation ideas (Gilardi 2010, 2016; Shipan and Volden 2008), although later research has prioritized the effectiveness of an innovation (Gilardi 2016; Shipan and Volden 2014; Volden 2006).

Parsing political learning from policy learning is a challenge since both involve some aspect of the success of the policy process: success rate of those that attempted vs. success rate of all units at risk. When a policy is pursued in only one institutional venue, disentangling political and policy learnings' effect from each other could prove problematic. In fact, I expect that political learning's effect would be largest when a policy is pursued in only one venue. Fortunately, when a policy is pursued across multiple venues, we can leverage this structure to establish empirically each components' contribution to policy diffusion.

In examining the correlation between political learning and policy learning in the spread of anti-gay marriage policies, we see a strong association between the two variables with a Pearson's correlation of $\varrho=.70$. The correlation between the two variables in the diffusion of pro-gay marriage policies drops to $\varrho=.42$, suggesting a lower but still moderate association. Despite a sizeable correlation between the two variables in both policy areas, these Pearson correlations also suggest that I am tapping into different, albeit related, latent concepts. Modeling the competing venues

further helps separate these variables' effect across arenas. And hopefully, by controlling for other external and internal factors, any initial shared variance between these mechanisms can be allocated to their respective components.

Conclusion

This chapter demonstrated the utility of mapping the spread of policies across multiple venues, which is a cornerstone of American federalism and is occurring with higher frequency. I also underscored how multinomial logistic regression can help trace this process across such venues. Not only is multinomial logit estimation a more appropriate modeling strategy from a theoretical perspective as it captures policy change across competing institutions, but it also provides a more complete understanding of the diffusion dynamics occurring within each arena.

This chapter also established political learning's role in the policy diffusion process, at least in the fight over marriage equality. Opponents and proponents of same-sex marriage, alike, learned from the tactics used and paths successfully taken in prior states to achieve successful policy adoptions in their states. Indeed, the effect from political learning is as substantively large as, if not larger than, other external forces driving the spread of gay marriage policies across U.S. states. What is more, political learning's effect was largest in the legislative context where elected officials pursued either statutory or constitutional bans on gay marriage or affirmative bills to legalize same-sex unions. We should expect elected officials to be particularly politically and electorally conscious (Mayhew 1974).

Despite establishing political learning's impact on successful policy adoption via a given venue, it remains unclear whether learning about the successful paths taken in prior states makes subsequent states more likely to pursue the same forum. That is, political learning may help states achieve policy adoption in a venue, but does political learning also increase states' propensity to

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pursue the policy change via the same venue? Political learning aids in the spread of public policies, but does political learning also aid in patterns of venue shopping across states? Relying on the same policy case of gay marriage, the next chapter attempts to answer these questions.

CHAPTER 6: THE DIFFUSION OF VENUE CHOICE

The last chapter established two considerations for future policy diffusion research. First, policy diffusion research should account for and model the spread of innovations across multiple, competing venues. Doing so can yield new insights into the dynamics of policy change.[83] Second, future policy diffusion research should consider political learning's role in policy change. In the context of same-sex unions, states appear more likely to prohibit and permit gay marriage as they learn about the successful campaign tactics and venue shopping decisions made in prior states. Indeed, political learning's effect held even after accounting for states' internal institutional, political, interest group, and demographic characteristics. And political learning's influence on policy adoption outweighed the impact of other established diffusion mechanisms. In short, learning *how to advance a policy solution successfully* is as important as learning about available solutions. Policy actors appear to consider the policy solutions *and* the political processes other states use to realize those solutions.

While learning about the successful routes previously taken makes states more likely to *adopt* a policy, does it make them more likely to *pick the same venue* to pursue the policy? That is, *do states choose a venue to press for policy change because prior states have chosen that venue*? This chapter seeks to answer that question. Based upon my new theory of *venue diffusion*, whereby a state's choice of venue to pursue an innovation influences subsequent states' venue choice to pursue the policy, I believe the answer to the question is "yes." If the fundamental premise of policy diffusion is that one state's adoption makes ensuing states more likely to adopt, then it stands to reason that one state's venue shopping may condition subsequent states' venue shopping processes.[84] I charge that political

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[83] Although modeling the diffusion of anti-gay marriage policies via state legislatures, legislative referenda, and citizen initiatives did not overturn past findings. It did help clarify our understanding, resolving prior inconsistent results. Policy learning and federal government involvement were vital factors in the propagation of legislative referenda, while states' internal contexts were chief predictors in the spread of plebiscitary action. Meanwhile, there was less support for regional diffusion effects and interest group variables.

[84] Policy scholars have been alluding to, but not necessarily testing, this phenomenon for some time. Haider-Markel (2001b) indicated that "policy innovation and diffusion may be a part of a larger, strategic move toward gaining political

learning is the primary driver of venue diffusion. Learning about the successful venue other states have used to enact a policy should make subsequent states more likely to pick the same venue to pursue the policy (as this chapter will demonstrate) and more likely to adopt the policy in that venue (as the last chapter showed).

Continuing with the policy case of gay marriage, this chapter offers both qualitative and quantitative evidence of venue diffusion. The qualitative evidence points to policy entrepreneurs and interest groups spreading successful strategies, including venue choice, to their respective camps across U.S. states. Although national-level organizations certainly played a prominent role in disseminating these tactical repertoires, treating the anti- and pro-gay rights movements as top-down monoliths is mistaken. Local and state-level groups innovated and pushed the envelope even when national groups advised against it. Thus, the full epistemic communities for the religious right and gay rights movements facilitated the diffusion of venue shopping processes across states.

The quantitative evidence offers further support of venue diffusion and political learning's role. Opponents of gay marriage were much more likely to prohibit same-sex unions via the legislature and legislative referenda as other states successfully did so. Meanwhile, proponents of marriage equality were more likely to press for change via state legislatures as prior advocates found success via that route. However, political learning's impact on some venues fluctuated over time. Early success via citizen initiative, state courts, and federal litigation predicted other states following suit, but as success waned in those venues, policy actors either switched to alternative routes or waited for a final ruling from the U.S. Supreme Court. Empirical evidence for venue diffusion holds

advantage by expanding the scope of the conflict to other institutional venues that may be predisposed to more favorable policy decisions." And social movement scholars have envisaged a much broader view of diffusion than policy scholars for some time. Researchers in this vein have acknowledged the inputs—such as protest tactics, interpretative frames, web of actors and interest group networks—as much as the outputs (i.e., social change) (see Givan et al. 2010; Tarrow 2005). Because policy scholars have been "circling the wagons" about its possibility, I test the notion of venue diffusion in this chapter.

even after accounting for alternative external forces and states' internal forces that also predict venue choice.

Not only were policy actors more likely to learn about and follow the successful paths taken by early movers, but they also were more likely to emulate the way taken by institutionally- and politically-similar states. Policy actors prioritized information from peer states over information from all sources. Past research largely treats venue shopping as policy actors' autonomous evaluation of the best route to press for or impede policy change based upon a state's institutional setting and political context. Instead, I show that policy actors' venue choice is a product of both internal *and* external considerations. Ultimately, the fusion of the policy diffusion and venue shopping literatures improves our understanding of the factors driving patterns of venue choice across states.

Venue Diffusion and Political Learning

Decades of research have shown that venue shopping is a fundamental part of the agenda-setting process and in achieving policy change. Selecting the most favorable venue helps policy pioneers advance their goals (Baumgartner and Jones 1993; Kingdon 1984; Sabatier and Jenkins-Smith 1993) as well as foster new institutions and constituencies that can further entrench the policy in the status quo (Karch 2009; Lubell 2013; Maltzman and Shipan 2008; Pralle 2003). Gone are the days that policy actors and interest groups solely focus their lobbying efforts in the halls of Congress or state legislatures. Instead, policy actors and organized interests are capitalizing on the fragmented nature of U.S. federalism and pressing for change across horizontal and vertical venues. Venue shopping is on the rise (Miller 2009; Piott 2003; Smith and Tolbert 2004, 2007), with actors turning to state legislatures, state courts, gubernatorial executive orders, ballot measures, state agency rules, and federal-level equivalents. Although competing in multiple venues implies multiple veto points, it also affords multiple opportunities for policy change, especially if policy actors encounter failure in

other arenas (Lubell 2013; Pralle 2003). Individuals and groups can reduce the risk of failure through diversification (Boehmke, Gailmard, and Patty 2013; Constantelos 2010; Jourdain, Hug, and Varone 2017).

The venue shopping literature has primarily focused on internal factors and contexts driving venue choice. Recall from Chapter 4 that policy actors and organized interests may opt for a venue given their resources, capacities, prior experience, past success, and competitive advantage (Ley and Weber 2015; Lubell 2013; Lubell et al. 2010; Pralle 2003; Sabatier and Jenkins-Smith 1993). Or these change agents may weigh their opponents' size and influence in a given venue (Holyoke et al. 2012; Ley and Weber 2015). Still, these actors may gauge the institutional or political hurdles of a given venue, or the ideological congruence between their cause and the citizens or officials in that venue (Baumgartner and Jones 1991, 1993; Holyoke et al. 2012; Ley and Weber 2015). These mechanisms driving venue choice, however, are mainly internal considerations, either organizational or intra-jurisdictional. While I do not doubt the power of these internal considerations, I believe policy actors also weigh external information when picking a venue.

As Chapter 4 laid out, I believe that policy actors' venue choice in one state influences like-minded policy actors' venue choice in other states. This theory of *venue diffusion* is a theory of interdependence. It is a story about policy entrepreneurs strategically selecting the most favorable channel to press for a new policy, and subsequently, policy actors considering these prior choices in picking their venue for policy activity. Given policy actors' limited time, attention, and resources, and facing too little or too much information, they satisfice and look elsewhere for solutions to common problems. This search results in both policy and political learning. Policy actors actively learn from one another about the policy innovation (i.e., policy learning) *and* the best avenue to achieve that innovation (i.e., political learning). That is not to suggest that policy actors blindly copy the routes taken by others before them. I concur with past research that policy actors consider their

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capacities and resources, and their own states' institutional and political contexts. But I argue that policy actors also weigh the successful avenues taken by other states. Policy actors' venue choice is a product of both internal *and* external considerations.

In the context of gay marriage, I charge that policy actors representing the religious right or gay rights movements learned about the tactical strategies and decisions made by like-minded policy entrepreneurs and early movers in states that previously pursued the same innovation. As such, I theorize that as conservative activists and fundamentalist Christian organizations sought a ban on gay marriage via a particular venue, subsequent opponents of same-sex unions learned from these successful strategies and were more likely to pursue a ban in the same venue. Likewise, I contend that as more gay rights activists and organizations successfully engaged in a specific venue to achieve marriage equality, subsequent proponents were more likely to follow the same institutional path.

Opponents of gay marriage largely focused their efforts in state legislatures and at the ballot box via legislative referenda and citizen initiatives.[85] Table 6.1 shows the main institutional venues that policy actors picked to pursue anti-gay marriage policies. Capitalizing on public support against gay rights, the religious right and conservative groups moved quickly to convince 40 state legislatures (most Republican-controlled, although some Democratically-controlled) to pass statutory prohibitions against same-sex unions. These same groups then persuaded 19 state legislatures to put forward legislative referenda, encouraging state electorates to pass constitutional bans on gay marriage.[86] These groups obtained enough signatures in 16 direct democracy states to allow voters a direct say via citizen initiative whether to constitutionally prohibit same-sex unions. Table 6.1 also

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[85] This strategy contradicts the resource mobilization theory of venue shopping, which suggests that organized interests representing the status-quo position—anti-gay rights groups in this case—should have an institutional advantage at the federal level. Although adversaries of marriage equality were successful in getting Congress to pass a federal definition of "traditional marriage" in the 1996 Defense of Marriage Act (DOMA), conservative and religious right groups prioritized action at the state level.

[86] Minnesota was the only state to not pass its legislative referenda in 2012.

documents the high success rate in each of these venues, with 88% of citizen initiatives, 90% of

statutory bills, and 95% of legislative referenda successful.

Table 6.1: Venue Choice to Pursue Anti-Gay-Marriage Policies, 1993 – 2015

Institutional Venue	No. of States with Venue	No. of States Picking Venue	No. of States Successful in Venue	Success Rate via Venue
State Legislature	50	40	36	90%
Legislative Referendum	49	19	18	95%
Citizen Initiative	24	16	14	88%

Notes: Table displays the venues selected to pursue anti-gay marriage policies and the success rate for those venues. Success rate is calculated by the number of states adopting via given venue divided by the number of states pursuing via given venue. Delaware is the one state without legislative referendum for constitutional amendments. Not all venues are represented here. Two states pursued limited same-sex marriage bans via gubernatorial executive orders (Alabama and Mississippi) followed by legislative action in those states. However, given the rarity of these events via those venues, they are not included here. See Appendix D for a full chronology of anti- and pro-gay marriage policies pursued in every state.

Although most civil rights movements attempt to effect change through more central

channels like Congress and the federal courts, the gay rights movement initially turned to state

courts and later to state legislatures (Werum and Winders 2001).[87] Table 6.2 presents policy actors'

and interest groups' venue shopping to pursue pro-gay marriage policies and their corresponding

rates of success. Seventeen states pursued marriage equality via the state supreme court, with a 53%

success rate.[88] Although almost a third of the states picked the state judiciary to protect minority

rights, policy actors and organized interests in 16 states made their case to state legislatures. Nearly

nine out of ten state capitols allowed civil unions or same-sex marriage. Despite much activity at the

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[87] Save for a dozen and half works in the diffusion *and* venue shopping literatures (Andersen 2005; Barclay 2010; Barclay and Fisher 2008; Caldeira 1985; Cann and Wilhelm 2011; Canon and Baum 1981; Dear and Jessen 2007; Dorf and Tarrow 2014; Fiorino 1976; Glick 1992; Hinkle 2015; Hinkle and Nelson 2016; Lewis 2011; Oakley 2009; Parent 2010; Popelier 2015; Werum and Winders 2001), however, scholars have largely ignored the judiciary as a venue for policy change. According to Keck (2009) and Ley (2014), this is a mistake. Relying on interviews and case studies from environmental conflicts in the Pacific Northwest, Ley (2014) argues that the "judiciary can be an institutional venue that enhances public input, can be more inclusive than other venues, and produces positive-sum outcomes when other venues cannot." Facing a low probability of winning, LGBT organizations tried to avoid the ballot box. When gay rights groups did engage that venue, it was largely to legally challenge the religious rights' initiatives or counterpetition (Stone 2012).

[88] Despite the perception that the judiciary is the most arduous and costliest venue to achieve change (Andersen 2005), Kane (2010) suggests that the gay rights movement was able to mobilize greater support for gay rights in other venues because they took the fight to the courts. Keck (2009) and Ley (2014) also make the case that for some issue areas, the judiciary may yield a higher rate of return compared to other arenas. Therefore, regardless of the specific success rate, action in the state courts may have had a positive spillover effect on policy activity in the other forums.

state-level, policy actors also turned their attention to the federal courts later in the timeframe. While two states (i.e., California and Nebraska) did attempt to achieve marriage equality through the federal court system before the U.S. Supreme Court's 2013 ruling in *U.S.* v. *Windsor*, most federal litigation trailed that decision. Some 30 states filed suits in federal court to advance gay marriage in their states, with two-thirds successful via that route.

Table 6.2: Venue Choice to Pursue Pro-Gay-Marriage Policies, 1993 - 2015

Institutional Venue	No. of States with Venue	No. of States Picking Venue	No. of States Successful in Venue	Success Rate via Venue
State Legislature	50	16	14	88%
State High Court	50	17	9	53%
Federal Court	50	30	20	67%

Notes: Table displays the venues selected to pursue pro-gay marriage policies and the success rate for those venues. Success rate is calculated by the number of states adopting via given venue divided by the number of states pursuing via given venue. Not all venues are represented here. Two states successfully granted marriage equality via legislative referendum (Maryland) and ballot initiative (Maine), while another two permitted same-sex unions in a limited capacity via gubernatorial executive order (Rhode Island and Missouri). However, given the rarity of these events via those venues, they are not included here. See Appendix D for a full chronology of pro- and anti-gay marriage policies pursued in every state.

Qualitative Evidence of Venue Diffusion in Fight for Gay Marriage

Since much of the policy process remains a black box for policy scholars, finding evidence of political learning and venue diffusion could prove challenging for most issue areas. Fortunately, the struggle for gay marriage is well documented. Several detailed narratives exist about the principal actors and key decisions made at critical junctures during the fight for and against same-sex unions (Andersen 2005; Cole 2016; Conger 2009; Fetner 2008; Hirshman 2012; Pierceson 2013; Smith 2008; Solomon 2014; Stone 2012). Qualitative evidence abounds that policy actors learned from the tactics and innovations used in other states. This section details how pro-gay marriage advocates relied on the strategic venue shopping decisions made by policy entrepreneurs and early movers in other states when deciding on their arena to press for change.

In the fight for marriage equality, Evan Wolfson was a policy entrepreneur.[89] At Harvard Law School, Wolfson wrote a pioneering paper, entitled "Samesex Marriage and Morality: The Human Rights Vision of the Constitution," promoting same-sex unions. Later hired by Lambda Legal Defense Fund (Lambda Legal) in 1989, he pressed the organization to defend equal marriage rights for LGBT couples. Wolfson wanted Lambda Legal to take up Ninia Baehr, Genora Dancel, and the two other couples' legal challenge in Hawaii in 1991. But many in the gay rights movement balked at spending resources on fighting for same-sex marriage, seeing the efforts as premature, futile, or assimilationist. Wolfson's boss said no, although he later allowed Wolfson to work with counsel, Dan Foley, behind the scenes on the *Baehr* v. *Lewin* case[90] (Cole 2016).

Contrary to the commonly advised strategy of raising as many legal arguments as possible, Wolfson recommended limiting the disputes to state claims only. He feared making federal constitutional arguments would result in a jurisdictional change to the federal courts, where they perceived no chance of winning (Cole 2016). The tactic paid off. After the Hawaiian Supreme Court remanded the *Baehr* case back to the trial court, the judge ruled Hawaii had no compelling interest to deny LGBT couples the right to marry. The judge required the state to recognize same-sex marriage but stayed his decision pending appeal. Facing popular pressure, Hawaiian legislators passed a statute restricting marriage to opposite-sex couples. Legislators also put a legislative referendum before Hawaiian voters in 1998, authorizing the legislature to limit marital unions to one man and one woman and enshrining the policy in the state's constitution. The referendum passed by a wide margin. When the *Baehr* case returned to the Hawaiian Supreme Court in 1999, the court dismissed it because the issue was moot given the newly adopted constitutional amendment.

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[89] Many LGBT activists refer to Evan Wolfson as the "father" or "Paul Revere" of the same-sex marriage movement (Cole 2016; Gallagher and Bull 2011).
[90] *Baehr* v. *Lewin*, 74 Haw. 530, 852 P.2d 44 (1993) originally, although renamed *Baehr* v. *Miike* in 1996 because Lawrence H. Miike tool over as the new State Director of Health for Hawaii.

Regardless of the swift countermovement, gay rights advocates in other states followed Wolfson's lead to press for change via state courts and to limit the arguments to state claims (Cole 2016). This precedent is why nearly all the pro-same-sex marriage suits filed before 2009 narrowed their claims to state issues (Cole 2016). Learning from Wolfson's strategy in Hawaii, Jay Brause and Gene Dugan applied for and were denied a marriage license in Alaska in 1994. They sued, relying merely on state arguments.[91] The Alaskan court ruled in the couple's favor, stating that the ban on same-sex marriage constituted sex discrimination (Pierceson 2013; Smith 2008). In response, Alaska's legislature followed its Hawaiian counterpart, passing statutory language and asking voters to approve a constitutional amendment banning gay marriage.

Similarly following Wolfson's direction and learning from the swift popular and legislative backlash in Hawaii and Alaska, Susan Murray and Beth Robinson, two attorneys representing same-sex couples in Vermont, decided to build public and political support in the state first before filing a lawsuit for marriage equality. Murray and Robinson turned to Vermont Coalition for Lesbian and Gay Rights (VCLGR) and Mary Bonauto from the National Gay and Lesbian Alliance Against Defamation (GLAAD) for help (Cole 2016; Solomon 2014). Together, they produced video testimonials to persuade the public why equal marriage rights were so important. They also lobbied Vermont legislators, asking them to let a lawsuit run its course before taking any legislative action and oppose any constitutional ban via legislative referendum if the legal case succeeded. Legislative allies were delighted only to have to play defense (Cole 2016). Only once the group gained enough commitments to be able to defeat a constitutional amendment in the legislature did they file the suit.

Like the *Baehr* and *Brause* cases before it, the *Baker* v. *Vermont* case raised state claims only, including Vermont's "common benefits clause," which mandated that state benefits must be made

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[91] *Brause* v. *Bureau of Vital Statistics*, 1998 WL 88743

available to all residents (Cole 2016; Pierceson 2013; Smith 2008).[92] The case won at the Vermont Supreme Court in 1999. The Court ruled that the state had not justified such discrimination on the basis of sexuality and ordered the legislature to come up with a fix. Although short of full marriage rights in purpose, in 2000, Vermont's legislature approved civil unions for same-sex couples that gave them the same legal rights and obligations as marriage in practice.[93] Vermont became the first U.S. state to permit same-sex unions.

Building off the success in Vermont, Mary Bonauto turned her attention to GLAAD's home state—Massachusetts. Racing a countermobilization by the religious right to press for a constitutional amendment in The Bay State, Bonauto did the necessary "political ground-work" before filing *Goodridge et al.* v. *Department of Public Health* on behalf of Julie and Hillary Goodridge and six other same-sex couples (Cole 2016; Solomon 2014). Bonauto teamed up with Evan Wolfson, who left Lambda Legal to found Freedom to Marry, to argue *Goodridge et al.* before the Massachusetts Supreme Judicial Court (Solomon 2014). They won. Not only did Massachusetts' high court rule in the couples' favor, but they also decided that the "separate-but-equal" civil-union compromise was inadequate. Massachusetts became the first U.S. state to issue marriage licenses to same-sex couples.

Still, not all gay rights strategies were as disciplined or coordinated. Following President George W. Bush's 2004 State of the Union call for a U.S. constitutional amendment "to protect the institution of marriage," San Francisco mayor Gavin Newsom began issuing marriage licenses to same-sex couples. He did so irrespective of prominent LGBT groups' concerns that it would spark a backlash (Hirshman 2012). The California Supreme Court ordered the city to halt issuing licenses

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[92] Baker v. Vermont, 744 A.2d 864 (Vt. 1999)
[93] For coding purposes, I treat civil unions as synonymous with same-sex marriage since the adoption of civil unions were innovative in that they guaranteed the right of gay persons to access state services and benefits available to married persons. That said, I recognize the controversial distinction and gap in rights between these policy prescriptions.

until a case could make its way through the court system. However, California's high court also seemed to encourage the mayor to file a separate action questioning the constitutionality of the current marriage statutes (Cole 2016). Again, without consulting key gay rights leaders, the mayor accepted the court's invitation and immediately filed a constitutional challenge.

Later in 2004, the California Supreme Court ruled that San Francisco's same-sex marriages were invalid. The mayor did not have the authority to usurp state law simply because he believed current marriage statutes were unconstitutional (Cole 2016; Hirshman 2012). Four years later, however, California's high court ruled on the constitutional challenge it had invited from the city, deciding that the right to marry was fundamental regardless of sexual orientation. Nonetheless, the one step forward for gay rights in California resulted in two steps back. Following the 2008 ruling, the religious right pushed and narrowly won Proposition 8, a citizen initiative that enshrined the traditional definition of marriage into California's constitution (Cole 2016).

Seeing the footsteps trod before them, gay-marriage proponents filed and appealed suits to a dozen more state high courts.[94] Results were mixed with only half of those state judiciaries siding on behalf of marriage equality. Importantly, regardless of success or failure, policy actors in other states took advantage of the lessons learned by Evan Wolfson in Hawaii and early movers in Alaska, Vermont, Massachusetts, and California (Cole 2016). Although subsequent actors likely considered their state contexts, their decision to pursue same-sex marriage via their state courts or alternative venues was not an isolated, independent choice. Instead, it was influenced by the venue shopping processes already done in previous states.

This interdependence, however, is not unique to the pro-gay marriage effort that occurred via state courts. Similar narratives are told about gay rights activists learning from policy

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[94] Connecticut, Georgia, Iowa, Kansas, Louisiana, Maryland, Montana, New Jersey, New Mexico, New York, Oregon, and Washington

entrepreneurs pressing for change in state legislatures (Cole 2016; Solomon 2014). Religious right organizations also learned from the policy actors' paths pursued before them, whether by way of state capitols, legislative referenda, or citizen initiatives (Conger 2009; Fetner 2008; Haider-Markel 2000). Notably, the religious rights' political strategies and venue choices affected the gay rights movements' tactical and venue decisions (Conger and Djupe 2016; Fetner 2008; Pierceson 2013; Smith 2008; Stone 2012; Meyer and Staggenborg 1996). In fact, the right's countermobilization spurred the growth, institutionalization, and capacity building of local, state, and national LGBT groups (Conger and Djupe 2016; Fetner 2008; Smith 2008; Stone 2012).

Role of State and National Interest Groups

As both the gay rights' and religious right's grassroots movements grew, stronger national organizations emerged. These national groups helped share the campaign successes and failures with other local and state groups. "National organizations developed training programs for activists, sent staff members to work on local campaigns, and provided an institutional memory of past campaign tactics" (Stone 2012: xxiii). National groups institutionalized the social movements for the LGBT community and the religious right. They facilitated political learning across the respective networks and epistemic communities (Cole 2016; Fetner 2008; Solomon 2014; Stone 2012).

For example, following the successful defeat of Oregon's Ballot Measure 9 (the one requiring the firing of LGBT teachers and banning of "homosexual" books) in 1992, the tactics used became the model campaign to rout similar anti-gay policies in other states (Stone 2012). National gay rights leaders shared the successful strategies—including issue framing and messaging,[95]

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[95] LGBT organizations shared strategies on how to reverse the negative perception of gays and lesbians. Gay rights groups' early frames painted the fight for same-sex marriage as one for equal civil rights. Although this message gained traction with some individuals, it failed to seriously sway mass opinion. Later frames, however, emphasized liberty, highlighting how the status quo denied same-sex couples' commitment and love for one another. Love and devotion were emotive appeals that resonated with most Americans. Much like venue shopping is an essential aspect of the agenda-setting process, policy framing—how issues are portrayed by the policy entrepreneurs and actors involved—is

fundraising, door-to-door canvassing, obtaining endorsements from political and religious allies, and coordinating volunteers—with their state and local networks (Stone 2012). National LGBT groups also disseminated the legal tactics used to disqualify citizen initiatives before they got on the ballot in other states (Cole 2016; Stone 2012). In the same manner, early movers in the anti-gay movement shared their political strategies, messaging, and ballot measure language with like-minded groups in other states. Indeed, between 1974 and 2008, the religious right attempted more than 245 popular referendums and ballot measures at the local and state levels to curtail gay rights (Fetner 2008). Both movements learned from their own and each other's victories and defeats.

While we should not minimize the role of national-level interest groups in explaining this process, nor should we overstate it. The fact that some national-level interest groups *helped* disseminate new policy ideas and *helped* coordinate the choice of venue does not imply state and local interests were sidelined in the diffusion process. LGBT and religious right groups and individuals were not monolithic in their missions or approaches. For example, national gay rights organizations advised against the lawsuits in Hawaii and Alaska (Cole 2016). And national LGBT interests disagreed with the newly-elected San Francisco mayor's decision to issue marriage licenses to same-sex couples (Cole 2016). Despite the progress, national groups feared these events would spark a backlash and lead to setbacks. Indeed, it was because of individual pioneers and local actors that the movement for marriage equality gained traction. We should be careful not to dismiss this process simply as "interest group" politics (Salokar 1997).

Along these lines, Stone (2012: xxiii) finds that "[m]ost tactical innovations occurred in local or statewide campaigns, and were then spread through connections between organizations and social

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also a key part of the early stages of the policy process. Just as the venue choice in one jurisdiction may influence the venue choices in other jurisdictions (i.e., venue diffusion), so too might the policy framing (and counter-framing) in one jurisdiction diffuse to other jurisdictions. This is yet another policy input ripe for transmission that should be explored further. Gilardi, Shipan, and Wueest (2019) offer an excellent start to this vein of research.

networks between activists." Further countering the narrative that one or two national organizations are driving the policymaking on an issue in the states, Wolak et al. (2002) show that most interest groups hold unique state registrations rather than multi-state registrations. It appears that most state-level groups "remain strongly rooted within their states" even as some aspects of these groups have become more nationalized (Wolak et al. 2002: 551). Instead of national groups steering the diffusion process, diffusion helps scale up the level of coordination across actors (Givan et al. 2010).

Likewise, interest groups with parallel missions may pursue divergent courses of action. Engel (2007) highlights how two national LGBT organizations—National Gay and Lesbian Task Force and Human Rights Campaign (HRC)—followed different strategies in different institutional venues to press for expanded LGBT rights during the 1990s. The National Gay and Lesbian Task Force relied more on grassroots and local efforts to advance gay rights, while the Human Rights Campaign prioritized federal venues to press for equality. Interestingly, Engel argues that these diverse paths resulted not from coordination between the two entities but rather from differences in organizational identity at their outset. Engel shows how the identity argument outperforms the classic resource or capacity explanations employed by scholars to account for the differences in organizational strategies. Following the passage of several state-level constitutional amendments banning gay marriage, however, both groups augmented the number of venues where they actively helped press for policy change (Engel 2007).

Thus, this is not a story of one or two national groups blindly replicating an innovative approach that had previously been successful in one state in other states. In contrast, it is a story of numerous individuals and local, state, and national groups working together to share tactical repertoires, including venue choice, to advance a common cause. The qualitative evidence shows that national-, state-, and local-level professional organizations were critical to the transfer of policy

ideas and campaign tactics around gay marriage (Cole 2016; Fetner 2008; Solomon 2014; Stone 2012; Werum and Winders 2001).

Venue Diffusion in Fight over Gay Marriage: Expectations

The earlier narrative provides qualitative evidence of political learning and venue diffusion in the fight over gay marriage. Yet, do the data bear this out? I now turn to empirically testing whether policy actors consider the successful paths taken by other states when pressing for policy change in their states. Although this section offers several expectations that parallel the expectations from Chapter 5, the primary difference here is that I am laying out the prospects for venue diffusion rather than for policy diffusion. The focus now is *picking a venue* rather than *adopting a policy* in a given venue. The difference between "picking a venue" and "adopting a policy" may sound trivial, but the former tests venue diffusion while the latter tests policy diffusion.

Following the theoretical contributions from Chapter 4, I propose political learning as the principal mechanism driving the patterns of venue choice across subnational units. Although political learning could involve drawing lessons about other states' policy framing, policy winnowing, coalition building, I focus on a key aspect of the agenda-setting process: venue shopping. As policy actors receive signals about the venues that policy entrepreneurs and early movers used to achieve policy change successfully, they should be more likely to pick the same venue to upend the status quo in their state. This comports with prior venue shopping scholarship that suggests policy actors learn from their own triumphs and flops (Ley and Weber 2015; Pralle 2003). If policy actors learn from their own actions, we should assume they learn from others' successes and failures as well.

Related to the policy case of interest, I theorize that as conservative activists and fundamentalist Christian organizations picked a particular venue to pursue a ban on gay marriage, subsequent opponents of same-sex unions learned from these successful strategies and were more

likely to select the same venue to pursue a ban. Likewise, I contend that as more gay rights activists

and groups successfully engaged in a specific venue to achieve marriage equality, subsequent

proponents were more likely to follow the identical institutional path. In summary, my main

hypothesis is:

> **H₁: Political Learning:** *The likelihood of a state picking a venue to pursue a policy increases as the proportion of other states successfully pursuing the policy via the same venue increases.*

Paralleling this purposive search for information, policy actors may also assess their

institutional or political similarity relative to the states that have gone a given route. Just like states

look to peers for a policy solution (Shipan and Volden 2006, 2014; Volden 2006), states may also

look to their peers when picking a venue to press for policy change. More recent experimental

research indicates that policy actors do indeed seek out information and take cues from self-selected,

likely homophilic, networks (Butler et al. 2015; Zelizer 2019). Returning to the Boston Marathon

example presented in Chapter 1, whereby runners share information about the most favorable

courses to qualify for the prestigious event, racers likely gauge the fastest courses overall as well as

the fastest courses for runners like them (e.g., considering gender, age, experience). It makes sense

then that states will evaluate how comparable they are to other states that have already gone down a

particular path. If those states engaged in venue shopping with their institutional and political

contexts in mind (Baumgartner and Jones 1991, 1993; Holyoke et al. 2012; Ley and Weber 2015),

then subsequent states with analogous contexts should be more likely to opt for the same venue.

The above narrative even reinforces this point, as policy entrepreneurs and early activists

strategically selected the next states (e.g., Vermont, Massachusetts) based upon comparable

institutional and political settings (Cole 2016; Solomon 2014). In the context of gay marriage,

potential dimensions of similarity include legislative professionalism, state supreme court

professionalism, difficulty in amending state constitution, citizen ideology, supreme court ideology,

and district court ideology. An added bonus of accounting for these comparisons between units is that I can simultaneously track each state's institutional and political hurdles relative to the hurdles in other states that have already taken action in a given venue. And venue accessibility is a known determinant of venue choice (Baumgartner and Jones 1991, 1993; Ley and Weber 2015). Given this, I hypothesize that:

> **H₂: Institutional / Political Similarities:** *The likelihood of a state picking a venue to pursue a policy increases as more institutionally and politically similar states opting for the same venue increases.*

Nonetheless, there are other well-founded explanations for why policy actors choose a venue. As they do from time to time for policy solutions, states may look to their contiguous geographic neighbors to aid in selecting the best avenue to press for an anti- or pro-gay marriage policy change (Berry and Berry 1990; Berry and Baybeck 2005; Cohen-Vogel and Ingle 2007). The tendency toward homophily may cause policy actors to look no further than their neighbors, emulating the paths taken in geographically proximate states to achieve policy change. Hence, I put forward the following hypothesis:

> **H₃: Geographic Neighbor:** *The likelihood of a state picking a venue to pursue a policy increases as the proportion of contiguous neighboring states picking the same venue to pursue the policy increases.*

Akin to the policy learning mechanism in policy diffusion, activists and groups may also weigh the cumulative number of other states adopting relevant policies via a given venue when deciding on an appropriate avenue. Instead of prioritizing a venue's success rate, assessing similarities with other states taking a path, or following the lead of neighboring states, policy actors may learn about the number of states that have already successfully selected a venue and consequently join the bandwagon. Therefore, I propose the following hypothesis:

H₄: Policy Learning: *The likelihood of a state picking a venue to pursue a policy increases as the number of other states successfully picking that venue to pursue the policy increases.*

Policy actors' choice of venue, however, may not be immune to federal government involvement in the policy area (e.g., Allen, Pettus, Haider-Markel 2004; Karch 2009, 2012; Shipan and Volden 2006, 2008; Welch and Thompson 1980). As such, federal-level activity on the issue could lead states to pick one institutional arena over another to cement or circumvent national signals. Moreover, the domestic political environment, such as the timing of presidential elections, could also make one venue more accessible than others (Baumgartner and Jones 1993; Berry and Berry 1990, 1992; Ley and Weber 2015; Mintrom and Vergari 1998; Smith et al. 2006). Hence, I hypothesize the following:

H₅: Federal Intervention: *The likelihood of a state picking a venue to pursue a policy increases / decreases as the federal government intervenes in the issue area.*

H₆: National Environment: *The likelihood of a state picking a venue to pursue a policy increases / decreases as the national environment on the issue area ebbs and flows.*

Still, the venue-shopping literature emphasizes how policy actors consider their opponents when selecting an arena to press for change (Holyoke, Brown, and Henig 2012; Ley and Weber 2015). A movement's success in one venue may force the countermovement to compete in a different forum. As such, opponents' policy successes in a state may also explain venue choice. Given this, I suggest the following:

H₇: Opposition Policy Success: *The likelihood of a state picking a venue to pursue a policy increases / decreases as the number of opposition policy successes increase.*

Beyond considering opponents' policy successes, policy actors also weigh their resources and capacities, as well as their opponents' resources and capacities (Holyoke, Brown, and Henig 2012; Ley and Weber 2015; Pralle 2003; Sabatier and Jenkins-Smith 1993). Change actors try to balance their own political, legal, and technical strengths against their challengers' strengths (Ley and Weber

2015). Policy actors try to determine their competitive advantage (Sabatier and Jenkins-Smith 1993; Jenkins-Smith et al. 2014). I expect a similar dynamic here, with the religious right and gay rights movements' sizes (and thus strength of influence) affecting both sides' venue shopping processes. Indeed, the qualitative evidence above pointed to these anticipatory countermobilizations (Dorf and Tarrow 2014; Stone 2016). For example, greater interest group size may make policy actors more likely to select the legislative arena to pursue change, since elected officials may be more responsive to a constituency base as its size grows. Or as opposition size grows, interest groups may be forced to take their fight to the courts to protect minority rights. Venue choice could ebb and flow as interest group and opposition group sizes change. As such, I hypothesize:

> **H$_{8a}$: Interest Group Strength:** *The likelihood of a state picking a venue to pursue a policy increases / decreases as the size of the interest group increases.*
>
> **H$_{8b}$: Opposition Interest Group Strength:** *The likelihood of a state picking a venue to pursue a policy increases / decreases as the size of the opposition interest group increases.*

Finally, we also know from the venue shopping literature that policy actors prefer venues where they are already engaged (Holyoke et al. 2012). Change agents typically stick with the venue they know. Consequently, if policy actors have already pursued and successfully adopted a policy in a venue, they should be less likely to pursue a similar policy in a competing venue. I offer:

> **H$_9$: Prior Policy Success:** *The likelihood of a state picking a venue to pursue a policy decreases as the state has already successfully pursued the policy in other venues.*

Data and Methods

Data

To test the theory of venue diffusion, I rely on the same compiled dataset of U.S. states pursuing anti- and pro-gay marriage policies used in Chapter 5.[96] Again, states enter the risk set in 1993 following the Hawaii *Baehr* case and exit on or before 2015 when the U.S. Supreme Court *Obergefell* decision settled the issue. Since states could pick among alternate venues to pursue a policy change, states are stacked in the dataset for by venue and year. Therefore, the unit of analysis is state-venue-year.[97]

More specifically for anti-gay marriage policies, actors in states could select the legislature, legislative referendum, or citizen initiative to pursue a ban.[98] State-venue-year observations take on a value of 0 until the state picks a venue to pursue a ban, when that state-venue-year takes on a value of 1. Because the pooled data include unordered repeated events, states remain in the dataset if they are at risk of selecting alternate venues to outlaw same-sex unions; if the state re-selects the same forum to pursue additional bans; or if the state was unsuccessful in their initial attempt and reattempts via the same path. Essentially, state-venue-year units stay in the dataset until they are successful in the arena of interest or if they repeat the same venue choice.[99]

Similarly for pro-gay marriage policies, states were at risk of choosing the state legislature, state court, or federal courts to permit same-sex unions. In the pro-gay marriage dataset, state-venue-year units take on a value of 0 until the state picks a route, when the unit switches to a value

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[96] Appendix C provides the full chronology of the anti- and pro-gay marriage policies pursued by venue type in each U.S. state.

[97] For anti- and pro-gay marriage policies alike, because all 50 states could pick among three venues in a 23-year time span, the maximum number of observations is: $50_{states} * 3_{venues} * 23_{years} = 3,450_{observations}$.

[98] Importantly, states that do not permit citizen initiatives are controlled for in the models via a direct democracy variable since they cannot be at risk of pursuing plebiscitary action.

[99] Success in this instance is defined as the policy being adopted and implemented. Statutory language restricting same-sex unions that passes the state legislature but is vetoed by the governor, for example, would not be treated as success and would remain in the dataset for that venue until the policy was successfully enacted.

of 1. Despite picking a venue to press for gay marriage, however, the state may remain in the pooled

dataset for the other competing venues, or if the state retries (if initially unsuccessful) in the same

venue or selects the same forum to pursue additional pro-gay marriage policies.[100] For instance,

Delaware, Hawaii, Illinois, New Hampshire, and Rhode Island remain in the dataset after choosing

their state legislatures to allow civil unions because policy actors later returned to the state

legislatures in those states to pursue full same-sex marriage rights. They also remain in the dataset

for the other available venues (i.e., state and federal courts) since they remained at risk of taking

action on gay marriage in those other forums.

Readers may have a sense of déjà vu in that the dependent variable here (i.e., picking a

venue) appears to be the same as the dependent variable in Chapter 5 (i.e., adopting a policy). But

the dependent variable in this chapter is a state selecting a venue in a given year to press for policy

change instead of a state enacting a policy in a given year (as it is in Chapter 5). To illustrate the

difference, consider the Californian state legislature's attempt to legalize gay marriage in 2005.

California's House and Senate passed legislation permitting same-sex unions, only to have the statute

vetoed by Governor Schwarzenegger. For the models in this chapter, the dependent variable takes

on a value of 1 for the legislative venue because policy actors selected the state legislature to press

for policy change. However, in Chapter 5, the dependent variable took on a value of 0 for the

legislative venue because the policy was not enacted by the state.

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[100] Success here implies successful enactment of civil unions or same-sex marriage. If a federal district court rules in favor of marriage equality, but the circuit court stays the ruling, this is not treated as a success and the unit remains in the dataset for that venue until same-sex marriage is allowed and implemented. The one exception to this is the 1993 *Baehr* v. *Lewin* case in Hawaii because the partial success (the Hawaiian Supreme Court remanding the case back to the trial court rather than dismissing it outright) led to the flood of activity in this policy area. It is treated as a success until the subsequent ruling in 1999 when the Hawaiian Supreme Court sided against marriage equality because of the constitutional amendment passed by the state electorate in 1998.

Variable Operationalization

This section is devoted to my choices in operationalizing variables used to test the above arguments in the anti- and pro-gay marriage models. The central predictor, *Political Learning*, for both the anti- and pro-gay marriage analyses remains the same as in Chapter 5. As a reminder, I operationalize political learning as the cumulative success rate of the states picking a given venue and achieving their policy goals at time t. Overall, I expect a positive relationship between political learning and venue choice for both models. However, a negative coefficient would not necessarily negate political learning's role. Learning can occur from failure, too. And since some venues yielded more mixed success rates, especially in the pursuit to legalize same-sex unions, it is possible that political learning's impact varies by venue and over time. Because many of the other explanatory variables are the same as the ones included in Chapter 5's models, I turn your attention only to the five differences in the variables used here to test the above hypotheses.

First, because policy actors might prioritize venue shopping cues from institutionally and politically similar peers (H$_2$), I construct three new variables for the anti-gay marriage models: *Similarity in Legislative Professionalism*, *Similarity in Citizen Ideology*, *Similarity in Difficulty in Amending Constitution*. For the pro-gay marriage models, I include the similarity in legislative professionalism and similarity in citizen ideology variables, along with three additional variables: *Similarity in Supreme Court Professionalism*, *Similarity in Supreme Court Ideology*, and *Similarity in District Court Ideology*. All six of these measures are constructed in the same way, where I calculate the Euclidean distance between a state's position and the average position of the states that have already selected the venue of interest. Then, I multiply the value by -1 to reverse code it, so larger values point to greater similarity. The base components for all of the variables, except citizen ideology, are used and defined in Chapter 5. For the citizen ideology

variable, I use Berry et al.'s (2010) measure which is an aggregate of "Common-Space" congressional ideology scores, where higher values indicate a more liberal electorate.

These similarity measures do not simply evaluate how analogous a state is relative to other states along these dimensions. Rather these measures gauge how similar a state is to the other states *that have already pursued the policy via a given venue of interest.* Hence, these measures are different across state-years depending on the venue in question.[101] Essentially, these similarity variables help capture policy actors' determination of whether the policy would work in their own state if it worked in other similar environments (Rose 1991; Shipan and Volden 2014). I expect a positive relationship between each of these variables and the likelihood of a state picking a given venue, as states should emulate the paths already taken by their institutional and political peers.

The second change to my measurement strategy relative to Chapter 5, is that both the policy learning (H_4) and geographic variables (H_3) are specific to the venue under consideration. Instead of capturing the cumulative number of states by year that adopted a gay marriage ban or legalized same-sex unions (regardless of venue), **_Policy Learning by Venue_** captures the cumulative number of states by year that picked a given venue to pursue the policy successfully. And instead of simply representing the proportion of neighbors that adopted the policy of interest (regardless of venue), **_Geographic Neighbor by Venue_** represents the proportion of geographically contiguous neighbors that picked a given forum to successfully pursue the policy. I assume that increases in both variables will make policy actors more likely to choose the given arena.[102]

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[101] For example, after policy actors achieved civil unions by way of the Vermont Supreme Court, gay rights activists looked for another state with similar judicial arrangements and that could be more receptive to a lawsuit. These actors identified Massachusetts, whose level of supreme court professionalization and citizen ideology were only 0.048 units (out of 1.0 possible units) and 4.69 units (out of 72 possible units) different, respectively, from Hawaii and Vermont. This points to the possibility that policy actors prioritize states with similar institutional and political environments.

[102] For purposes of clarification, the following variables are venue specific variables, deviating across state-venue-year units depending on the forum under consideration: political learning, similarity in legislative professionalism, similarity in citizen ideology, similarity in difficulty in amending state constitution, geographic neighbor by venue, and policy learning by venue.

Third, although I did not include the *Lawrence v. Texas Supreme Court Decision* and

Presidential Election Year variables in the pro-gay marriage models in Chapter 5 because their

inclusion complicated model estimates and likelihood-ratio tests, I can control for those variables

here. Fourth, I do not include the *NYT* salience measure, sodomy ban, LGBT hate crime law,

racial/ethnic minority population, and college education variables in these models. While there was

much theoretical support for these variables driving policy adoption, there is less theoretical support

from the venue shopping literature to evince their role in venue choice. As such, I omit them from

the models. Lastly, for these pro-gay marriage models, I measure opposition success as Prior Anti-

Gay Marriage Policy, which is the cumulative number of gay marriage bans adopted by each state by

year. I elect a narrower count by state (rather than cumulative number across states) because the

opposition success was nearly ubiquitous and state specific. See Tables D.1 and D.2 in the Appendix

for complete variable descriptions, summary statistics, and sources for the anti- and pro-gay

marriage models, respectively.[103]

Methods

As I described in detail in Chapter 5, traditional event history data is typically modeled using

logistic regression, estimating the likelihood of an event (e.g., adopting policy vs. not adopting

policy). Such an approach is unsatisfactory here because the coefficients would fail to explain why a

given venue was selected at all or why one venue was picked over another. Given this, I opt for a

modeling strategy that accounts for policy actors' discrete (and sometimes repeated) choice among

multiple, competing venues: multinomial logistic regression.[104] And, as I explained in Chapter 5, the

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[103] I should also note that if variables were missing an observation for a given year, I relied on linear interpolation to fill the missing value. That said, I made a point to use variables with observations for nearly all state-venue-years.
[104] Of course, I could re-estimate the model with a different baseline category, which would change the coefficients and interpretations since all results are relative to the baseline outcome. Although I only report the coefficients of *picking the venues relative to picking no venue* in the tables, I do recount additional comparisons of *picking between venues* where appropriate. An alternative modeling strategy that has sometimes been suggested for this type of data is the gap-time

models' standard errors are clustered by state-year to reduce the potential for heteroskedasticity

while a time counter variable is added to the models to account for temporal dependence.[105]

Results for Anti-Gay Marriage Policies

Table 6.3 exhibits the results for the repeated-events, competing risk multinomial logistic

regression model of venue diffusion for anti-gay marriage policies.[106] Recall that the dependent

variable is a state's likelihood of picking an institutional arena—state legislature, legislative

referendum, or citizen initiative—to pursue a ban on same-sex unions, relative to the baseline of not

selecting any venue. Though not reflected in the table below, the overall probability of policy actors

choosing the state legislature to pursue an anti-gay marriage policy in any given year is two

percentage points. Likewise, the likelihood that actors will opt to pass a ban on gay marriage via

legislative referendum or citizen initiative in any given year is 0.8 and 0.7 percentage points,

respectively. On their face, these probabilities may seem low. However, stasis is the status quo; U.S.

state institutions are intentionally designed to impede and slow policy change. Moreover, these

values represent the likelihood that policy actors, on average, will select these venues among multiple

available venues in any given year throughout the entire 23-year time period. Considering that, the

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model for competing risks. Although attractive, the gap-time model assumes an ordered nature to the events, which is not the case here. Furthermore, the gap-time model assumes a proportional hazard across the discrete choices, much like the Cox-proportional hazards model. This is problematic as the risk for picking a venue may not be proportional across the venue choices or across time. Consequently, I opt for the multinomial logistic regression model.

[105] Despite advice from Cameron and Miller (2015), I cluster units by state-year because dynamics within a state in a given year may affect policy actors' choice between competing venues within that state-year. Cameron and Miller (2015) recommend against this because it usually clusters on one observation (which results in no clustering at all), but in my dataset state-year clusters group on three observations (one for each venue). The variance within a state-year is the variance of interest because actors can pick between three discrete venues in a given year. Nevertheless, clustering only by state does not affect the key findings. See Appendix D (Table D.7 and Table D.8) for results for both anti- and pro-gay marriage policies clustered by state instead of state-year.

[106] Overall, the model performs quite well. The area under the ROC curve, a statistic indicating the accuracy of the model, is 0.975, while McFadden's pseudo R^2 value is 0.532. Checking the Independence of Irrelevant Alternatives (IIA) assumption, I carry out IIA and likelihood ratio tests, despite strong theoretical reasons to treat the venues as separate choices regardless of the results. The results suggest there are no violations of the IIA assumption and that none of the choices should be combined.

Table 6.3: Venue Diffusion of Anti-Gay Marriage Policies using Mult. Logistic Regression

Explanatory Variables	Legislature	Leg. Referendum	Citizen Initiative
Political Learning [+]	**2.038*** **(0.970)**	**46.327*** **(22.601)**	-3.170† (1.882)
Similarity in Legislative Professionalism [+]	**0.364*** **(0.145)**	**2.306*** **(0.797)**	0.267 (0.239)
Similarity in Difficulty Amending Constitution [+]	0.669 (0.416)	**1.156*** **(0.565)**	**4.347*** **(1.222)**
Similarity in Citizen Ideology [+]	**0.064*** **(0.029)**	**0.102*** **(0.043)**	0.033 (0.031)
Geographic Neighbor by Venue [+]	0.239 (0.756)	1.071 (2.289)	2.102 (1.325)
Policy Learn by Venue [+]	**0.227*** **(0.041)**	0.162 (0.122)	-0.237 (0.153)
Federal Government DOMA [+]	-0.353 (1.133)	**14.950*** **(2.783)**	**12.926*** **(1.266)**
Lawrence v. *Texas* Sup. Ct. Decision [+]	**4.995*** **(1.276)**	0.508 (1.095)	-1.044 (1.276)
Presidential Election Year [+]	0.739 (0.553)	0.832 (0.594)	**2.226*** **(0.618)**
Pro-Gay Marriage Counter [+]	**0.198*** **(0.075)**	0.007 (0.098)	-0.252 (0.153)
Evangelical Population [+]	0.013 (0.026)	0.086 (0.059)	**-0.154*** **(0.051)**
LGBT Population [-]	0.817 (0.698)	0.758 (0.634)	-1.310 (0.876)
Prior Anti-GM Policy [-]	-0.724 (0.579)	0.136 (.810)	**-1.650*** **(0.702)**
State Supreme Court Professionalism [+]	**3.854*** **(1.863)**	2.130 (3.185)	1.187 (4.133)
State Supreme Court Ideology [+]	**1.047*** **(0.407)**	1.186 (0.799)	**-1.900*** **(0.942)**
Direct Democracy [-/+]	1.202 (0.529)	-1.262 (0.979)	**19.415*** **(1.500)**
Public Support for Gay Marriage [-]	-0.064 (0.062)	-0.018 (0.087)	**-0.110*** **(0.050)**
State Population (Ln) [-]	-0.213 (0.223)	-0.403 (0.639)	-0.298 (0.508)
Constant	-1.904 (2.750)	**-61.773*** **(22.972)**	**-27.959*** **(3.606)**
N	2505	Wald χ²(57):	**4640.55***
AIC / aROC	557.04 / 0.975	Log Likelihood:	-218.52

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of picking a venue to pursue anti-gay marriage policy. Dependent variable has four categories, baseline category is not picking a venue to pursue an anti-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

risk of forum shopping is sizeable.[107]

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[107] Based upon the model, some states' observed values deviated from their predicted values. For example, Mississippi and Texas were expected to pursue an anti-gay marriage policy via some venue in 1996, but neither acted until 1997. Likewise, there was a high probability that Maine would adopt a constitutional ban via legislative referendum in 2004 but did not do so until via popular referendum in 2009. Oklahoma, and South Dakota were also expected to adopt a constitutional ban on gay marriage via citizen initiative in 2004; Oklahoma did so in 2004 but via legislative referendum,

From the table, the results are clear: political learning affects states' venue shopping (H_1). Because the coefficients are expressed as log-odds and thus arduous to interpret, I provide average marginal effects for key variables in Figure 6.1. As a reminder, for continuous variables, average marginal effects can be interpreted as the instantaneous rate of change in the dependent variable following a small (e.g., one unit) increase in the independent variable, holding the other predictors constant. A small increase in policy actors' success via state legislatures augments subsequent states' propensity to pick that venue over others by 2.6 percentage points. A similar increase in political learning for legislative referenda intensifies the effect of choosing that venue compared to others by 27.5 points. Since legislators referring a vote to the state electorate are probably less certain about the outcome, legislators may rely especially on the success rate in other states before moving forward.

In contrast to the positive effect on selecting the legislature or legislative referendum to pursue policy change, political learning has a negative marginal effect of 2.3 percentage points on choosing a citizen initiative relative to other venues to press for a gay marriage ban (although the parameter misses significance at the $\alpha=0.05$ level). Citizen initiative was the arena with the lowest success rate out of the three venues. This reality appears to have made subsequent states less likely to press for anti-gay marriage policies via plebiscite. Regardless, political learning's marginal effect on picking any of the three venues is larger than any of the other external and internal variables, except

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instead, and South Dakota did not adopt its constitutional ban via plebiscite until 2006. Aside from inaction, other states had a low probability of acting via the legislature when they did. Hawaii, Idaho, and Utah's early efforts via the legislature was unexpected, with a predicted probability under seven percentage points for each state. However, the religious right's continued push via Massachusetts' legislature in 2006 and 2007 (following failed attempts in 2004 and 2005) was perhaps the least anticipated, with predicted probabilities at 0.03 and 0.01, respectively. Hawaii and Alaska, being the first to adopt constitutional bans via legislative referendum, also took the model by surprise. The predicted probabilities for both states lobbying for constitutional language outlawing same-sex unions in 1998 was under seven percent. Still, Wisconsin's push in 2006, Arizona's pursuit in 2008, and Minnesota's attempt in 2012 via legislative referendum all deviated greatly from their predicted values of 0.02, 0.01, and 0.01, respectively. In similar fashion, several states pursued gay marriage bans via citizen initiative much earlier or later than anticipated. Both California and Nevada had initiatives on the ballot in the early 2000s despite predicted values under eight percentage points of doing so. And Arizona (in 2006), Maine (in 2009), and Washington (in 2012) all followed the citizen initiative path when facing low probabilities of doing so, the highest being Arizona at only a ten percent chance of acting via plebiscite.

for Congress's passage of DOMA and the U.S. Supreme Court *Lawrence* ruling. See Figure D.1 in the Appendix for predicted probability plots of picking each venue as political learning for the given venue increases.

Comparing between venues, a state's odds of picking the legislature over citizen initiative as political learning in the "people's branch" increases one standard deviation (42%) is a factor of 8.82. The same increase in political learning for legislative referenda swells a state's risk of picking a referendum over citizen initiative by a factor of 9.6×10^8. Therefore, policy actors are much more likely to choose the legislature or legislative referenda over direct citizen action as those routes' success rates rise. This is not terribly surprising since conservative and religious right interest groups had the institutional and public opinion advantage against the gay rights movement. Given this,

Figure 6.1: Average Marginal Effects of Key Variables on Venue Diffusion for Anti-GM Model

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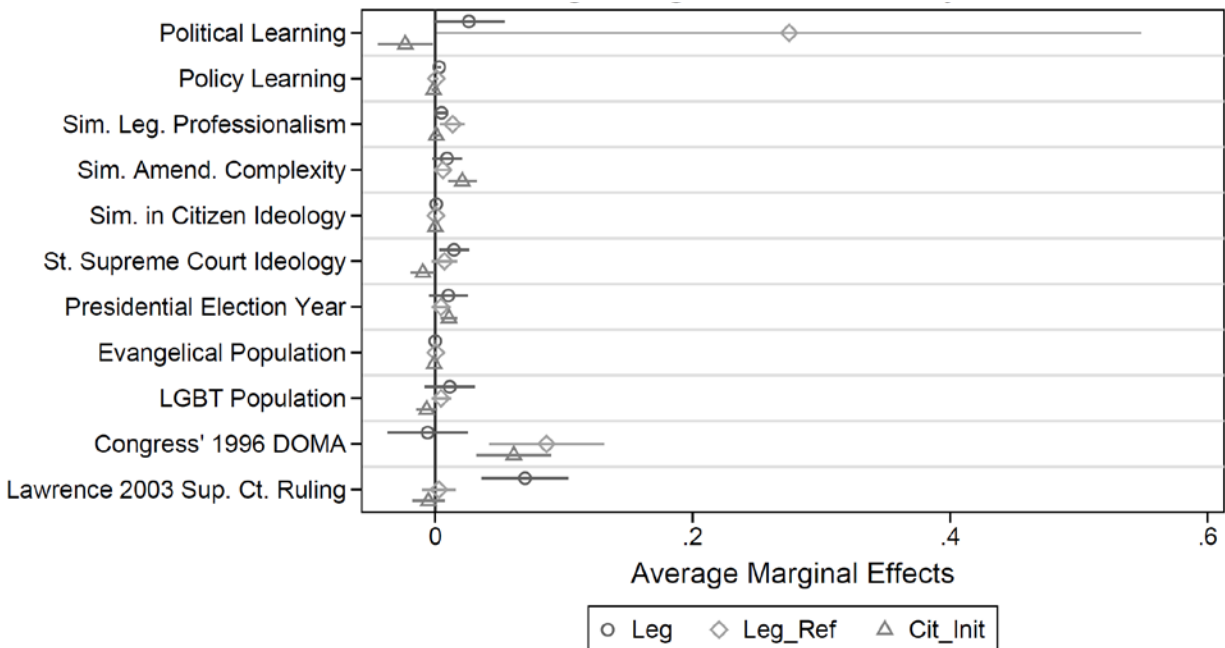
Figure 6.2: Political Learning's Effect on Venue Choice Over Time for Anti-GM Policies
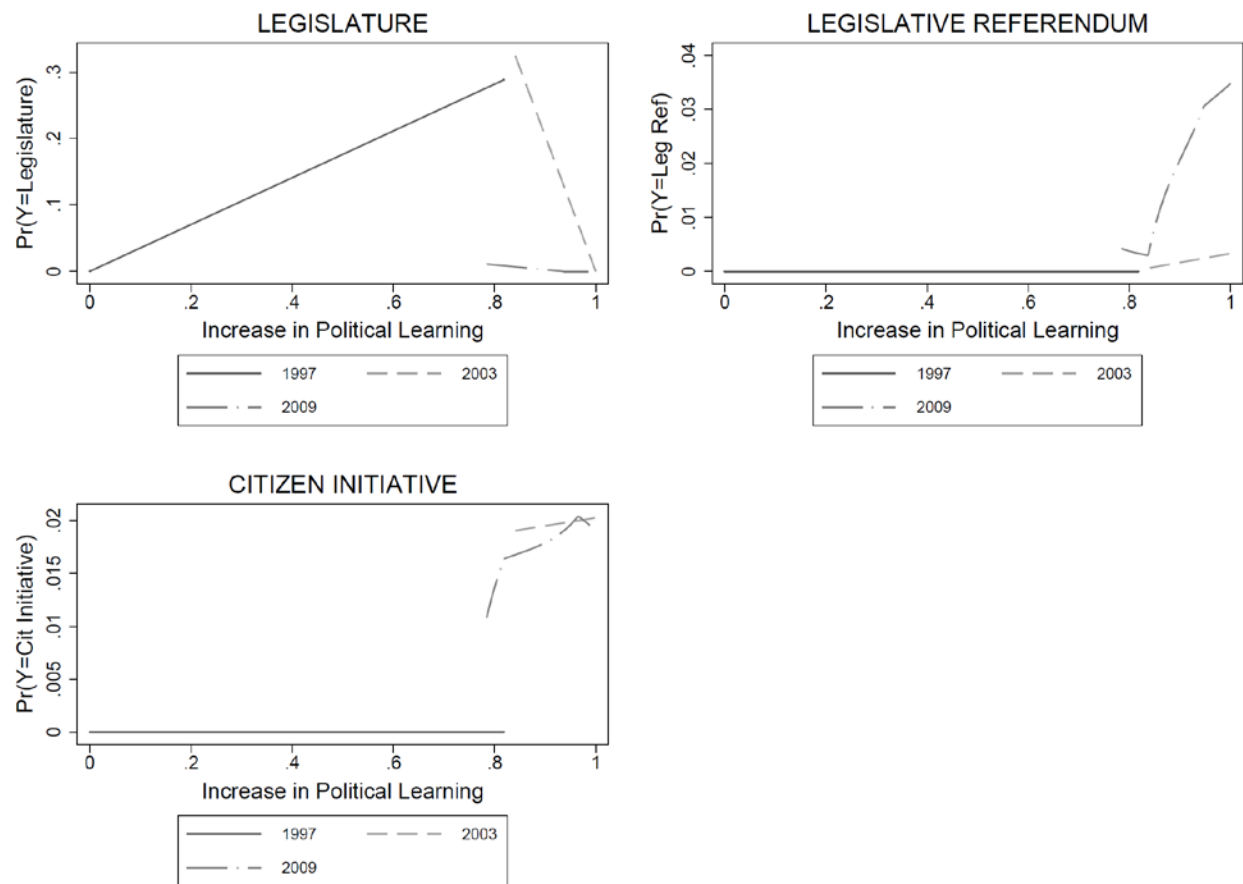
access via state legislatures and legislative referenda, relative to citizen initiatives, was likely more

expedient, cheaper, and with less uncertainty.

Nonetheless, it is possible that political learning's influence fluctuated over time. To further

examine this, I plot in Figure 6.2 political learning's effect on venue choice to pursue gay marriage

bans at three different points in time: 1997, 2003, and 2009.[108] The plots represent the predicted

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[108] The repeated-events competing-risks multinomial logit model used to estimate and plot political learning's effect over time includes an interaction term between the political learning and the time component variables. Although it may be tempting to calculate the average marginal effect for this interaction term, the value of the interaction term cannot change independently of constituent terms' values (Williams 2012). Instead, after including the interaction term in the model, I plot political learning's effect on picking either the legislature, legislative referendum, or citizen initiative relative to picking no venue at three different points in time to pursue anti-gay marriage policies.

probabilities of selecting the given venue in the specified year as political learning in all venues is taken into consideration. In particular, the Loess-smoothed lines for the three years trace the predicted probabilities of picking that venue in the given year over the range of political learning values from all three venues. We see from the first plot displaying political learning's effect on choosing the legislature that the impact was largest early in the 23-year time period. For example, in 1997, as states' success rate in prohibiting same-sex marriage via the legislature increased, subsequent states' likelihood of going that route increased to 30 percentage points. However, by 2003, with most states successful in any venue, subsequent states were less likely to pick the legislature. And by 2009, a state's propensity to pass statutory language against same-sex unions was near zero. This dynamic tracks with the qualitative narrative. Policy actors in California, Nebraska, Nevada, and Wisconsin all pursued action later in the cycle via legislative referendum or citizen initiative without success in the legislature. As the fight over gay marriage evolved, opponents of marriage equality initially preferred the legislature, but then opted for more entrenched bans on same-sex unions regardless of whether action had been previously taken in the state legislature or not.

In contrast to political learning's early impact on picking the people's branch, political learning's effect on choosing legislative referenda or citizen initiative occurred later in the time period. Of course, political learning did not influence selecting legislative referendum or plebiscite in 1997 because no state had gone that route. By 2003, with successful but limited action via legislative referenda in Hawaii and Alaska, political learning's impact on picking legislative referenda was positive but marginal. And by 2009, as other states' success rate in venues was near perfect, states exhibited a likelihood of four percentage points to pick legislative referenda. Similarly, with multiple states' early success via citizen initiative by 2003, other states' risk of choosing a citizen-driven ballot

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measure increased by two percentage points. Yet by 2009, political learning's influence on picking

plebiscitary action had decreased slightly.[109] [110]

Beyond policy actors' learning about successful paths trod in other states, we also see from

Table 6.3 and Figure 6.1 that policy actors look to emulate the successful routes taken by their

institutional and political peers (H_2). A one-standard-deviation increase in similarity of legislative

professionalism relative to those states that previously picked the legislature raises a state's risk of

taking the same path by 0.7 percentage points in a given year. An equal shift in the similarity of

legislative professionalism for legislative referenda, however, boosts a state's likelihood of going that

route by 4.7 points in a given year. Meanwhile, states also follow others with similar hurdles in

amending their constitutions. A one-standard-deviation increase in similarity in difficulty of

amending a constitution increases a state's risk of picking legislative referendum by 0.6 points, and

citizen initiative by four points in a given year. In the same manner, policy actors track states with

similar electorates. An 18-point shift in a state's citizen ideology (in the conservative direction)

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[109] This result may be because Arizona's electorate rejected a constitutional ban on gay marriage via citizen initiative in 2006, but later approved it via legislative referendum in 2008. Religious right groups' initial defeat in Arizona may have made subsequent states less likely to consider citizen initiative to circumscribe marriage equality. Indeed, Washington voters also rejected a ban via plebiscite in 2012.

[110] Another way to assess political learning's effect on policy actors' choice of venue to pursue policy change is to plot political learning and time's *interactive* influence on forum selection. That is, how does the successful venue shopping in one arena by some states over time affect the propensity of subsequent states to pick the same venue? Figure D.2 in the Appendix displays political learning and time's joint effect on policy actors' venue-shopping decision making to press for bans on gay marriage. Although related to Figure 6.2 which reveals political learning's effect on venue choice *at three distinct points in time*, Figure D.2 emphasizes *political learning and time's mutual influence* on the dependent variable. We see from the plot that states had the highest propensity of picking the legislative arena to prohibit same-sex unions early on. But as political learning and time increased, policy actors were more likely to choose citizen initiatives and legislative referenda to outlaw gay marriage. This is understandable as most states first pursued statutory language and then constitutional bans to deny marriage equality. And once public attitudes shifted and federal courts started to rule on the issue, nearly all efforts to ban gay marriage via any venue ceased. Interestingly, although legislative referenda were slightly more successful than citizen initiatives in achieving anti-gay marriage policies, policy actors' probability of picking citizen initiative was marginally higher than selecting legislative referenda. This discrepancy may be because the religious right had greater leeway to pursue a ban via citizen initiative if they could not convince legislators to put forward a legislative referendum, especially as public opinion shifted on the issue later in the cycle. While Figure 6.2 shows that political learning's influence on venue shopping was variable at different points in time, Figure D.2 reveals that policy actors were more likely to pick the legislature to pass anti-gay marriage policies early on, but more likely to choose citizen initiatives or legislative referenda to achieve policy change as political learning and time jointly increased. Figure D.2 further reinforces the finding that external information from other states' successful venue shopping positively impacted subsequent states choice of forum over time.

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relative to early movers' ideology, expands the state's propensity to pursue a ban via the legislature or referenda by two percentage points.

Many of my expectations for the other factors influencing patterns of venue choice across U.S. states also hold. Although policy actors did not appear to copy their geographic neighbors' venue choices (H_3), policy actors did pay some attention to the cumulative number of states opting to pick the legislature to successfully pass the policy (H_4).[111] Federal government activity on the issue area also had some influence on states' venue shopping strategy (H_5). Congress's passage of DOMA in 1996 had an average marginal effect of 8.7 points on states selecting legislative referenda, and 6.1 points on states opting for citizen initiative. Congress's acquiescence on the issue may have encouraged states to adopt even stricter prohibitions against gay marriage. Likewise, the U.S. Supreme Court's 2003 *Lawrence* ruling declaring state sodomy bans unconstitutional resulted in a 7-point uptick in the probability that policy actors would turn to state legislatures to pursue initial or repeated policy action on the issue.

Also lending some support to the national environment hypothesis (H_6), policy actors were, on average, one percentage point more likely to pursue citizen initiatives during presidential election years. But the gay rights movement's policy successes had a limited effect on opponents' venue choice (H_7), while the religious right's prior policy activity (H_9) only made subsequent activity via citizen initiative less likely.[112]

Despite considerable qualitative evidence for interest groups' role in venue shopping (H_{8a}, H_{8b}), neither the interest group (i.e., percentage of state population that is Christian Evangelical or member of Church of Latter-day Saints) nor opposition interest group (i.e., percentage of state

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[111] An increase of 11 additional states picking the state legislature raised a state's probability of choosing the same venue by 5.3 percentage points in a given year.

[112] For each additional state that allowed gay marriage, a state's marginal likelihood of choosing the legislature increased by 0.3 points. Adopting one ban via another venue decreased a state's chances of pursuing an additional ban by way of citizen initiative by 0.5 points.

population that identifies as LGBT) variables had statistically reliable marginal effects. In fact, the only interest group variable significant in Table 6.3 above is a state's Evangelical population's effect on picking the citizen initiative route. An 11 percent increase in a state's more conservative Christian population reduces a state's probability of pursuing a ban via plebiscite by 0.5 points in a given year. This is because greater Evangelical populations raise the odds of picking state legislature and legislative referenda, relative to selecting citizen initiative, by seven- and 17-fold, respectively. States with larger Evangelical populations provide policy actors a political and institutional competitive advantage via the people's branch, thus reducing the need to press for change via citizen initiative.

Still, a perceptive reader may rightly wonder why the state interest group and opposition group strength variables are not more relevant in the current model. The fact that those variables are not statistically significant does not imply interest groups played no role in the venue shopping to pursue bans on gay marriage.[113] Rather, interest groups may exhibit null findings here because their actual influence is being captured via the political learning, institutional and political similarity variables (Lowery 2013). Interest groups are the ones engaging in these purposive searches for information; that is their degree of influence in these dynamic venue shopping processes (Lowery 2013). Furthermore, national-level pressure groups may still play a role in this process. I do not account for national interest groups in the model because no one organization or measure can account for the heterogeneity of these movements.[114]

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[113] And using numerous alternate surrogates for religious right and gay rights interest group strength (Button et al. 1997; CenterLink (2016); Conger and Djupe 2016; Equality Federation Institute and Movement Advancement Projects; Family Research Council; Taylor et al. 2019) does not change the interest group variables' effect on patterns of venue shopping across states.

[114] The remaining control variables had mixed effects across the venues, although most comported with my expectations. A more professionalized state supreme court increased policy actors' marginal effect on picking the state legislature by 5.4 percentage points. Barclay and Fisher (2008) and Hume's (2011) research point to lawmakers trying to signal or circumvent a more professionalized judiciary. Likewise, a more conservative state court of last resort increases the marginal effect of choosing the legislature by 1.5 points and decreases the marginal chances of picking citizen initiative by one percentage point. With a right-leaning court, change agents feel confident in pursuing bans on gay marriage via legislative venues. Finally, greater public opinion in favor of gay marriage made picking all the venues less likely, although only the citizen initiative coefficient was statistically significant at the α=.05 level. A ten percent increase

Taken as a whole, the political learning and similarity variables offer strong empirical evidence that policy actors seek out and consider external venue shopping information. Policy actors learn which routes are successful (H_1) and they prioritize the venue shopping cues from institutionally and politically similar states (H_2). Given this, a state's choice of venue does depend, in part, on prior states' choice of venue. At least in the pursuit of anti-gay marriage policies, *venue diffusion does occur.* This central finding holds even after controlling for states' institutional arrangements, internal political contexts, interest group strength, prior venue shopping, and other external factors. Policy actors do not only look inward but also look outward to assist in picking the most favorable avenue to press for policy change.

Results for Pro-Gay Marriage Policies

The anti-gay marriage model offered strong empirical support for the theory of venue diffusion. Opponents of gay marriage sought out and considered successful venue shopping strategies by actors in other states, especially similarly situated states. But did proponents of gay marriage behave in the same way? Table 6.4 exhibits the results for the repeated-events, competing risk multinomial logistic regression model of venue diffusion for pro-gay marriage policies.[115] The dependent variable here is a state's likelihood of picking an institutional arena—state legislature, state court, or federal court—to legalize same-sex unions, relative to picking no venue. Generally speaking, a state's propensity to pick any venue to enact gay marriage is reduced, relative to their likelihood of selecting a forum to pursue a ban on same-sex unions. Policy actors face a probability

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in support of same-sex unions decreased advocates' chances of going the way of citizen initiatives by 0.4 points in a given year.

[115] Looking to the model fit statistics, the model performs quite well. McFadden's pseudo R^2 value, a quasi-parallel to the amount of variance explained, is 0.523, while the area under the ROC curve, an indicator of model accuracy, is 0.958. As before, I test the Independence of Irrelevant Alternatives (IIA) assumption, despite theoretical reasons to treat and model each venue separately. The results point to independent alternatives, thus complying with the assumption for multinomial logistic models. Moreover, the likelihood ratio tests indicate that none of the choices should be combined.

Table 6.4: Venue Diffusion of Pro-Gay Marriage Policies using Mult. Logistic Regression

Explanatory Variables	Legislature	State Court	Federal Court
Political Learning [+]	15.157* (4.540)	-1.987* (0.679)	-4.430* (1.888)
Similarity in Legislative Professionalism [+]	0.045 (0.409)	-0.274 (0.172)	0.019 (0.235)
Similarity in Supreme Court Professionalism [+]	-3.908 (5.051)	4.487* (1.812)	0.519 (3.395)
Similarity in Citizen Ideology [+]	0.160* (0.048)	0.078* (0.030)	0.066* (0.020)
Similarity in Supreme Court Ideology [+]	2.831† (1.710)	1.330 (0.954)	2.045* (1.026)
Similarity in District Court Ideology [+]	0.337 (1.152)	0.303 (0.459)	0.558 (0.643)
Geographic Neighbor by Venue [+]	-2.744† (1.594)	-2.187 (1.591)	1.220 (0.873)
Policy Learn by Venue [+]	0.324* (0.161)	0.125† (0.067)	0.369* (0.137)
Lawrence v. *Texas* Sup. Ct. Decision [+]	27.665* (4.674)	1.318 (1.189)	16.696* (3.066)
U.S. v. *Windsor* Sup. Ct. Decision [+]	1.535 (0.980)	1.972 (1.203)	4.473* (1.796)
Presidential Election Year [-]	-2.504† (1.351)	0.299 (0.574)	0.918 (0.977)
Anti-Gay Marriage by State [+]	-0.313 (0.547)	0.040 (0.477)	0.858* (0.332)
Evangelical Population [-]	-0.071 (0.064)	-0.040 (0.036)	0.037 (0.051)
LGBT Population [+]	1.601† (0.822)	0.616 (0.521)	-0.142 (0.515)
Prior Pro-GM Policy [-]	-1.800† (1.056)	-1.446* (0.731)	-1.493* (0.469)
Public Support for Gay Marriage [+]	0.108* (0.046)	0.029 (0.050)	0.102† (0.054)
State Population (Ln) [+]	-0.007 (0.396)	0.026 (0.220)	0.027 (0.301)
Constant	-32.771* (5.894)	-1.275 (2.404)	-19.406* (7.127)
N	3322	Wald χ² (54):	8700.44*
AIC / aROC	519.84 / 0.958	Log Likelihood:	-202.92

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of picking a venue to pursue pro-gay marriage policy. Dependent variable has four categories, baseline category is not picking a venue to pursue a pro-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

of choosing the state legislature at 0.7 points, the state court at 0.6 points, and the federal court at 0.9 points in a given year. Again, these are the probabilities for any given state across the entire 23-

year time period to pick a venue. Since the gay rights community moved at a slower pace than the religious right, the early years in the cycle saw much less activity lobbying for marriage equality.[116]

The upshot from Table 6.4 is political learning's persistent effect on states' venue choice to pursue pro-gay marriage policies (H_1). Figure 6.3 displays the average marginal effects for the key variables in the model. We see right away that political learning's marginal effect across most of the venues is substantively larger than all other key variables except for the U.S. Supreme Court's *Lawrence* decision. A small increase in political learning in the legislature produces a 5.9 percentage point increase in subsequent policy actors' probability of also going the route of the state legislature in a given year. Political learning appears to have the opposite effect on selecting the state and federal courts relative to the other available venues. A similar increase in political learning in the state and federal courts actually *decreases* the likelihood that other states will follow suit by 1.3 and 2.7 points, respectively.

This latter result somewhat contrasts with my expectations of political learning's positive effect. While opponents of gay marriage were quite successful via multiple routes, proponents' success rate across venues was more mixed. Recall from Table 6.2 that change agents were 88% successful via state legislatures, but only 53% successful before state supreme courts and 67% successful in federal courts. As policy actors became increasingly successful in state legislature,

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[116] Despite the excellent model fit, however, a few states' observed values for pro-gay marriage policies deviated from their predicted values. The model anticipated that Michigan, Ohio, and Georgia would pursue lawsuits via federal court in 2015. Of course, what the model did not know is that, indeed, litigants in Michigan and Ohio had appeals before the U.S. Supreme Court in 2015, following the negative rulings by the U.S. 6th Circuit Court of Appeals in 2014. The predicted values also anticipated actions in Hawaii and Rhode Island via their state legislatures sooner than occurred. At the same time, California and Connecticut's push for marriage equality via their state legislatures in 2005 was also unexpected, with predicted probabilities less than three percent. Likewise, the probability of New Hampshire's civil unions in 2007, Nevada's domestic partnerships in 2009, and New Jersey's attempted gay marriage legislation in 2013 were all under five percent. Still more surprising was some states' pursuit of same-sex unions via their state courts of last resort. Proponents' lawsuits in Georgia in 2006, Connecticut in 2008, Montana in 2012, Kansas in 2014, and Louisiana in 2015 all had predicted probabilities under one percent. Early federal court action by gay marriage proponents in Nebraska in 2006, California in 2012, and Utah in 2013 was also unanticipated, with the model's probability for such suits under 0.3 percentage points.

Figure 6.3: Average Marginal Effects of Key Variables on Venue Diffusion for Pro-GM Model
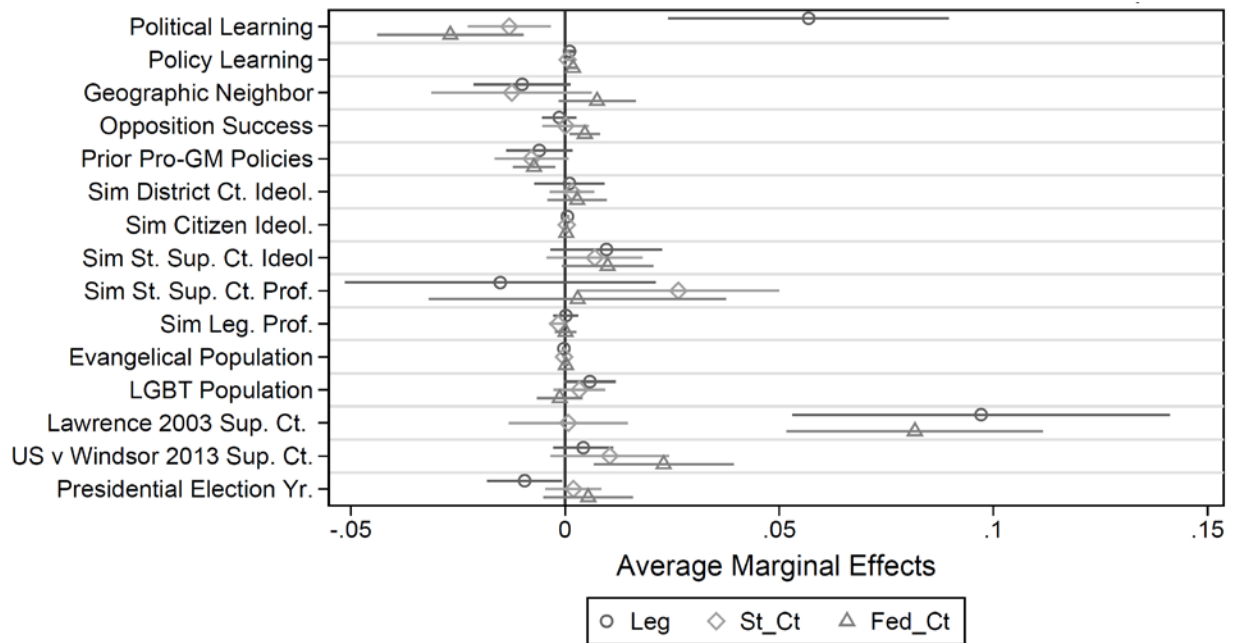
subsequent policy actors were less likely to pursue litigation in state or federal courts. Thus, it is possible that political learning's influence fluctuated over time, even more so than in the pursuit of anti-gay marriage policies. See Appendix D (Figure D.3) for predicted probability plots of picking each venue to pursue pro-gay marriage policies as political learning increases across the venues.

Figure 6.4 plots political learning's effect on states' choice of venue to pursue pro-gay marriage policies at three points in time: 2000, 2007, and 2014.[117] Importantly, these are the predicted probabilities of selecting the given venue at a snapshot in time as political learning in all venues is taken into consideration. Although positive, political learning's effect on selecting the legislature to pursue marriage equality is attenuated over time. With state legislatures not pressing for same-sex unions until 2005, political learning played no role in 2000. But by 2007, successful venue shopping by early movers augmented succeeding states' likelihood of picking the people's branch by

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[117] Again, these plots are produced from a repeated-events competing-risks multinomial logit model that includes an interaction term between the political learning and time component variables.

four percentage points a year. By 2014, political learning still had a positive effect on selecting the legislature, although much smaller at a little over one percentage point in any year. This decline in political learning's influence is likely due to the U.S. Supreme Court's *U.S. v. Windsor*'s 2013 ruling; proponents turned to the federal courts in droves following the High Court's decision.

Examining the State Court plot in Figure 6.4, political learning's impact on policy actors choosing state litigation is more variable over time. Early success via the state courts in Hawaii and Vermont increased subsequent states' risk of also fighting for marriage equality in the courtroom by one percentage point. This parallels the qualitative evidence in the chapter. But ensuing failures in Georgia, Maryland, New York, Oregon, and Washington reduced other states'

Figure 6.4: Political Learning's Effect on Venue Choice Over Time for Pro-GM Policies
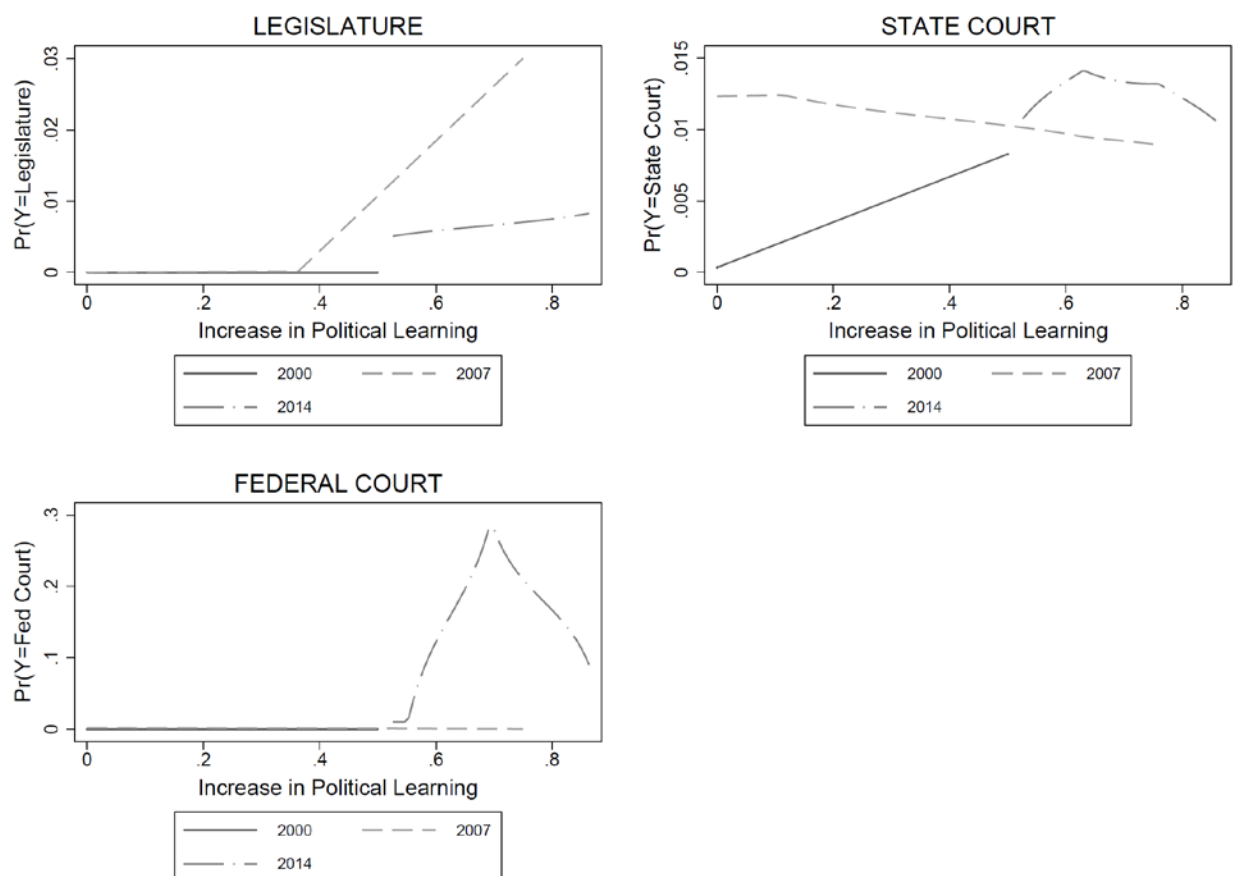
probability of taking the same path. For this reason, states' predicted probability of picking the state courts in 2007 is relatively flat. Subsequent states likely faced too much uncertainty by way of the courts given the number of failures in this arena, and thus turned to other arenas (namely state legislatures). Still, by 2014, political learning's effect on pressing for change via state courts of last resort was curvilinear in nature as states were more successful via other institutions.

Gleaning insights from the Federal Court plot in Figure 6.4, political learning's effect on picking the federal courts is also nonmonotonic. As political learning increased across the three venues in 2014, states' initial probability of pressing for policy change via the federal judiciary increased to nearly 30 percentage points. But as other routes (namely state legislatures) became more successful, states' risk of choosing the federal courts decreased to ten percentage points. It is also possible that as more states tried cases at the federal level, laggard states waited to see how the U.S. Supreme Court would adjudicate among the lower courts' myriad and conflicting rulings.[118]

Despite fluid—sometimes even negative—effects at distinct points in time, political learning impacted advocates' and interest groups' venue shopping. Heightened success in one venue made subsequent policy actors more likely to pick the same venue, while more mixed records led successive policy actors to consider alternate venues. Political learning involves learning from the failures as much as the successes. Both the gay rights and religious rights movements learned from the wins *and* the losses, transferring those lessons to groups in other states. Indeed, Evan Wolfson, a pioneer in the same-sex marriage movement, liked to "talk about 'losing forward'" (Cole 2016: 72).

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[118] Just as I did for venue choice to pursue anti-gay marriage policies, I also plot political learning and time's interactive effect on venue choice to press for marriage equality. Figure D.4 in the Appendix displays political learning and time's joint influence on policy actor's choice of legislature, state court, or federal court to try to obtain same-sex unions. Early on, gay rights groups were more likely to go the route of state courts, although the probability of going this route was admittedly low. But as political learning and time increased, policy actors had a higher propensity to press for gay marriage in the federal courts and state legislatures, with going the route of state courts less likely over time. While Figure 6.4 emphasizes political learning's influence on forum shopping at three different points in time, Figure D.4 highlights political learning and time's mutual effect on venue choice. The plot further underscores how policy actors' successful venue shopping in competing arenas influenced the venue choice of subsequent actors in real time.

But proponents of gay marriage do not appear to treat venue shopping information equally from all sources. Just like opponents of gay marriage, proponents prioritize the venue choices of their institutionally and politically similar peers (H$_2$). In considering the state legislature, policy actors factor in their state's citizen ideology relative to other state electorates that have previously picked the people's branch. An 18-point increase in ideological similarity in the liberal direction makes states 1.9 percentage points more likely to also pick the state legislature. At the same time, states with more proximate state supreme courts on an ideological dimension are 0.5 points more likely to select the legislature in a given year. These results reinforce the fact that change agents are aware of the shared institutional powers in their state, so they look to parallel states' past experiences navigating these competing institutions.

Policy actors considering the state courts weigh their similarity in supreme court professionalism and citizen ideology with early mover states. A one-standard-deviation shift in a state's similarity in supreme court professionalism or citizen ideology relative to other states going that route increases a state's chances of picking the state court by 1.1 and 1.5 points in a given year, respectively. In selecting the federal court, it is a state's proximity in supreme court and citizen ideology (rather than district court ideology) with first mover states that makes it more likely to choose that venue. A one-standard-deviation move in both similarities with previous venue shoppers makes a state 0.4 and 0.7 points, respectively, more likely to use the federal judiciary to advocate for marriage equality.

Many of the other variables also influence the pattern of venue choice in the anticipated direction. States do not pay much attention to the venues chosen by their geographically contiguous neighbors (H$_3$), except when considering the state legislature as a potential avenue. States appear 0.1 percentage points *less likely* to pursue change in the state capitol as 14% more of a state's neighbors go that route. Perhaps as states watch their neighbors permit gay marriage via the legislature, they

wait to see if there is any electoral fallout. Related, policy actors are less likely to pick the state

legislature during presidential election years (H_6), again likely out of concern that incumbents would

face a backlash. Nonetheless, policy actors do pick venues based upon the cumulative number of

other states that have gone that route (H_4). The average marginal effect of policy learning on venue

choice, however, is under 0.2 percentage points across all venues.

Two of the variables with the largest effect on venue choice are those capturing the federal

government's influence (H_5). The U.S. Supreme Court's 2003 *Lawrence* decision produced an average

marginal effect of 9.7 points on states picking the state legislature, and marginal influence of 8.2

points on states choosing the federal courts. Not surprisingly, the Supreme Court's 2013 *U.S.* v.

Windsor ruling had an average marginal effect of 2.3 percentage points on policy actors turning to the

federal courts to press for marriage equality. The opposition's countermobilization also influenced

proponents' venue choice (H_7). For every additional ban adopted by a state, proponents of gay

marriage in the state were 0.6 percentage points more likely to overturn the bans via the federal

courts. And as I predicted (and as demonstrated by the Prior Pro-GM Policy coefficient), states that

had previously pursued a pro-gay marriage policy in another venue were less likely to pick a new

venue (H_9).[119]

Returning to the interest group strength variables (H_{8a}, H_{8b}), as we witnessed in the anti-gay

marriage models, a state's size of Christian Evangelical population and LGBT population appears to

have little effect on venue choice. Although most coefficients are in the anticipated direction, the

only coefficient that reached statistical significance near conventional levels was the LGBT

population's influence on picking the legislature, with an average marginal change of 0.6 points.

Again, the insignificance of these variables is somewhat surprising, especially given gay rights groups'

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[119] Public opinion also influenced venue choice, with greater support leading policy actors to choose the state legislature early on, and later the federal courts. The connection between venue shopping and public opinion should be explored further in subsequent research.

role in the qualitative evidence of venue diffusion. Using dozens of different measures for interest group strength and opposition interest group strength did not alter the results. As before, pressure group influence may be captured in the political learning or similarity variables since these groups were responsible for drawing lessons from early movers and peer states. Or national groups may have played a role uncaptured by these models. Importantly, Lowery (2013) reminds us that null findings for interest groups does not imply zero influence; rather their conception of influence remains disguised. Here, I believe their influence is reflected in the main drivers of the venue choice to press for pro-gay marriage policies in the U.S. states.

In sum, the results here suggest that proponents of gay marriage rely on external information in selecting a venue. Policy actors look to the successful routes taken in other states, while simultaneously prioritizing information about venues selected in institutionally and politically similar states. Opponents of gay marriage considered their state's legislative professionalism and institutional hurdles relative to early movers, while proponents of gay marriage factored in their citizen ideology, state supreme court ideology, and state high court professionalism relative to states already taking a given route. As boundedly rational actors, these change agents do not simply consume all information, but rather filter the relevant information (Meseguer 2005). And as Stone (1999) rightly points out, "lesson-drawing is not politically neutral." These findings hold even after controlling for alternative external and internal considerations.

Robustness Checks

As a robustness check, I estimated states' venue shopping patterns to pursue anti-gay marriage policies using binary logistic regression, complementary log-log regression, and ordered logistic regression models. The results are reflected in Table D.3 in the Appendix. Both the logit and complementary log-log models fall prey to the same atheoretical treatment of venue choice as past

research, but the principal results hold. Still, some researchers may argue that venue choice is not a nominal but rather an ordered choice, where policy actors begin by pursuing statutory bans in the legislature and then pursue constitutional bans via legislative referenda or citizen initiative.[120] The results, however, remain robust to the ordered logit model specification.

As a further inquiry, I also estimated a reduced form of the multinomial logistic regression model for the anti-gay marriage policies using a Cox proportional hazards model, stratified by venue (Table D.4 in the Appendix). Cox proportional hazards models are useful because these models make few assumptions about the functional form of the hazard rate (Box-Steffensmeier and Jones 2004). The results are also broadly consistent with the findings from the multinomial logistic regression model. However, because the Cox model is reduced form (since it does not handle time-dependent variables as well as other approaches) and because it assumes that hazard functions in different strata are proportional over time (which may not be the case for competing venues), I stick with the multinomial logistic model specification (Box-Steffensmeier and Jones 2004).

I follow the same robustness checks for the pro-gay marriage models as I did for the anti-gay marriage models (Table D.5 and Table D.6 in the Appendix). All the coefficients in these models tell roughly the same story, *except for the political learning coefficients*. The political learning coefficients not only changed signs across the logit, complementary log-log, ordered logit, and Cox-proportional hazard models, but also did not reach conventional levels of statistical significance. On its face, such results appear to undermine my theory for political learning's role in patterns of venue shopping across states. But when we consider political learning's divergent effects across venues—a positive impact on state legislature and a negative impact on state and federal courts—effectively canceling out the effects, these alternative estimations reinforce the need to model these discrete choices using

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[120] Although that certainly was the process for many states, it was not the case for all states. Nebraska, for example, never adopted any statutory language, but rather adopted a constitutional amendment via citizen initiative. Moreover, other states repeatedly picked the same venue to press for change, even after initial success.

a multinomial logistic specification. Considering the Cox model, it is essential to remember that political learning's effect was variable within forums over time. Such variation in the hazard rate is a violation of the proportional hazards assumption of the Cox model. Hence, the Cox model is also not appropriate for the venue diffusion dynamics at play.

Another legitimate concern is my operationalization of the independent variables. To ensure the results were not a product of any one measurement choice or the omission of a variable, I re-ran the multinomial logistic models for anti- and pro-gay marriage using alternate measures and additional variables.[121] Although some parameter estimates ebbed and flowed, none of these other variables or alternate measures diminished political learning's effect on venue choice.

Conclusion

In this chapter, I set out to test whether policy actors' choice of venue, a central element of the agenda-setting process and to achieving policy change, was influenced by early movers' venue shopping strategies. Both the qualitative and quantitative evidence presented in this chapter support

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[121] I included variables to capture a state's institutional context, including measures for the number of times a state's constitution has been amended (Lutz 1994; Wall 2008), the state's amendment rate (Lutz 1994; Wall 2008), the length of its constitution (Lutz 1994; Wall 2008), how difficult it is to amend the state constitution (Lupia et al. 2010; Lutz 1994), whether state supreme court judges are elected (Hume 2011; Wall 2008), how insulated the legislature is (Bowler and Donovan 2004), whether states permit direct democracy (Bowler and Donovan 2004), how often states use direct democracy (Bowler and Donovan 2004; Lewis 2011, 2013), if states have term limits for legislators (Sarbaugh-Thompson 2010), and how much power the state Speaker of the House has (Mooney 2013). I also included different variables to account for political contexts that may matter to policy actors' venue choice, including party control (Klarner 2013a; Ranney 1976) and electoral competitiveness (Klarner 2013a; Ranney 1976). In addition, I tested whether southern states behaved differently than states in other regions. Finally, I included the legislative professionalism, citizen ideology, state supreme court professionalism, state supreme court ideology, and district court ideology variables in lieu of their corresponding similarity measures. Regarding my decision to measure the strength of the religious right using a state's percentage of the population that identifies as Evangelical Christian or Mormon, and the strength of gay rights groups using the percentage of a state's population that identifies as LGBT, I recognize that population size is not synonymous with interest group strength. To be sure, these measures are only proxies for interest group capacity and resources. While there are alternative measures for interest group budgets, assets, income, staff size, and membership size (Conger and Djupe 2016; Haider-Markel 2001a, 2001b; Kane 2003; Soule 2004; Taylor et al. 2019) for these respective epistemic communities, they either are not consistent across both communities or they are only available for a handful of years. Given this, I opt for the measures that is consistent for both communities and available across the time span of interest. Although crude, I believe these measures do tap into the size and strength of the religious right and LGBT interest group organizations.

the theory of venue diffusion. The narrative around the gay rights movement's and the religious right's countermovement's fight over marriage equality provides a strong account of policy actors following policy pioneers' venue choice. Furthermore, the empirical results for the anti-gay marriage and pro-gay marriage models also bolster the existence of venue diffusion, even though the state interest group variables were not as prominent as I expected. As the models show, policy actors learn about and rely on the successful and failed venue shopping decisions in prior states when selecting their own avenue to press for change. And actors particularly look to peer states. To be sure, these results are probabilistic and not deterministic. Policy actors are *not guaranteed* to follow the lead of policy pioneers and early movers, but rather *more likely* to follow their lead. But this finding greatly expands our understanding of venue shopping. Policy actors' venue shopping is both an internal, intra-jurisdictional process and an external process.

Moreover, this chapter only presents evidence of venue diffusion in the context of a technically simple, highly salient morality policy. Although morality policies are different from other policy domains (Biggers 2014; Haider-Markel 1999; Mooney and Lee 1995; Mooney and Schuldt 2008), there are reasons we might expect political learning's influence to be weakest in this policy case. Morality policies are typically marked by acute adoption rather than gradual learning. Therefore, the evidence of learning here suggests that more complex and less salient policies could yield even greater political learning. Future research should test the phenomenon of venue diffusion in other policy cases, different institutional venues, and other governmental jurisdictions.

CHAPTER 7: CONCLUSION

The Takeaway

In 1932, U.S. Supreme Court Justice Louis Brandeis penned in his opinion for *New State Ice Co.* v. *Liebmann* that "a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country..." (Brandeis 1932). For Brandeis, one of the advantageous features of American federalism was the ability of multiple governmental jurisdictions to try different policy solutions to meet social, economic, and political problems—to be "laboratories of democracy." In the era of "new federalism," where the federal government has devolved greater policy implementation responsibility to the states, opportunities are ripe for experimentation. But the reality is that states often act as emulators and not experimenters (Karch 2007a; Parinandi 2014). As Karch (2007a: 204) put it, "[t]he characterization of the fifty states as laboratories of democracy is an appealing image, but it is a standard that is rarely met in practice." Rather than fifty states carrying out trials and errors to determine the best solution for their problems, states learn from and copy the successful policies enacted in other states.

This dissertation adds further evidence that policy actors emulate other states' innovative ideas, even outside the legislative context. Relying on a random sample of ballot measures pursued across the U.S. states from 1902 – 2016, I show that states learn about and copy the solutions proposed in other states. For every ten states that adopt a given ballot measure, subsequent states are one percentage point more likely to enact the same measure in any given year. Policy actors pay special attention to states with similar institutional arrangements and are more likely to pursue ballot measures in direct-democracy states and during presidential election years. Meanwhile states with greater interest group activity witness varying degrees of ballot measure success.

Similarly, using the policy case of gay marriage, I show that both anti- and pro-gay marriage policies diffused via multiple institutional venues across U.S. states. Policy actors learned about and

acted on what other states had achieved in some forums more than others (e.g., legislature, legislative referendum), even after controlling for prior policy activity, opposition policy successes, federal-government involvement, interest-group strength, institutional settings, and political contexts.

Despite offering robust evidence that policy ideas do indeed spread in arenas beyond the legislative context, my research also suggests that policy scholars may be overstating policy diffusion's existence. In reading the literature, it is easy to get the impression that *all* policies diffuse. Disciples of diffusion research are finding false gods in governments' policy activity. Returning to the random sample of ballot measures pursued across U.S. states from 1902 – 2016, I find that nearly half of the measures were only pursued by one state. That is, these policy solutions did not appear to diffuse to others, at least not via plebiscitary action. And roughly three-quarters of the measures either did not diffuse or were only pursued by fewer than a handful of states. Only six percent of the ballot measures were adopted by more than fifteen states. None of this is surprising because many policy solutions address provincial rather than universal problems. We should not expect most policies to transfer to other jurisdictions. Likewise, when the ballot measures that have yet to diffuse or only diffuse narrowly are excluded from the models, the key mechanism's—policy learning—effect is twice as large, potentially exaggerating its role in the process. Overall, I encourage policy scholars to consider these selection biases and rely on full policy sets (i.e., those innovations that do and do not diffuse) where possible to better estimate and explain the realities of diffusion.

Beyond simultaneously reaffirming and cautioning the existence of policy diffusion in various institutional arenas, this research has also contributed much more. Largely overlooked by prior research, I put forward political learning—the drawing of lessons about how best to maneuver within and manipulate the policy process to advance a new idea (Heclo 1974; May 1992)—as a central mechanism in the diffusion process. By operationalizing and including it in the models,

political learning appears as important as, if not more than, policy learning in driving diffusion. At least in the context of gay marriage, political learning's marginal effect on policy adoption was larger than nearly all other external and internal factors. Ultimately, political learning should emerge as a mainstay in future research explaining policy transfer.

Furthermore, I demonstrate the power of modeling the spread of innovations across multiple venues using multinomial logistic regression. Prior scholarship has either discounted the variation in venue when choosing a modeling strategy or disregarded altogether policies that transfer via competing institutional paths. Multinomial logistic regression concurrently reveals the factors necessary for policy adoption in each venue and the inter-venue dynamics at play. As such, multinomial logistic regression should be added to policy scholars' toolbox to uncover and explain policy contagion.

Most importantly, however, my research integrates the policy diffusion and venue shopping literatures. In contrast to past venue shopping scholarship which identifies internal and intra-jurisdictional considerations as central to policy actors' calculations in choosing a path to pursue policy change, I theorize that policy actors also weigh external information. I charge that a state's choice of venue to attempt a new policy is influenced by the venue shopping of other states previously pursuing the policy, a phenomenon I term venue diffusion. The choice of venue is no small matter. Venue choice affects the policy's design, implementation, stakeholders, evaluation, and whether it survives. Venue choice is the product of prior decisions made in multiple 'policy games' and will affect future decisions (Boehmke, Gailmard, Patty 2006; Karch 2009; Lubell 2013).

I see policy actors in states not only as emulators of new ideas but also as emulators of political paths to enact those policies. Much like cross-country skiers follow the snow trails cut by previous skiers, policy actors are also more likely to follow the political route cut by policy entrepreneurs. This does not mean that policy actors will never go off the trail. Some policy

advocates will follow their predisposition for an institutional arrangement or engage in an insular, independent process to determine the best venue to advance their cause. Most policy actors, however, will learn from the paths taken in other states, especially those jurisdictions with similar institutional arrangements and political contexts.

Again, utilizing the policy case of gay marriage, I offer both qualitative and quantitative evidence that the *choice of venue* in early mover states to press for an anti- or pro-same-sex union policy influences subsequent states' *venue selection*. As policy actors learned about the successful paths picked by other states, they were more likely to take the same route. The legislative branch was primarily susceptible to political learning, with legislators facing a higher propensity to pursue statutory action or refer policies to the state electorate as the other states' success rate in those venues increased. Because legislators are electorally motivated (Mayhew 1974), they may be expressly attuned to success in other states. In addition, policy actors were prone to take venue shopping cues from jurisdictions similar along institutional or ideological dimensions. And policy actors weighed signals from other states' venue shopping processes in real time. As one route became less certain, policy actors in subsequent states would turn to a venue exhibiting a greater chance of success. Political learning's variable effect over time further reinforces the phenomenon of venue diffusion. In sum, policy actors consider their own capacities and their state's internal characteristics, along with the tactical venue shopping done in other states when picking a path to press for change.

Unanswered Questions

Despite these contributions, a few questions remain. Some may rightly wonder whether policy actors pursuing policies via *three* competing venues really offers evidence of venue diffusion. Skeptics might question if policy actors truly learned from and copied others' choice of venue, why then did states pick *multiple* venues, instead of *one* arena, to upend the status quo? They might

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conclude that such behavior reflects typical venue shopping rather than venue diffusion. To be sure, I expect political learning's effect on venue choice to be greatest when only one venue is utilized to alter public policy. The overwhelming majority of diffusion research has focused on the legislative context because this is the venue where most policy activity occurs (although decreasing since the 1970s). Institutional hurdles tend to be lower relative to the potential gains for policy success and entrenchment. In their purposive search for policy solutions to common problems, policy actors should also gain information about the successful tactics and paths taken by policy entrepreneurs and early movers. If all states follow the same route, this reinforces the process. But we are unable to model venue diffusion without variation on the dependent variable. Furthermore, empirically parsing policy learning and political learning becomes more challenging in a one-venue context. The inability to offer empirical evidence of political learning and venue diffusion, however, does not imply these processes are not occurring. On the contrary, any evidence of these phenomena occurring in multiple arenas should reinforce that they occur to a greater extent when only one arena is involved.

Another fair question is whether alternative conceptualizations of political learning are appropriate. Beyond the standard operationalization of political learning, Chapter 5 did include institutional and political similarity variables. These measures do embody an aspect of the learning process, as policy actors are more likely to turn to and emulate their peers. Just like Graham, Shipan, and Volden (2013) challenged us to the come up with more direct measures of policy learning, other explicit measures of political learning may be needed. For instance, measures reflecting the degree of a policy win or loss in a given venue may serve as another proxy for political learning. Or a variable capturing similarity of campaign tactics or messaging employed by policy actors across states may also imply political learning. Subsequent research should further explore and test diverse operationalizations of political learning.

Finally, given the narrative around state-level interest groups facilitating the venue shopping to press for anti- and pro-gay marriage policies, it is somewhat surprising the empirical models did not reveal greater support for the interest group strength variables. There are at least three plausible explanations for this. First, it is possible a different operationalization of interest group strength could better showcase state-level religious right and gay rights groups effect on policy and venue diffusion. This is unlikely as I carried out robustness checks with more than a dozen measures of interest group strength and did not reach different conclusions. Second, pressure groups' real influence may be captured via the political learning and similarity variables. Because organized groups are the main actors engaging in purposive searches for venue shopping information, their influence in the process may be accounted for in these variables. As Lowery (2013) reminds us, null findings for interest group variables do not imply no influence in the policy process. This is why mixed-methods approaches to understanding the diffusion process are still required (Starke 2013).

The last reason that state-level interest groups' effect may have been overshadowed is that, as the narrative also pointed out, national-level pressure groups were prominent players in communicating the successes and failures across subunits. National-level influence should not undermine the theory of venue diffusion or the main political learning mechanism, just as their presence does not undermine the theory of policy diffusion. Even if national organizations *helped* reduce information costs across states, they still had to work with state-level groups and via state-level venues. National groups did not simply supplant local groups' goals. In fact, there is robust evidence that state- and local-interests disobeyed the national organizations' recommended strategies, frequently innovating and surmising new tactics independent from national groups. I opt not to control for national interest groups in the model because these groups are not monolithic. Variation in clout and strategy existed within the groups representing each movement, as the qualitative evidence pointed out. Treating them as uniform with one national-level measure could be

disingenuous. Moreover, each side's strength is likely correlated with time, with the religious right losing influence on the issue over time and gay rights groups gaining leverage in due course. Thus, the inclusion of national-level measures is unlikely to produce divergent results.

Moving Forward

This research acknowledges that policy actors frequently, and increasingly so, turn to different venues outside of the legislative context to pursue policy change. I leverage America's federated, multi-institutional system to understand better the interdependence among policy actors in emulating new policy solutions and the paths to enact such innovations. Overall, the findings imply a more systematic and greater level of connectedness among change agents in venue shopping and policy adoption than policy scholars have previously acknowledged.

Still, the robust evidence presented here for venue diffusion and political learning's role in the process stems from a single policy issue: gay marriage. Because morality policies tend to be marked by rapid diffusion (due to competition over societal and cultural values) rather than gradual learning (Boushey 2010; Mooney 2001; Mooney and Lee 1999), any evidence of political learning in the fight over gay marriage could suggest a more sizeable effect in other policy domains. Of course, this is an empirical question. Future qualitative (Starke 2013) and quantitative assessments should test the phenomenon of venue diffusion in other policy domains. Just as different policy types display different patterns of *policy diffusion*, diverse policy domains may also reveal divergent dynamics of *venue diffusion*.

But careful attention should be paid to policy cases selected to test venue diffusion. Importantly, the selection of cases "should allow for the possibility of at least some variation on the dependent variable" (King, Keohane, and Verba 1994: 129). Exploring the spread of a policy via more than one venue allows us to make inferences about the diffusion of the innovation, the role of

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different venues in conditioning its transmission, and the diffusion of venue selection.[122]

Furthermore, variation in policy type and attributes (Makse and Volden 2001; Nicholson-Crotty 2009) should also be considered. For example, salient and technically simple policies spread more quickly than policies off the public's radar and requiring greater expertise to design and implement (Makse and Volden 2011; Mallinson 2016; Nicholson-Crotty 2009). While policy learning tends to be most evident for high profile policies (even if not for morality policies), it is least apparent for complex policy innovations (Makse and Volden 2011). Venue diffusion and political learning's role may also fluctuate along policy dimensions of salience and complexity.

Two potential policies that exhibit variation in domain, salience, and complexity (relative to same-sex marriage, anyway) are the passage of tax and expenditure limits (TELs) across U.S. states and state policy restrictions on the use of eminent domain for economic development purposes. Since the 1970s, nearly two dozen states have adopted limitations on state revenue and expenditures via a variety of venues, including state legislatures, legislative referenda, and citizen initiatives. Likewise, following the U.S. Supreme Court's 2005 *Kelo* v. *City of New London* decision, forty-two states passed restrictions on using lawful expropriation for economic development purposes. States passed these measures via state legislation, legislative referenda, and ballot initiatives, with most of the policy activity occurring within three years of the *Kelo* ruling. Both tax and expenditure limits and restrictions on the use of eminent domain represent highly salient yet technical policy areas. Since these policy areas garnered considerable public attention, I anticipate heightened political learning in the venue shopping processes to pass TELs and post-*Kelo* reforms. Nevertheless, policies that are

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[122] A careful researcher may rightly ask whether or not I am selecting on the dependent variable by choosing policies that have been pursued via more than one institutional venue. Recall from my prior analysis of 95 policies compiled by Boehmke and Skinner (2012) that many policies are pursued in more than one arena. Venue shopping is not an infrequent occurrence. Moreover, in order to empirically demonstrate political learning between actors in states around the choice of venue, variation in venue must exist. It is entirely possible for political learning to occur when states pursue exactly the same institutional arena for change (say legislature to legislature), but without any variation in the dependent variable it is impossible to show empirically. As a result, the effect of political learning may be augmented where the adoption of an innovation has been via a uniform venue across all adopters.

less salient and more technical (e.g., licensing, city zoning, energy efficiency building codes), or even less visible and technically simple, may experience different rates of venue diffusion.[123] Political learning may play a lesser role with venue diffusion less likely to occur if the policy is not even on the public's radar.

Outside of variation in policy type and corresponding characteristics, case selection should also emphasize variation in institutional forums, focusing especially on underexplored venues (e.g., gubernatorial executive orders, bureaucratic agencies). The evidence presented here suggests that electorally motivated policy actors (e.g., legislators, governors, supreme court judges) may be the most likely to learn from an innovation's political feasibility in a given arena. Political learning, for example, may play a diminished role in bureaucratic agency decisions, although discretionary authority may be a conditioning factor (Parinandi 2013). The pace of venue diffusion may also be of interest, as some routes may transpire more quickly than others.

In addition, the theory of venue diffusion could apply beyond a U.S. state context. For example, policy actors working at the city level may look to others' municipal venue shopping tactics (e.g., city council vote, ballot measure, mayoral executive directive) previously applied by other local jurisdictions within or outside the state. Or policy actors may look cross-nationally to determine which institutional paths were most successful in achieving a policy innovation in other countries. Still, policy actors are most likely to look to units with analogous institutional and political settings. Given the variation in institutional and political arrangements across cities and countries, we might expect political learning's effect to attenuate in these contexts. And for modeling purposes, especially for multinomial logistic regression, units of interest (e.g., states, cities, nation-states) are assumed to have all discrete choices available during the time period. Too much variation in

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[123] Koski (2010) documents the diffusion of a low-salient and complex policy across 119 U.S. cities from 2000 to 2008: green building design standards. This may present an opportunity to test the theory of venue diffusion using a different policy area with distinct attributes and at the municipal level.

availability of venues across units would violate this assumption and could complicate inferences drawn from these diverse institutional and political environments. Still, it is possible that policy actors seek and process external venue shopping information from multiple vertical or horizontal sources when deciding the most favorable avenue to press for change.

Thinking beyond policy and venue diffusion, policy actors' learning may not stop with new solutions or viable venues but may also extend to the other parts of the policy cycle including policy design, policy winnowing, policy framing, agenda setting, implementation, evaluation, policy feedback, policy reform, among others. For example, actors may draw lessons from policy entrepreneurs' or early movers' use of a specific frame or tactic to rout the opposition, as Gilardi, Shipan, and Wueest (2019) show. Or evaluators intent on retaining a policy may rely on similar metrics to paint the outcomes in the best light possible. We should not be so naïve to assume that such interdependence among policy actors stops with learning about policy solutions. Surely policy actors gain information and draw lessons throughout the lifespan of a policy. And it is likely that political lessons learned from one policy can also be applied to similar policies.[124]

Indeed, five decades of policy diffusion research have reinforced the idea that policy actors are interconnected. Multiple jurisdictional layers of American government facilitate an environment where elected officials, interest groups, and citizen activists can learn from one another, satisficing for policy solutions *and* the political paths to achieve such solutions. Boundless opportunities await scholars to tease out other aspects of the policy process dominated by this interdependence.

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[124] In fact, subsequent research should explore whether the political lessons learned from venue shopping in the pursuit of anti- and pro-gay marriage policies are also transferrable to related policies that halt or hasten LGBTQ rights. Do policy actors and interest groups apply their venue shopping experiences from the fight over same-sex unions to press for or impede LGBTQ-friendly adoption, housing, and employment policies, among others? Evidence of this would suggest an enduring process of political learning by actors and groups that is sustained across issue and time.

APPENDICES

Figure A.1: Ballot Measures by Frequency of Policy Area by Type of Measure

Citizen Initiatives by Topic Area

Legislative Referenda by Topic Area

Popular Referenda by Topic Area

Other Ballot Measures by Topic Area
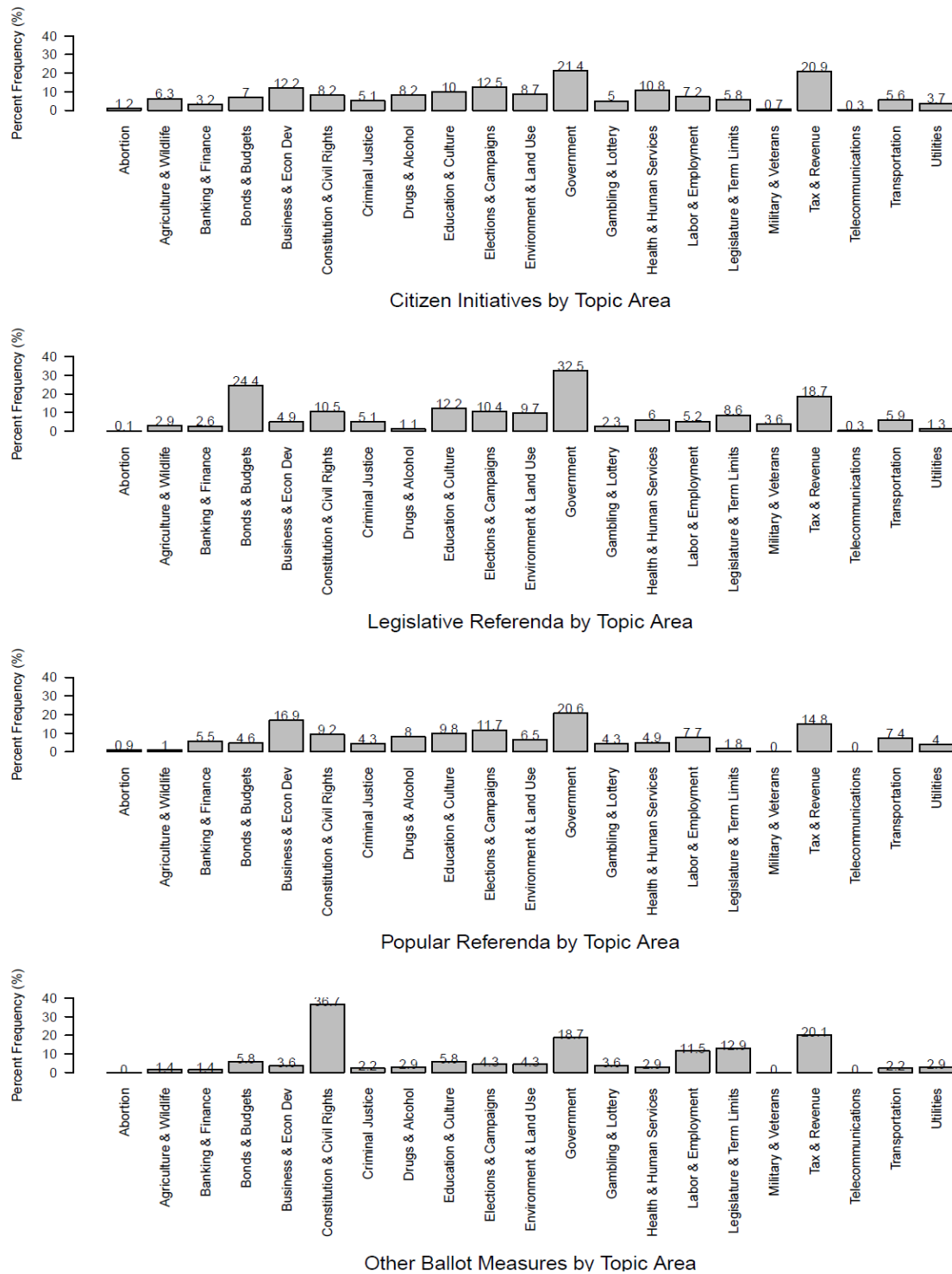
Note: Bar chart displays the percent frequency of ballot measures by policy area by type of measure (e.g., citizen initiatives, legislative referendum, popular referendum, others) attempted across the U.S. states from 1902–2016. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

Process for Matching Sample Ballot Measures Across Database

From the full set of nearly 7,800 ballot measures (e.g., legislative referendums, citizen initiatives, popular referendums, other ballot measures) pursued across the U.S. from 1902-2016 (Jordan and Grossmann 2018; NCSL 2016), I randomly selected 50 ballot measures. Figure A.2 displays the policy areas represented by these 50 ballot measures. Although there are some policy topics unrepresented in the random sample, the distribution across policy areas parallels the distribution of the full set of ballot measures (see Figure 2.5 in the main text of the chapter for the distribution of topic area for the complete set). As further evidence of the random sample's representation relative to the full set, Figure A.3 displays the number of ballot measures pursued across the states by decade. The bimodal distribution of measures pursued over time in the random sample mirrors the bimodal distribution of measures over time in the full set, per Figure 2.1 in the chapter.

After sampling, I matched the 50 ballot measures by title, topic, and type to analogous measures pursued by the original or alternative U.S. states during the full time period. More specifically, each randomly selected ballot measure was assigned a unique policy id. In order to pair the selected ballot measure with similar measures pursued by other states, I searched for common key terms across the full set of ballot measures to identify and match parallel policies. For example, for a ballot measure adopting language to expand the production and sale of alcoholic beverages, I searched for the following terms: "alcohol," "alcoholic beverages," "beer," "libations," "liquor," "spirits," and "wine." Upon finding other ballot measures with these key terms, I would assess the intent of the ballot measure to see if matched the originally sampled measure. Returning to the alcohol example, a measure that allowed the sale of alcohol throughout the state or counties would be considered a "match" for the policy id, while a measure that included one of the key words but

Figure A.2: Random Sample of 50 Ballot Measures by Topic Area
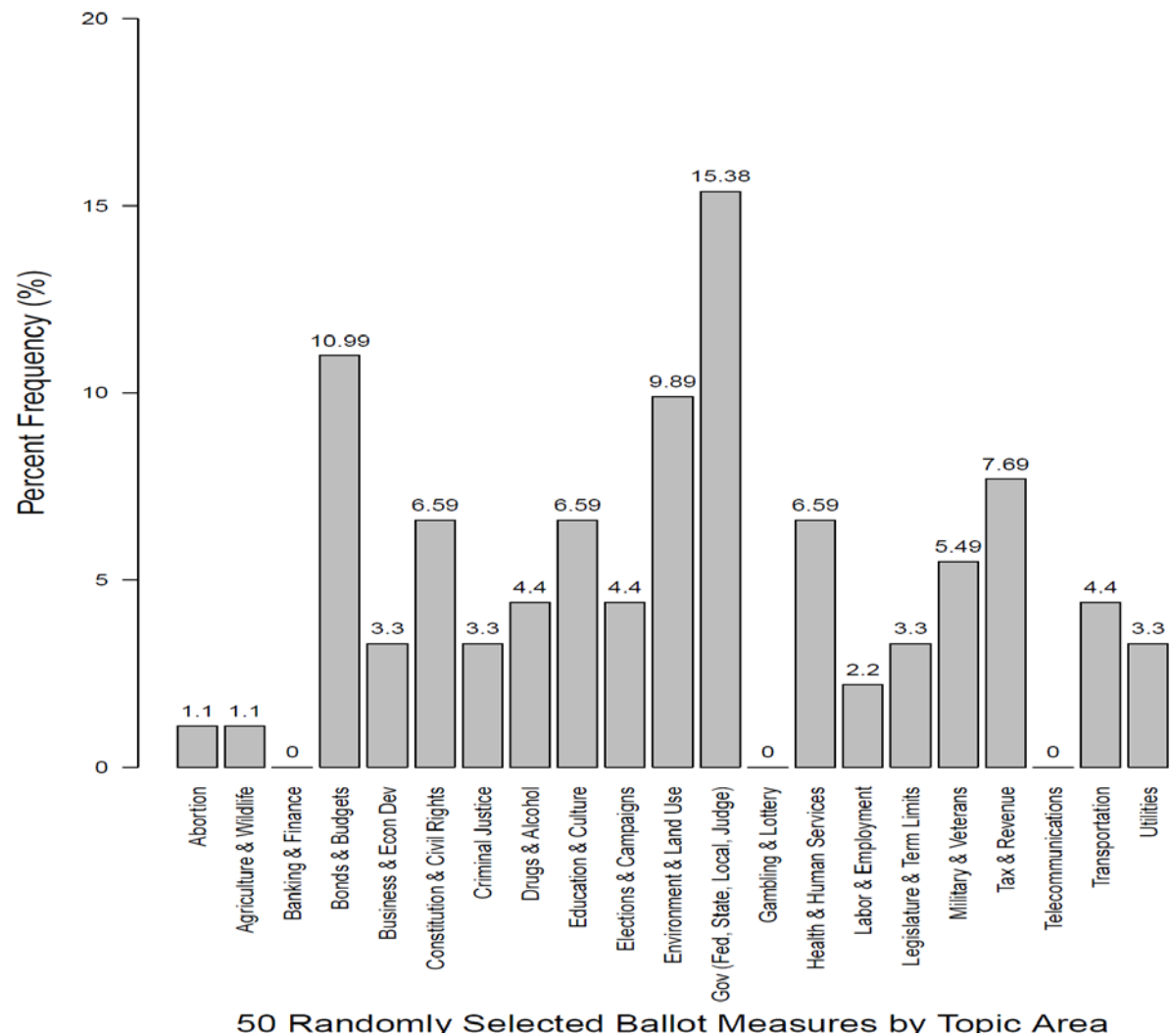
Note: Bar chart displays the policy topic area for 50 randomly sampled ballot measures from the full set of nearly 7,800 ballot measures pursued across the U.S. states from 1902-2016. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

that prohibited the regulation of or sale of alcoholic beverages would not be considered a "match."

Although key words helped identify potentially comparable measures, each measure's title and aim were also evaluated to ensure congruent ballot measures linked by the ascribed policy id. Furthermore, I relied on the following websites as resources to further investigate intent of ballot

Figure A.3: Random Sample of 50 Ballot Measures Pursued by Decade
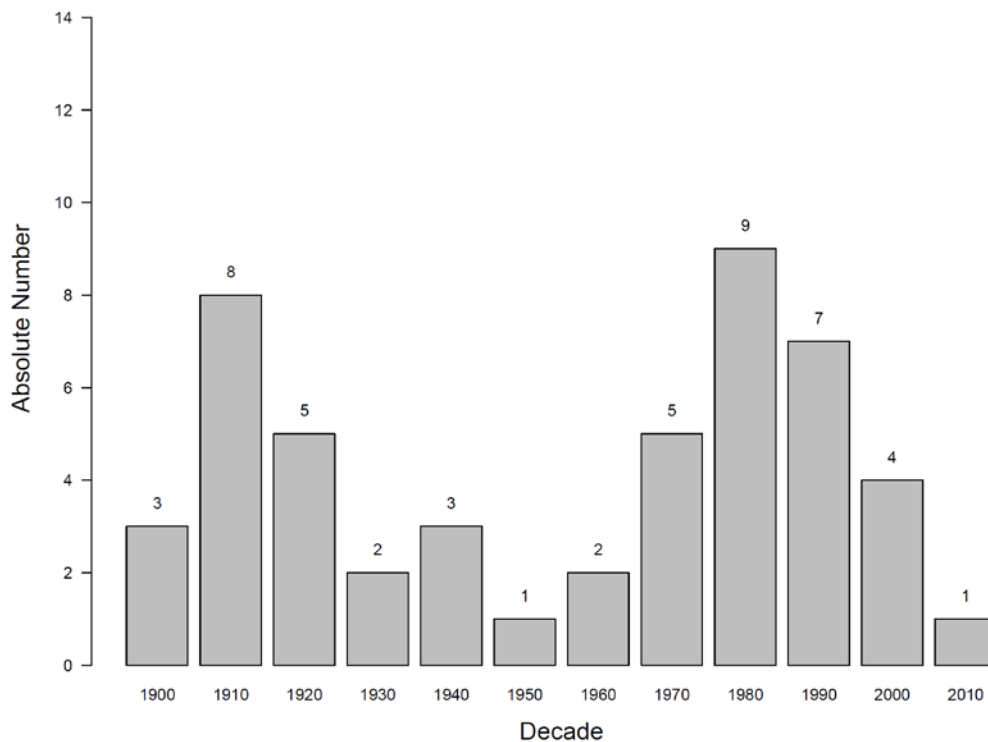
Note: Bar chart displays the number of 50 randomly sampled ballot measures from the full set of nearly 7,800 ballot measures pursued across the U.S. states from 1902-2016 by decade. Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

measure when unclear: Ballotpedia.com; UC Hastings California Ballot Measures; National Conference of State Legislatures; and respective secretary of state (or equivalent) offices.

Not all ballot measures were matched, as many initiatives and referendums were only pursued within one state. Indeed, many problems or issues are unique to a state and require an individual solution. Nonetheless, this matching exercise produced a small sub-sample of 579 ballot measures (or 7.4% of the full set), containing those ballot measures that did diffuse and those that did not diffuse.

Figure A.4: Random Sample of 50 Ballot Measures Pursued by Topic Area
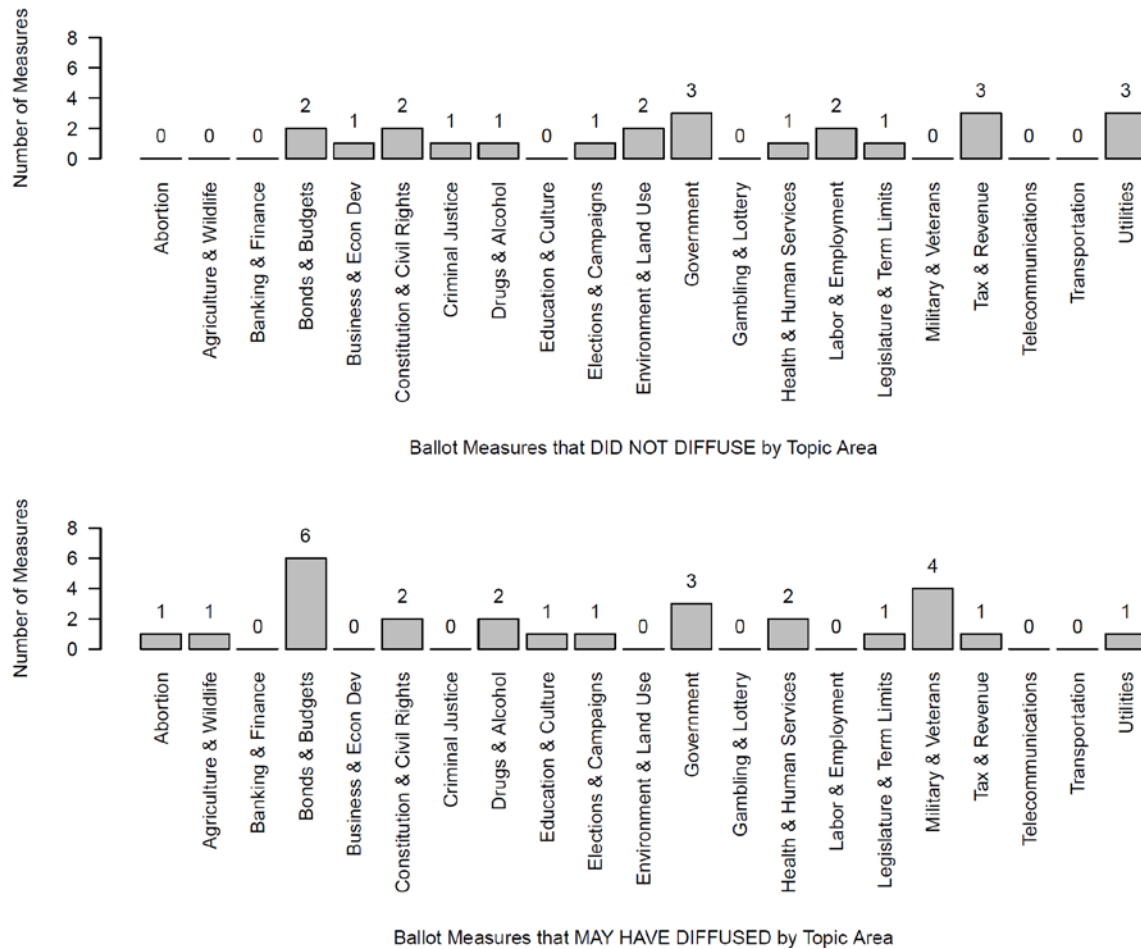
Ballot Measures that DID NOT DIFFUSE by Topic Area

Ballot Measures that MAY HAVE DIFFUSED by Topic Area

Note: Bar chart displays the number of 50 randomly sampled ballot measures from the full set of nearly 7,800 ballot measures pursued across the U.S. states from 1902-2016 by topic area for those measures that appear to have not diffused (top chart) and those measures that may have diffused (bottom chart). Source: National Conference of State Legislatures (NCSL). 2016. Ballot Measures Database.

Table A.1: Ballot Measures Model's Var. Descriptions, Descriptive Statistics, and Sources

Variable Name	Description	Mean	Sd. Dev.	Min	Max	Sources
Policy Learning	Cumulative number of states pursuing specific ballot measure by year	5.47	5.66	1	20	Author, relying on random sample and matching exercise
Similarity in State Revenue per capita	Euclidean distance between state's revenue per capita and average revenue per capita for states in a given year. Reverse coded so that an increase indicates more similar.	-0.52	1.09	-17.4	0	Author, using Klarner's 2013b measure
Similarity in State Party Control	Euclidean distance between state's party control and average party control of states in a given year. Reverse coded so that an increase indicates more similar.	-0.28	0.20	-0.77	0	Author, using Klarner 2013a; Ranney 1976 measures
Similarity in Citizen Ideology	Euclidean distance between state's citizen ideology and average ideology of states in a given year. Reverse coded so that an increase indicates more similar.	-17.61	11.90	-50.2	0	Author, using Berry et al.'s 1998, 2010 measure
Similarity in Difficulty in Amending State Constitution	Euclidean distance between state's difficulty in amending constitution and average difficulty of states in a given year. Reverse coded so that an increase indicates more similar.	-0.67	0.50	-1.96	0	Author, using Lupia et al.'s 2010 measure
Direct Democracy State	Dummy=1 if state allows direct or indirect citizen initiatives	0.44	0.50	0	1	Ballotpedia 2016; Lupia et al. 2010; NCSL, Waters 2003
Statutory Legislative Referendum State	Dummy=1 if state permits legislature to refer statutory language to voters	0.48	0.50	0	1	Ballotpedia 2016; Lupia et al. 2010; NCSL, Waters 2003
Popular Referendum State	Dummy=1 if state permits citizens to repeal policies adopted by elected officials	0.52	0.50	0	1	Ballotpedia 2016; Lupia et al. 2010; NCSL, Waters 2003
Electoral Competitiveness	Ranney measures of competitiveness, Four-Year Moving Average. Varies between .5 and 1, higher values representing higher	0.84	0.13	0.5	1	Klarner 2013a; Ranney 1976
Pres. Election Year	Dummy=1 if presidential election in that calendar year, 0=none	0.26	0.44	0	1	Author
Government Reform Measures	Dummy=1 if ballot measure deals with government reform of state, localities, judiciary, or related to federal governmental issues	0.31	0.46	0	1	NCSL 2016
Bond and Budget Measures	Dummy=1 if ballot measure deals with bonds and budget issues	0.20	0.40	0	1	NCSL 2016
Tax and Revenue Measures	Dummy=1 if ballot measure deals tax and revenue issues	0.14	0.35	0	1	NCSL 2016
Evangelical Population	Percentage of population that identifies as Evangelical Christian or a member of the Church of Latter-day Saints	19.07	14.29	1.1	74	Sellers 2017
Union Membership Density	Percentage of workforce that is unionized	16.58	8.26	2.3	44.8	Hirsch and Macpherson 2003

Table A.1 (cont'd)

GINI Inequality Measure	Measure of state's variation in distribution of residents' income and wealth where higher values indicate greater inequality	0.51	0.08	0.23	0.75	Frank 2009
California Dummy	Dummy= 1 for California, 0 = all other U.S. states	0.02	0.14	0	1	Author
Oregon Dummy	Dummy= 1 for Oregon, 0 = all other U.S. states	0.02	0.14	0	1	Author
Southern State	Dummy=1 if state is located in the South	0.30	0.46	0	1	U.S. Census Bureau
State Population (Ln)	Natural log of state population (in the thousands)	7.82	1.07	3.95	10.52	U.S. Census Bureau

APPENDIX B

TABLE B.1: CHOICE OF VENUE AND DIFFUSION STATISTICS FOR SAMPLE OF 95 POLICIES

Policy	Policy Category	Leg.	Leg. Ref.	Cit. Init.	Morality Issue	Diffusion Starts	Diffusion Ends	Diffusion No. of Years	No. States Adopting	Ratio: States / Years
1-parent Consent for Abortion by a Minor	Abortion	✓			✓	1981	1999	18	15	0.83
1-parent Notification for Abortion by a Minor	Abortion	✓	✓	✓	✓	1981	2000	19	17	0.89
Abortion pre-Roe	Abortion	✓	✓	✓	✓	1966	1972	6	18	3.00
State Law Requiring Broad Community Notification of Sex Offenders	Crime	✓	✓	✓		1990	1997	7	18	2.57
Capital Punishment	Crime	✓	✓	✓	✓	1972	1982	10	39	3.90
Child Abuse Reporting Legislation	Crime	✓				1963	1967	4	48	12.00
Civil Injunction Authority	Crime	✓				1998	2001	3	15	5.00
Strategic Planning for Corrections	Crime	✓	✓			1970	1991	21	18	0.86
Cyberstalking Definition and Penalty	Crime	✓				1998	2001	3	21	7.00
Harassment Crime	Crime	✓				1998	2001	3	11	3.67
State Hate Crime Laws	Crime	✓				1978	1994	16	33	2.06
ID Theft Protection	Crime	✓				1996	2001	5	44	8.80
State Law Requiring Notification to Individuals/Organizations at Risk (Sex Offender Policy)	Crime	✓				1994	1997	3	14	4.67
Post-Conviction DNA Motions	Crime	✓				1997	2005	8	35	4.38
Access to Sex Offender Registries	Crime	✓	✓	✓		1991	1997	6	15	2.50
Stalking Definition and Penalty	Crime	✓				1998	2001	3	24	8.00
Age Span Provisions for Statutory Rape	Crime	✓				1950	1998	48	43	0.90
Three Strikes Sentencing Requirement	Crime	✓		✓	✓	1993	1995	2	24	12.00
Victims' Compensation	Crime	✓				1965	1988	23	42	1.83
Victims' Rights Constitutional Amendment	Crime		✓	✓		1982	1999	17	32	1.88
.08 per se penalty for DUI	Drugs and Alcohol	✓			✓	1983	2001	18	25	1.39
Beer Keg Registration Requirement	Drugs and Alcohol	✓				1978	1999	21	12	0.57
Symbolic Medical Marijuana Policy	Drugs and Alcohol	✓		✓	✓	1978	2008	30	31	1.03
Restrictions on OTC Medications with Methamphetamine Precursors	Drugs and Alcohol	✓				1996	2005	9	25	2.78
Minimum Legal Drinking Age 21	Drugs and Alcohol	✓			✓	1933	1988	55	50	0.91
Statewide Smoking Ban	Drugs and Alcohol	✓		✓	✓	1995	2009	14	25	1.79

Table B.1 (cont'd)

Policy	Policy Category	Leg.	Leg. Ref.	Cit. Init.	Morality Issue	Diffusion Starts	Diffusion Ends	Diffusion No. of Years	No. States Adopting	Ratio: States / Years
Zero Tolerance (<.02 BAC) for Underage Drinking	Drugs and Alcohol	✓			✓	1983	1998	15	50	3.33
Planning Laws Requiring Loc/Reg Planners to Coordinate Growth Management Plan Developments	Economic	✓	✓	✓		1961	1998	37	10	0.27
Strategic Planning for Economic Development	Economic	✓				1981	1992	11	24	2.18
Electricity Deregulation	Economic	✓		✓		1996	1999	3	24	8.00
State Enterprise Zones	Economic	✓	✓			1981	1992	11	38	3.45
Charter Schools	Education	✓	✓	✓		1991	1996	5	25	5.00
Strategic Planning for Education	Education	✓				1970	1991	21	14	0.67
High School Exit Exams	Education	✓				1976	1999	23	26	1.13
School Choice	Education	✓		✓		1987	1992	5	16	3.20
Strategic Planning for Environmental Protection	Environ.	✓				1978	1991	13	14	1.08
Strategic Planning for Natural Resources	Environ.	✓				1975	1991	16	16	1.00
Interstate Pest Control Compact	Environ.	✓				1968	2009	41	36	0.88
State Renewable Portfolio Standards	Environ.	✓	✓	✓		1991	2004	13	19	1.46
State allows Tribal Gaming	Gambling	✓	✓	✓	✓	1990	1995	5	24	4.80
Lottery	Gambling	✓	✓	✓	✓	1964	1993	29	36	1.24
Constitutional Amendment Banning Gay Marriage	Gay Rights		✓	✓	✓	1994	2008	14	33	2.36
Unrestricted Absentee Voting	Government	✓	✓	✓		1960	2003	43	26	0.60
In-Person Early Voting	Government	✓	✓			1970	2002	32	15	0.47
Voter Registration by Mail	Government	✓		✓		1972	1995	23	49	2.13
Missouri Plan	Government	✓	✓	✓		1940	1976	36	20	0.56
Voter Registration with Driver's License Renewal	Government	✓		✓		1976	1995	19	49	2.58
State Policy to Refuse to Comply with 2005 Federal Real ID Act	Government	✓				2007	2009	2	18	9.00
Public Campaign Funding	Government	✓	✓	✓		1973	1987	14	23	1.64
Protections Against Compelling Reporters to Disclose Sources in Court	Government	✓				1935	2009	74	34	0.46
Legislative Term Limits	Government	✓		✓		1990	2000	10	15	1.50
Child Access to Guns Protection Law	Gun Control	✓				1989	2000	11	17	1.55
Strategic Planning for Aging	Health	✓	✓			1974	1991	17	19	1.12

Table B.1 (cont'd)

Policy	Policy Category	Leg.	Leg. Ref.	Cit. Init.	Morality Issue	Diffusion Starts	Diffusion Ends	Diffusion No. of Years	No. States Adopting	Ratio: States / Years
Ban on Financial Incentives for Doctors to Perform Less Costly Procedures/Prescribe Less Costly Drugs	Health	✓				1996	2001	5	29	5.80
Prohibits Agreements that Limits a Doctor's Ability to Inform Patients of All Treatment Options	Health	✓				1975	1999	24	46	1.92
Colorectal Cancer Screening	Health	✓				1991	2007	16	27	1.69
Insurers That Cover Prescription Drugs Cannot Exclude FDA-Approved Contraceptives	Health	✓				1996	2007	11	27	2.45
Strategic Planning for Health Services	Health	✓		✓		1985	1991	6	23	3.83
Guaranteed Issue of Health Insurance	Health	✓				1990	1994	4	36	9.00
Guaranteed Renewal of Health Insurance	Health	✓				1990	1995	5	45	9.00
Health Insurance Portability	Health	✓				1990	1995	5	43	8.60
Health Insurance Preexisting Conditions Limits	Health	✓				1990	1994	4	39	9.75
Health Maintenance Organization Model Act (First)	Health	✓				1973	1988	15	23	1.53
Health Maintenance Organization Model Act (Second)	Health	✓				1989	1995	6	22	3.67
Newborn Hearing Screening	Health	✓				1990	2008	18	43	2.39
Mandated Coverage of Clinical Trials	Health	✓				1994	2008	14	23	1.64
Medical Savings Accounts	Health	✓				1993	1997	4	28	7.00
Prescription Drug Monitoring	Health	✓				1940	1999	59	14	0.24
Right to Die	Health	✓		✓	✓	1976	1988	12	15	1.25
Dependent Coverage Expansion Insurance for Young Adults	Health	✓				1994	2008	14	25	1.79
Senior Prescription Drugs	Health	✓				1975	2001	26	27	1.04
Fair Employment Laws	Labor Rights	✓		✓		1945	1964	19	25	1.32
Bottle Deposit Law	Misc.	✓		✓		1971	2002	31	11	0.35
Restrictions on Displaying Credit Card Numbers on Sales Receipts	Misc.	✓				1999	2008	9	31	3.44
Limits Credit Agencies from Issuing a Credit Report without Consumer Consent	Misc.	✓				2001	2006	5	25	5.00
Grandparents' Visitation Rights	Misc.	✓				1964	1987	23	50	2.17
Living Wills	Misc.	✓				1976	1986	10	38	3.80

Table B.1 (cont'd)

Policy	Policy Category	Leg.	Leg. Ref.	Cit. Init.	Morality Issue	Diffusion Starts	Diffusion Ends	Diffusion No. of Years	No. States Adopting	Ratio: States / Years
Provisions by the States Maintaining Segregated Educational Systems for Out-Of-State Study by African-Americans	Racial Issues	✓		✓		1927	1943	16	10	0.63
State Income Tax	Tax	✓	✓	✓		1916	1937	21	28	1.33
Lien Statutes	Tax	✓				1995	1999	4	27	6.75
Strategic Planning for Revenue	Tax	✓	✓			1981	1991	10	18	1.80
Tax and Expenditure Limits	Tax	✓	✓	✓		1976	1994	18	26	1.44
Child Seatbelt Requirement	Transport.	✓	✓	✓		1981	1984	3	49	16.33
State Graduated Driver's Licensing Program	Transport.	✓				1996	2009	13	49	3.77
Mandatory Bicycle Helmets for Minors	Transport.	✓				1992	2007	15	21	1.40
Lemon Laws	Transport.	✓				1982	1984	2	29	14.50
Motorcycle Helmet Requirement	Transport.	✓	✓			1967	1985	18	50	2.78
Primary Seat Belt Laws	Transport.	✓	✓	✓		1984	2004	20	21	1.05
Strategic Planning for Transportation	Transport.	✓				1974	1991	17	20	1.18
Family Cap Exemptions	Welfare	✓				1992	1998	6	21	3.50
Individual Development Accounts	Welfare	✓				1993	2001	8	35	4.38
Kinship Care Program	Welfare	✓				1998	2006	8	26	3.25
Time Limits on Welfare Benefits	Welfare	✓				1993	1996	3	18	6.00
Special Agent/Office for Women's Health	Women's Rights	✓				1993	2009	16	19	1.19
Allowance of Breastfeeding in Public	Women's Rights	✓				1993	2008	15	46	3.07

Note: A sample of 95 diverse policies (1916 – 2009), compiled by Boehmke and Skinner (2012), were assessed for the choice of institutional venue—state legislature, legislative referendum, citizen initiative or popular referendum—where the policies were pursued by at least one state via those venues. The table also includes the years the first and last states adopted the policy, the number of states that have enacted the policy, and the rate of adoption, as measured by the number of states passing the policy over the timeframe between the first and latest adoption. Leg. indicates Legislature, Leg. Ref. indicates Legislative Referendum, and Cit. Init. indicates Citizen Initiative.

APPENDIX C

Table C.1: State by State Chronology of Anti- and Pro-Gay Marriage Policies, 1993–2015

- **AL:**
  - 1996 Anti   Executive Order   Pass
  - 1998 Anti   Legislature   Pass   Statute
  - 2006 Anti   Legislative Referendum   Pass   Amendment 774, Constitutional Amendment
  - 2015 Pro   Circuit Court   Pass   *Searcy v. Bentley*, decided by District Court, but Circuit and S. Courts refused to issue stay

- **AK:**
  - 1996 Anti   Legislature   Pass   Statute, became law without gov.'s signature
  - 1998 Anti   Legislative Referendum   Pass   Ballot Measure 2, Constitutional Amendment
  - 1998 Pro   State High Court   Fail   *Bess v. Ulmer*, Superior Ct ruled for gay marr in '94, but Supreme Ct overturned bec Meas.2
  - 2014 Pro   Circuit Court   Pass   *Hamby v. Parnell*, denied stay by C. Court and Supreme Court

- **AZ:**[125]
  - 1975 Anti   Legislature   Pass   Statute
  - 1996 Anti   Legislature   Pass   Statute
  - 2006 Anti   Citizen Initiative   Fail   Proposition 107, Constitutional Amendment
  - 2008 Anti   Legislative Referendum   Pass   Proposition 102, Constitutional Amendment
  - 2014 Pro   Circuit Court   Pass   *Connolly v. Roche*, *Majors v. Horne*, decided by District Ct, but C. Ct suspended proceedings

- **AR:**
  - 1997 Anti   Legislature   Pass   Statute
  - 2004 Anti   Citizen Initiative   Pass   Proposal 3, Constitutional Amendment

- **CA:**[126]
  - 1977 Anti   Legislature   Pass   Statute
  - 1997 Anti   Legislature   Fail   Statute, efforts put forward in '95, '96, '97, some of which did not make it out of committee
  - 2000 Anti   Citizen Initiative   Pass   Proposition 22, statutory language reaffirming 1977 statute
  - 2005 Pro   Legislature   Pass   Statute passed by legislature, but vetoed by governor
  - 2008 Pro   State High Court   Pass   *In re Marriage Cases*
  - 2008 Anti   Citizen Initiative   Pass   Proposition 8, Constitutional Amendment
  - 2009 Pro   State High Court   Fail   *Strauss v. Horton*
  - 2012 Pro   Circuit Court   Pass   *Perry v. Brown*[127]

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[125] AZ: The *Standhardt v. Superior Court* case to push for gay marriage was heard by State Court of Appeals in 2003 but ruled against.

[126] CA: The legislature did pass limited domestic partnership benefits to gay couples in 1999, but the statute did not encompass marriage.

[127] CA: The US Supreme Court upheld ruling in *Hollingsworth v. Perry* in 2013.

Table C.1 (cont'd)

- CO:[128]
  - 1975 Pro   Circuit Court   Fail   *Adams v. Howerton*, sought marriage license in Boulder, for immigration purposes
  - 1996 Anti   Legislature   Pass   Statute, vetoed by governor
  - 1997 Anti   Legislature   Pass   Statute, vetoed by governor
  - 2000 Anti   Legislature   Pass   Statute, signed into law by governor
  - 2006 Anti   Citizen Initiative   Pass   Amendment 43, Constitutional Amendment
  - 2013 Pro   Legislature   Pass   Statute, Civil Unions
  - 2014 Pro   Circuit Court   Pass   *Burns v. Hickenlooper*, allowing Same-Sex Marriage; also *Kitchen v. Herbert* in Utah

- CT:
  - 2005 Pro   Legislature   Pass   Statute, Civil Unions
  - 2008 Pro   State High Court   Pass   *Kerrigan v. Commissioner of Public Health*

- DE:
  - 1996 Anti   Legislature   Pass   Statute
  - 2011 Pro   Legislature   Pass   Statute, Civil Unions
  - 2013 Pro   Legislature   Pass   Statute, Same-Sex Marriage

- FL:
  - 1977 Anti   Legislature   Pass   Statute
  - 1997 Anti   Legislature   Pass   Statute, became law without governor's signature
  - 2008 Anti   Citizen Initiative   Pass   Amendment 2, Constitutional Amendment
  - 2015 Pro   Circuit Court   Pass   *Brenner v. Scott*, decided by District Court, but Circuit would not continue stay

- GA:
  - 1996 Anti   Legislature   Pass   Statute
  - 2004 Anti   Legislative Referendum   Pass   Amendment 1, Constitutional Amendment
  - 2006 Pro   State High Court   Fail   Case name unknown, but Lambda Legal and ACLU v. State of Georgia

- HI:
  - 1993 Pro   State High Court   Pass   *Baehr v. Lewin*, but the ruling remanded to trial court, not opening up same-sex marriage
  - 1994 Anti   Legislature   Pass   Statute
  - 1998 Anti   Legislative Referendum   Pass   Amendment 2, Constitutional Amendment, legislature passed law following referendum
  - 1999 Pro   State High Court   Fail   *Baehr v. Miike*, lost due to passage of legislative referendum outlawing gay marriage
  - 2010 Pro   Legislature   Pass   Statute, Civil Unions, vetoed by the governor
  - 2011 Pro   Legislature   Pass   Statute, Civil Unions, signed into law by the governor

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[128] CO: The legislature passed a statute in 2009 providing designated beneficiary agreements for gay couples, but this did not include the right to marry.

Table C.1 (cont'd)

o	2013 Pro	Legislature	Pass	Statute, Same-Sex Marriage, signed into law by the governor

- **ID:**

o	1995 Anti	Legislature	Pass	Statute, defining marriage between one man and one woman
o	1996 Anti	Legislature	Pass	Statute, mandating no recognition of same-sex marriages performed by other states
o	2006 Anti	Legislative Referendum	Pass	Amendment 2, Constitutional Amend., state senate failed to put before citizens in '04, '05
o	2014 Pro	Circuit Court	Pass	*Latta v. Otter*, decided by District Court, but Circuit and Supreme Cts. let stay run out

- **IL:**

o	1996 Anti	Legislature	Pass	Statute
o	2011 Pro	Legislature	Pass	Statute, Civil Unions
o	2013 Pro	Legislature	Pass	Statute, Same-Sex Marriage

- **IN:**

o	1986 Anti	Legislature	Pass	Statute, defining marriage between one man and one woman
o	1997 Anti	Legislature	Pass	Statute, mandating no recognition of same-sex marriages performed by other states[129]
o	2014 Pro	Circuit Court	Pass	*Baskin v. Bogan*, Dis. and Cir. Cts decided for gay marriage, Supreme Ct did not take up case

- **IA:**

o	1998 Anti	Legislature	Pass	Statute
o	2009 Pro	State High Court	Pass	*Varnum v. Brien*[130]

- **KS:**

o	1996 Anti	Legislature	Pass	Statute
o	2005 Anti	Legislative Referendum	Pass	Amendment 1, Constitutional Amendment
o	2014 Pro	State High Court	Pass	*Schmidt v. Moriarty*, but only for the 10th judicial district; 2015 before entire state
o	2014 Pro	Circuit Court	Pass	*Marie v. Moser*, Dis. Ct decided for gay marriage, Cir. and S. Cts would not issue stays

- **KY:**

o	1973 Pro	State High Court	Fail	*Jones* v. *Hallahan*, heard by State Court of Appeals, the state's High Court at the time
o	1998 Anti	Legislature	Pass	Statute
o	2004 Anti	Legislative Referendum	Pass	Amendment 1, Constitutional Amendment
o	2014 Pro	Circuit Court	Fail	*Bourke v. Beshear*

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[129] IN: Members of Indiana Legislature had made annual attempts from 2004 – 2015 to put forward a legislative referendum for a constitutional amendment stating that only a marriage between one man and one woman would be valid and recognized in the state. All of these attempts never passed both chambers of the state legislature to make it on the ballot.
[130] IA: Members of the Iowa Legislature made several annual attempts following the Iowa Supreme Court's ruling allowing same-sex marriage to put forward constitutional amendments, limiting marriage to one man and one woman, without success.

Table C.1 (cont'd)

- **LA:**

o	1988 Anti	Legislature	Pass	Statute, defining marriage between one man and one woman
o	1999 Anti	Legislature	Pass	Statute, mandating no recognition of same-sex marriages performed by other states
o	2004 Anti	Legislative Referendum	Pass	Amendment 1, Constitutional Amendment
o	2015 Pro	State High Court	Pass	*Costanza v. Caldwell*, trial Ct ruled for gay marriage, but St. SC did not rule until Fed. SC did
o	2015 Pro	Circuit Court	Fail	*Robicheaux v. George*, Dis. Ct. ruled against gay marriage, but C Ct. did not decide until SC

- **ME:**

o	1997 Anti	Legislature	Pass	Statute
o	2009 Pro	Legislature	Pass	Statute
o	2009 Anti	Popular Referendum	Pass	Question 1, Repeal of former Statute
o	2012 Pro	Citizen Initiative	Pass	Question 1, Statute allowing Same-Sex Marriage

- **MD:**

o	1973 Anti	Legislature	Pass	Statute[131]
o	2007 Pro	State High Court	Fail	*Conaway v. Deane*, ban on gay marriage ruled constitutional by Court of AP, MD's High Court
o	2012 Pro	Legislative Referendum	Pass	Question 6, Statute

- **MA:**

o	2004 Pro	State High Court	Pass	*Goodridge v. Department of Public Health*, overturning historic marr. statute define 1man 1wman
o	2004 Anti	Legislature	Fail	Constitutional Amendment, via Constitutional Convention
o	2005 Anti	Legislature	Fail	Constitutional Amendment, via Constitutional Convention
o	2006 Anti	Legislature	Fail	Constitutional Amendment, via Constitutional Convention
o	2007 Anti	Legislature	Fail	Constitutional Amendment, via Constitutional Convention

- **MI:**

o	1995 Anti	Legislature	Pass	Statute
o	2004 Anti	Citizen Initiative	Pass	Proposal 2, Constitutional Amendment
o	2014 Pro	Circuit Court	Fail	*DeBoer v. Snyder*

- **MN:**

o	1971 Pro	State High Court	Fail	*Baker v. Nelson*
o	1997 Anti	Legislature	Pass	Statute

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[131] MD: Attempts by members of the Maryland Legislature to adopt further anti-gay marriage policies in 1997 never made it out of committee. Also, attempts to bring forward a constitutional amendment via Legislative Referendum in 2004 were also unsuccessful, never making it out of the Maryland House.

Table C.1 (cont'd)

o	2012 Anti	Legislative Referendum	Fail	Amendment 1, Constitutional Amendment[132]
o	2013 Pro	Legislature	Pass	Statute

- **MS:**

o	1996 Anti	Executive Order	Pass	Banning same-sex marriage in the state
o	1997 Anti	Legislature	Pass	Statute
o	2004 Anti	Legislative Referendum	Pass	Amendment 1, Constitutional Amendment
o	2014 Pro	Circuit Court	Fail	*Campaign for Southern Equality v. Bryant*, Circuit Ct did not lift stay before Supreme Ct ruling

- **MO:**

o	1997 Anti	Legislature	Pass	Statute, overturned by State Supreme Court on procedural grounds
o	2001 Anti	Legislature	Pass	Statute
o	2004 Anti	Citizen Initiative	Pass	Amendment 2, Constitutional Amendment
o	2013 Pro	Executive Order	Pass	Recognizing same-sex marriages from other states
o	2014 Pro	Circuit Court	Fail	*Lawson v. Kelly*, District Ct ruled in favor of gay marriage but C. Ct. upheld stay

- **MT:**

o	1997 Anti	Legislature	Pass	Statute
o	2004 Anti	Citizen Initiative	Pass	Initiative 96, Constitutional Amendment
o	2012 Pro	State High Court	Fail	*Donaldson v. State of Montana*
o	2014 Pro	Circuit Court	Pass	*Rolando v. Fox*, District Court ruled in favor of gay marriage, C. Ct. suspend proceed in 2015

- **NE:**

o	2000 Anti	Citizen Initiative	Pass	Initiative Measure 416, Constitutional Amendment
o	2006 Pro	Circuit Court	Fail	*Citizens for Equal Protection v. Bruning*
o	2014 Pro	Circuit Court	Fail	*Waters v. Ricketts*, District Court ruled for gay marriage, but C. Ct. stayed order

- **NV:**

o	2000 Anti	Citizen Initiative	Pass	Constitutional Amendment, State requires 2 votes passing to adopt amendment
o	2002 Anti	Citizen Initiative	Pass	Constitutional Amendment, State requires 2 votes passing to adopt amendment – Achieved
o	2009 Pro	Legislature	Pass	Statute, Domestic Partnerships equivalent to marriage, overrode governor's veto
o	2014 Pro	Circuit Court	Pass	*Sevcik v. Sandoval*

- **NH:**

o	1987 Anti	Legislature	Pass	Statute

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[132] MN: Previous attempts to put a vote to the electorate restricting marriage equality were also made by the legislature in 2004, 2006, 2007, and 2009, but were ultimately unsuccessful in making it out of the legislature.

Table C.1 (cont'd)

o	2007 Pro	Legislature	Pass	Statute, Civil Unions
o	2009 Pro	Legislature	Pass	Statute, Marriage

- **NJ:**

o	1996 Anti	Legislature	Fail	Statute
o	2006 Pro	State High Court	Pass	*Lewis v. Harris*, ruled that legis. had to address equality issue, legislature passed civil unions
o	2013 Pro	Legislature	Pass	Statute, Same-Sex Marriage, but vetoed by governor, not enough to override veto
o	2013 Pro	State High Court	Pass	*Garden State Equality v. Dow*, Superior Court ruled for gay marriage, S.S.C would not stay

- **NM:**

o	2013 Pro	State High Court	Pass	*Griego v. Oliver*[133]

- **NY:**

o	2006 Pro	State High Court	Fail	*Hernandez v. Robles* (among others), C. of Appeals, NY's High Court, ruled against gay marr.
o	2011 Pro	Legislature	Pass	Statute[134]

- **NC:**

o	1996 Anti	Legislature	Pass	Statute
o	2012 Anti	Legislative Referendum	Pass	Amendment 1, Constitutional Amendment
o	2014 Pro	Circuit Court	Pass	*General Synod of the United Church of Christ v. Cooper*, D. Court ruled, C.C. no stay

- **ND:**

o	1997 Anti	Legislature	Pass	Statute
o	2004 Anti	Citizen Initiative	Pass	Measure 1, Constitutional Amendment

- **OH:**

o	2004 Anti	Legislature	Pass	Statute
o	2004 Anti	Citizen Initiative	Pass	State Issue 1, Constitutional Amendment
o	2014 Pro	Circuit Court	Fail	*Obergefell v. Hodges*

- **OK:**

o	1975 Anti	Legislature	Pass	Statute
o	1996 Anti	Legislature	Pass	Statute
o	2004 Anti	Legislative Referendum	Pass	Question 711, Constitutional Amendment
o	2014 Pro	Circuit Court	Pass	*Bishop v. United States*

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[133] NM: Multiple attempts by many members in legislature to restrict or expand gay marriage failed over the years. No evidence that New Mexico had a statutory ban on gay marriage.
[134] NY: The New York Assembly passed pro-gay-marriage policies in 2007, 2009, and 2011, but New York Senate did not pass these measures until 2011.

Table C.1 (cont'd)

- OR:
  - 2004 Anti   Citizen Initiative   Pass   Ballot Measure 36, Constitutional Amendment
  - 2005 Pro   State High Court   Fail   *Li and Kennedy v. State of Oregon*
  - 2007 Pro   Legislature   Pass   Statute, Domestic Partnership equivalent to Civil Unions
  - 2014 Pro   Circuit Court   Pass   *Geiger v. Kitzhaber,* District Court ruled for gay marriage, C.C. refused stay

- PA:
  - 1996 Anti   Legislature   Pass   Statute
  - 2014 Pro   Circuit Court   Pass   *Whitewood v. Wolf,* District Court ruled for gay marriage, C.C. refused stay
- RI:
  - 2011 Pro   Legislature   Pass   Statute, Civil Unions
  - 2012 Pro   Executive Order   Pass   Recognizing out-of-state Same-Sex Marriages
  - 2013 Pro   Legislature   Pass   Statute, Same-Sex Marriages

- SC:
  - 1996 Anti   Legislature   Pass   Statute
  - 2006 Anti   Legislative Referendum   Pass   Amendment 1, Constitutional Amendment
  - 2014 Pro   Circuit Court   Pass   *Bradacs v. Haley,* Circuit Court ruling on another case, S.Court refused stay

- SD:
  - 1996 Anti   Legislature   Pass   Statute
  - 2006 Anti   Citizen Initiative   Pass   Amendment C, Constitutional Amendment
  - 2015 Pro   Circuit Court   Fail   *Rosenbrahn v. Daugaard,* D. C. ruled for gay marriage, C.C. maintained stay until S.C. ruling

- TN:
  - 1996 Anti   Legislature   Pass   Statute
  - 2006 Anti   Legislative Referendum   Pass   Amendment 1, Constitutional Amendment

- TX:[135]
  - 1973 Anti   Legislature   Pass   Statute, House Bill 103 amending Family Code to limit marriage to one-man-one-woman
  - 1997 Anti   Legislature   Pass   Statute, not allowed to issue license to same-sex couples
  - 2003 Anti   Legislature   Pass   Statute, void any Texas same-sex marriage or civil union
  - 2005 Anti   Legislative Referendum   Pass   Texas Proposition 2, Constitutional Amendment
  - 2015 Pro   Circuit Court   Fail   *De Leon v. Perry,* D.C ruled for gay marriage, CC. did not decide until S.C. ruling

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[135] TX: State Supreme Court ruled in 2015 via Texas v. Naylor that same-sex couple married in other state could get divorced.

Table C.1 (cont'd)

- **UT:**

o	1977 Anti	Legislature	Pass	Statute
o	1995 Anti	Legislature	Pass	Statute
o	2004 Anti	Legislature	Pass	Statute
o	2004 Anti	Legislative Referendum	Pass	Amendment 3, Constitutional Amendment
o	2013 Pro	Circuit Court	Pass	*Kitchen v. Herbert*, District Ct. and Circuit Ct. ruled for gay marriage, S Ct did not hear case

- **VT:**

o	1999 Pro	State High Court	Pass	*Baker v. Vermont*, following ruling legislature implemented Civil Unions in 2000
o	2009 Pro	Legislature	Pass	Statute

- **VA:**

o	1975 Anti	Legislature	Pass	Statute, no same-sex marriage
o	1997 Anti	Legislature	Pass	Statute, will not recognize out-of-state same-sex marriages
o	2004 Anti	Legislature	Pass	Statute, against civil unions
o	2006 Anti	Legislative Referendum	Pass	Marshall-Newman Amendment, Constitutional Amendment
o	2014 Pro	Circuit Court	Pass	*Bostic v. Schaefer*, D.C. and CC. ruled for gay marriage, SC. did not hear case

- **WA:**

o	1974 Pro	State High Court	Fail	*Singer v. Hara*, Court of Appeals ruled, State S.C. did not take case
o	1997 Anti	Legislature	Pass	Statute, governor vetoed bill
o	1998 Anti	Legislature	Pass	Statute, governor vetoed bill, legislators over road veto
o	2006 Pro	State High Court	Fail	*Andersen v. King County*
o	2012 Pro	Legislature	Pass	Statute
o	2012 Anti	Popular Referendum	Fail	Referendum 74

- **WV:**

o	2000 Anti	Legislature	Pass	Statute
o	2014 Pro	Circuit Court	Pass	*Bostic v. Schaefer*, a VA case, but WV complied

- **WI:** [136]

o	1979 Anti	Legislature	Pass	Statute, amending the Family Code (§765.001) limiting marriage to husband and wife
o	2003 Anti	Legislature	Pass	Statute, governor vetoed the legislation, not enough support to override

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[136] WI: The Wisconsin House attempted to pass anti-gay-marriage legislation in 1997, but the Senate did not take action. Also, the Wisconsin legislature did pass limited domestic partnership benefits to gay couples in 2009, but the statute did not encompass marriage.

Table C.1 (cont'd)

o	2006 Anti	Legislative Referendum	Pass	Constitutional Amendment
o	2014 Pro	Circuit Court	Pass	*Wolf v. Walker*, District and Circuit Cts ruled for gay marriage, Supreme. Ct. did not take case

- **WY**:

o	1977 Anti	Legislature	Pass	Statute
o	2003 Anti	Legislature	Pass	Statute
o	2014 Pro	Circuit Court	Pass	*Guzzo v. Mead*, District Ct. ruling for gay marriage, Circuit Ct. did not stay

NOTES:

- The pursuit of anti- or pro-gay-marriage policies via any venue prior to 1993 are not included in the analyses (although these instances are listed above for informational purposes only), since the watershed moment for both the anti- and pro-gay-marriage movements was the *Baehr* v. *Miike* case in Hawaii in 1993.
- Only domestic partnerships or civil unions that extend marriage benefits to same-sex couples are considered equivalent to pro-same-sex marriage policies in the analyses.
- Court cases, legislation, or executive orders extending rights of divorce to same-sex couples are also not considered in the analyses since those policies did not affirm a right to a union for gay couples.
- Only those court cases appealed to and taken up by a state's highest court are included in the analyses.
- Votes by the legislature for a constitutional convention, with the possible intent of being able to vote on gay marriage policies, are not considered in the analyses since constitutional conventions open the door for various amendments. Most states only allow constitutional conventions once every ten years.
- Although several court cases and policies over the last two decades have dealt with myriad gay rights issues, the cases and legislation listed above explicitly pertain to same-sex unions and marriage equality.

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Table C.2: Pursuit of Anti-Gay Marriage Policies by Venue, Year, and State, 1993-2015

VENUE	YEAR – STATE	SUCCESS	FAILURE
Legislature	1994: HI 1995: ID, MI, UT 1996: AK, AZ, CO, DE, GA, ID, IL, KS, NJ, NC, OK, PA, SC, SD, TN 1997: AR, CA, CO, FL, IN, ME, MN, MS, MO, MT, ND, TX, VA, WA, 1998: AL, IA, KY, WA 1999: LA 2000: CO, WV 2001: MO 2003: TX, WI, WY 2004: MA, OH, UT, VA 2005: MA 2006: MA 2007: MA	1994: HI 1995: ID, MI, UT 1996: AK, AZ, DE, GA, ID, IL, KS, NC, OK, PA, SC, SD, TN 1997: AR, FL, IN, ME, MN, MS, MT, ND, TX, VA 1998: AL, IA, KY, WA 1999: LA 2000: CO, WV 2001: MO 2003: TX, WY 2004: OH, UT, VA	 1996: CO, NJ 1997: CA, CO, MO, WA 2003: WI 2004: MA 2005: MA 2006: MA 2007: MA
State High Court	---	---	---
Legislative Referendum	1998: AK, HI 2004: GA, KY, LA, MS, OK, UT 2005: KS, TX 2006: AL, ID, SC, TN, VA, WI 2008: AZ 2012: MN, NC	1998: AK, HI 2004: GA, KY, LA, MS, OK, UT 2005: KS, TX 2006: AL, ID, SC, TN, VA, WI 2008: AZ 2012: NC	 2012: MN
Citizen Initiative	2000: CA, NE, NV 2002: NV 2004: AR, MI, MO, MT, ND, OH, OR 2006: AZ, CO, SD 2008: CA, FL 2009: ME 2012: WA	2000: CA, NE, NV 2002: NV 2004: AR, MI, MO, MT, ND, OH, OR 2006: CO, SD 2008: CA, FL 2009: ME	 2006: AZ 2012: WA
Executive Order	1996: AL, MS	1996: AL, MS	
Federal Courts	---	---	---

*Success defined as successful enactment (not just pass) of anti-gay-marriage policy. Failure defined as failure to adopt anti-gay-marriage policy (e.g., legislature passes law, but governor vetoes legislation).

Table C.3: Pursuit of Pro-Gay Marriage Policies by Venue, Year, and State, 1993-2015

VENUE	YEAR – STATE	SUCCESS	FAILURE
Legislature	2005: CA, CT 2007: NH, OR 2009: ME, NV, NH, VT 2010: HI 2011: DE, HI, IL, NY, RI 2012: WA 2013: CO, DE, HI, IL, MN, NJ, RI	2005: CT 2007: NH, OR 2009: ME, NV, NH, VT 2011: DE, HI, IL, NY, RI 2012: WA 2013: CO, DE, HI, IL, MN, RI	2005: CA 2010: HI 2013: NJ
State High Court	1993: HI 1998: AK 1999: HI, VT 2004: MA 2005: OR 2006: GA, NJ, NY, WA 2007: MD 2008: CA, CT 2009: CA, IA 2012: MT 2013: NJ, NM 2014: KS 2015: LA	1993: HI 1999: VT 2004: MA 2006: NJ 2008: CA, CT 2009: IA 2013: NJ, NM 2014: KS	 1998: AK 1999: HI 2005: OR 2006: GA, NY, WA 2007: MD 2009: CA 2012: MT 2015: LA
Legislative Referendum	2012: MD	2012: MD	
Citizen Initiative	2012: ME	2012: ME	
Executive Order	2012: RI 2013: MO	2012: RI 2013: MO	
Federal Courts	2006: NE 2012: CA 2013: UT 2014: AK, AZ, CO, ID, IN, KS, KY, MI, MS, MO, MT, NE, NV, NC, OH, OR, PA, SC, VA, WV, WI, WY 2015: AL, FL, LA, SD, TX	 2012: CA 2013: UT 2014: AK, AZ, CO, ID, IN, KS, MT, NV, NC, OR, PA, SC, VA, WV, WI, WY 2015: AL, FL	2006: NE 2014: KY, MI, MS, MO, NE, OH 2015: LA, SD, TX

*Success defined as successful enactment (not just pass) of pro-gay-marriage policy. The one exception is for the 1993 *Baehr* v. *Lewin* case in Hawaii; although that case did not result in the successful enactment of same-sex marriage, the partial success led to precipitation of policy activity across the states. Failure defined as failure to adopt pro-gay-marriage policy (e.g., District Court rules in favor of gay-marriage, but Circuit Court issues stay that never allows for implementation before Supreme Court rules).

Figure C.1: Probability of Adopting Anti-Gay Marriage Policy by Key Explanatory Variables
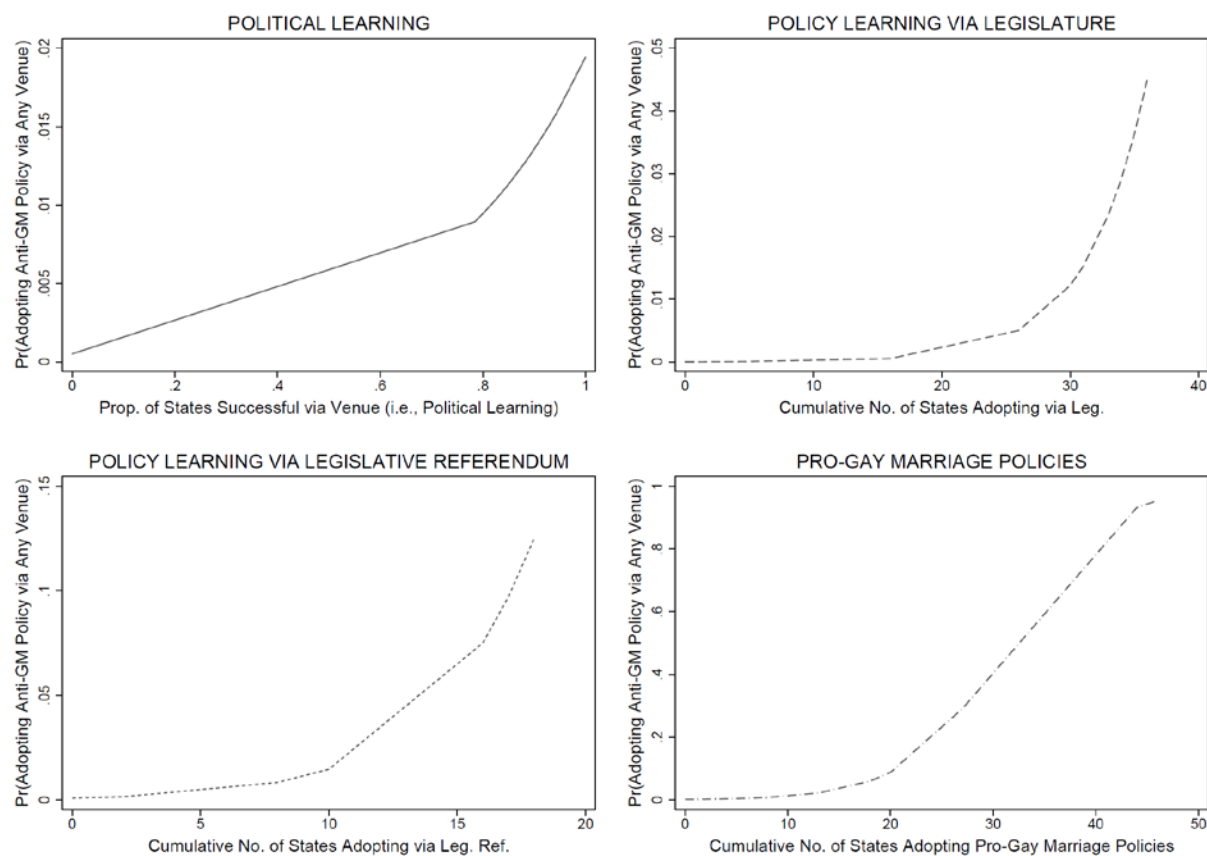
Figure C.2: Prob. of Adopting Anti-GM Policy by Venue as Political Learning Increases
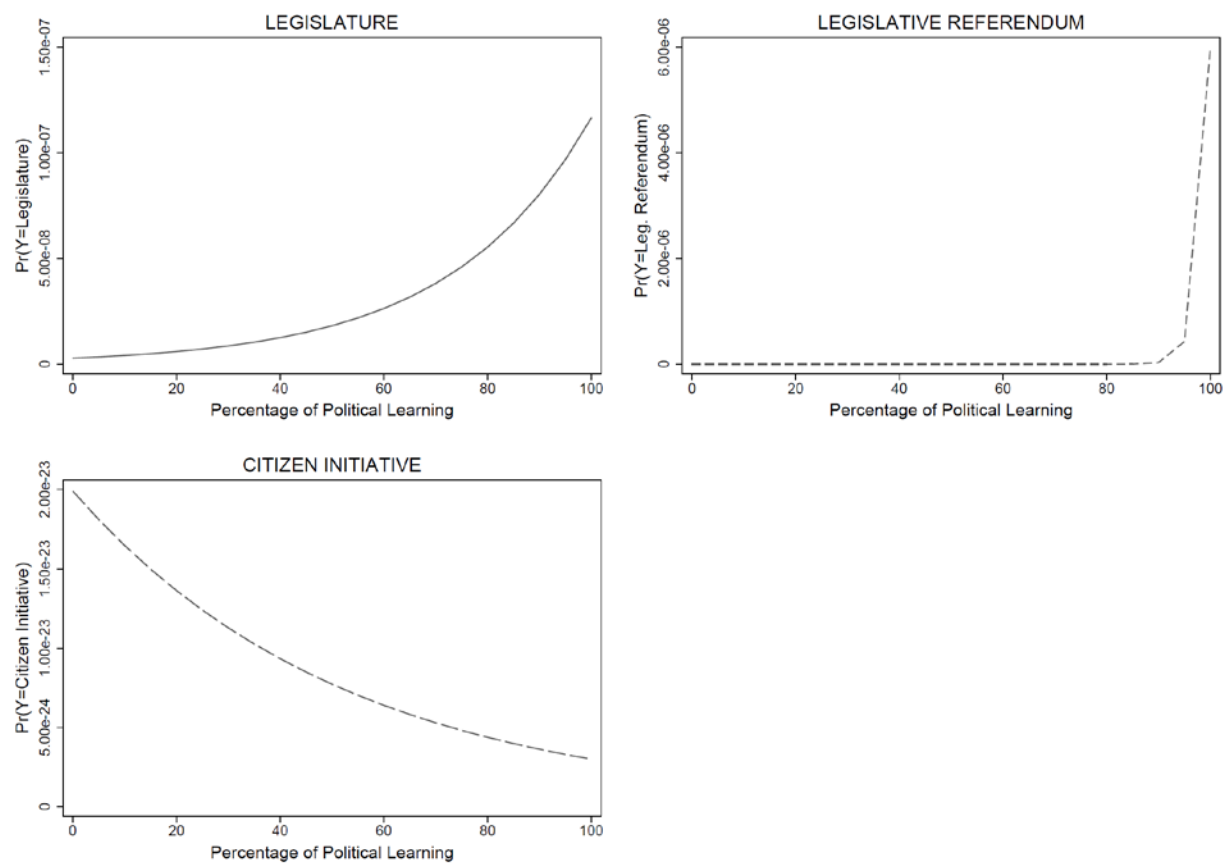
Figure C.3: Prob. of Adopting Pro-GM Policy by Venue as Political Learning Increases
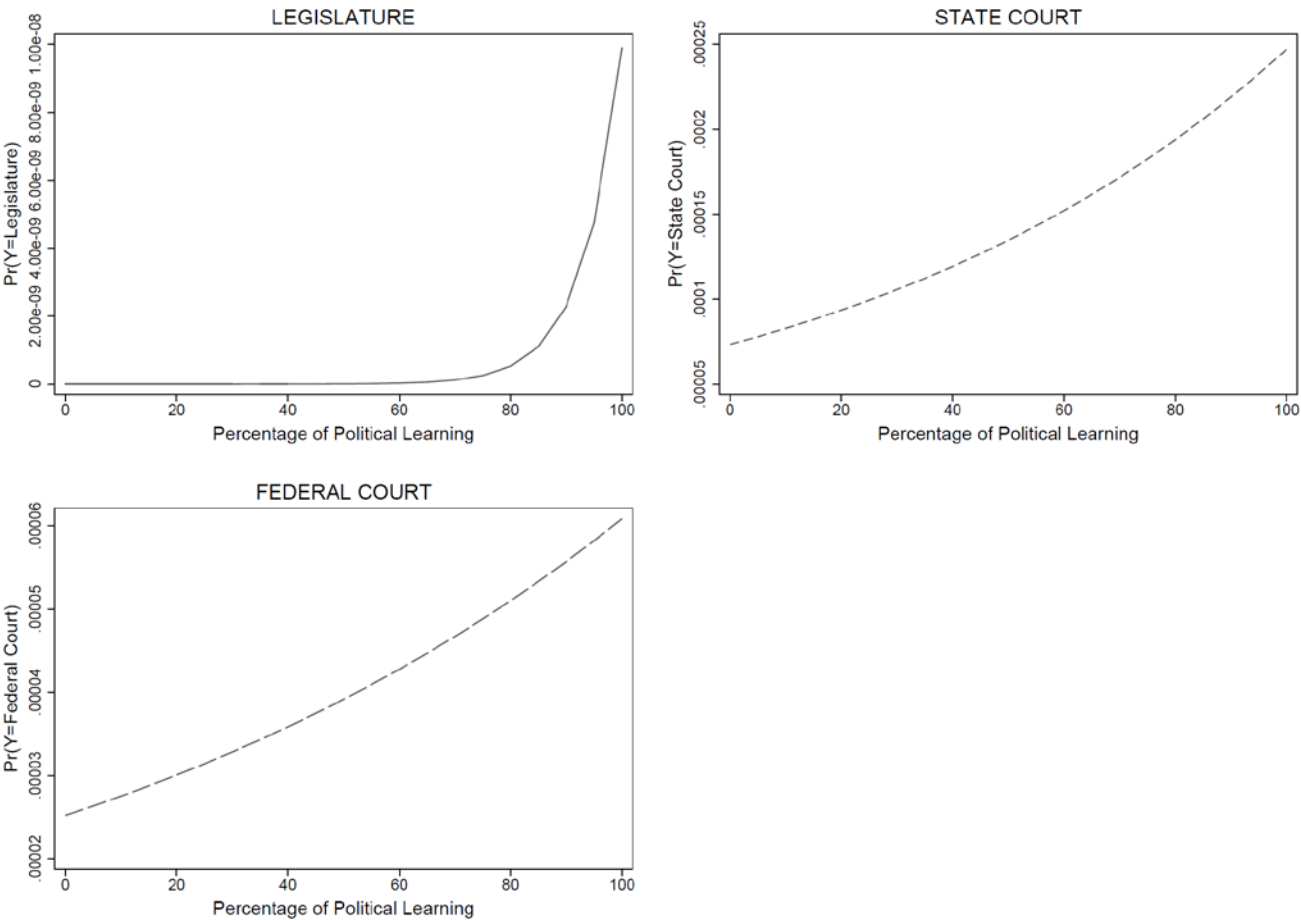
Table C.4: Anti-Gay Marriage Models' Variable Descriptions, Descriptive Statistics, and Sources

Variable Name	Description	Mean	Sd. Dev.	Min	Max	Sources
Political Learning	Proportion of states successful in their pursuit of anti-gay marriage policies via institutional venue	0.74	0.36	0	1	Author
Policy Learning	Cumulative number of states adopting anti-gay marriage policy by year	32.35	13.33	0	41	Author
Policy Learning from Leg	Cumulative number of states that adopted anti-gay marriage policy via legislature by start of year	29.39	11.65	0	36	Author
Policy Learning from Leg Ref	Cumulative number of states that adopted anti-gay marriage policy via legislative referendum by year	8.78	7.74	0	18	Author
Policy Learning from Cit Init	Cumulative number of states that adopted anti-gay marriage policy via citizen initiative by start of year	7.17	6.16	0	14	Author
Geographic Neighbor	Proportion of geographically contiguous neighbors that adopted anti-same-sex marriage policy by start of year	0.64	0.40	0	1	Author, "geographically contiguous" defined by Berry & Berry 1990
Federal Gov. DOMA	Dummy =1 for every year post passage of 1996 Defense of Marriage Act	0.83	0.38	0	1	Author
Lawrence v. *Texas* Sup Ct. Decision	Dummy =1 for every year post U.S. Supreme Court's 2003 *Lawrence* v. *Texas* decision that invalidated states' sodomy laws	0.57	0.50	0	1	Author
NYT Issue Salience	Cumulative number of times *New York Times* ran a story on gay marriage during the year, as an indicator of national salience	35.35	34.63	0	153	New York Times Index
Pres. Election Year	Dummy=1 if presidential election in that calendar year, 0=none	0.22	0.41	0	1	Author
Pro-GM Counter	Cumulat. number pro-gay marriage policies enacted regardless of venue	9.09	13.32	0	46	Author
Legislative Professionalism	1st dimension of state legislative professionalism, from multidimensional scaling of legislators' salaries, legislative expenditures, and session lengths. Higher values indicate a more professionalized legislature	0.12	1.60	-1.85	8.58	Bowen & Greene 2014
State Supreme Court Professionalism	Professionalism scores based on judicial salaries, number of staff, and degree of docket control; higher scores indicate greater capacity	0.58	0.15	0.25	1.00	Squire 2008
Difficulty Amending Constitution	Degree of difficulty in amending state constitution, where 1=only signature requirements for ballot measure; 2=simple leg. majority; 3=passage during multiple legislative sessions or voter supermajority; and 4=both multiple sessions and voter supermajority	2.04	0.82	1	4	Lupia et al. 2010
State Gov. Party Control	Party control of state government; 0=unified Republican control, 0.5=bipartisan control, 1=unified Democratic control	0.47	0.35	0	1	Klarner 2013a

Table C.4 (cont'd)

State Supreme Court Ideology	Aggregate state-year measure based upon individual state supreme court justice scores; more positive scores indicate more conservative	-0.09	0.48	-1.18	1.04	Bonica & Woodruff 2015
Public Support for Gay Marriage	Public support for same-sex marriage, estimated from MRP analysis relying on state and national polls	34.90	10.47	10.29	67.21	Lewis & Jacobsmeier 2017
Evangelical Pop.	Pct. of population that is Evangelical Christian or Latter-day Saints	28.92	11.76	10	62	Taylor et al. 2019
LGBT Population	Percentage of population that identifies LGBT	2.32	0.95	0.675	6.44	Taylor et al. 2019
Prior Anti-GM Policy	Running tally of gay marriage bans passed by state in other venues	0.73	0.83	0	3	Author
Sodomy Ban	State has adopted sodomy ban prohibiting gay sex	0.32	0.47	0	1	Caughey & Warshaw 2015
LGBT Hate Crime Law	State has adopted hate crime law increasing penalties for crimes committed on the basis of LGBT identity	0.39	0.49	0	1	Movement Advancement Project. 2019
Rac/Eth Minority Pop.	Percentage of state residents that identify as racial/ethnic minority	24.43	14.96	2	78	Kelly & Witko 2014
Citizen Education	Percent of state's population 25 and older with bachelor's degree	25.90	5.17	12.2	41.4	U.S. Census Bureau
State Population (Ln)	Natural log of state population (in the thousands)	8.19	1.01	6.16	10.57	U.S. Census Bureau
Dir. Democracy State	Dummy=1 if state allows direct or indirect citizen initiatives	0.48	0.50	0	1	NCSL

Table C.5: Pro-Gay Marriage Models' Var. Descriptions, Descriptive Statistics, and Sources

Variable Name	Description	Mean	Sd. Dev.	Min	Max	Sources
Political Learning	Proportion of states successful in their pursuit of pro-gay marriage policies via institutional venue	0.36	0.36	0	1	Author
Policy Learning	Cumulative number of states adopting pro-gay marriage policy by year	9.09	13.32	0	46	Author
Geographic Neighbor	Proportion of geographically contiguous neighbors that adopted pro-same-sex marriage policy by start of year	0.15	0.29	0	1	Author, "geographically contiguous" defined by Berry & Berry 1990
U.S. v. *Windsor* Sup Ct. Decision	Dummy =1 for every year post U.S. Supreme Court's 2013 *U.S.* v. *Windsor* decision that invalidated federal DOMA	0.13	0.34	0	1	Author
NYT Issue Salience	Cumulative number of times *New York Times* ran a story on gay marriage during the year, as an indicator of national salience	35.35	34.63	0	153	New York Times Index
Legislative Professionalism	1st dimension of state legislative professionalism, from multidimensional scaling of legislators' salaries, legislative expenditures, and session lengths. Higher values indicate a more professionalized legislature	0.12	1.60	-1.85	8.58	Bowen & Greene 2014
State Supreme Court Professionalism	Professionalism scores based on judicial salaries, number of staff, and degree of docket control; higher scores indicate greater capacity	0.58	0.15	0.25	1.00	Squire 2008
State Gov. Party Control	Party control of state government; 0=unified Republican control, 0.5=bipartisan control, 1=unified Democratic control	0.47	0.35	0	1	Klarner 2013a
State Supreme Court Ideology	Aggregate state-year measure based upon individual state supreme court justice scores; more positive scores indicate more conservative	-0.09	0.48	-1.18	1.04	Bonica & Woodruff 2015
District Court Ideology	Aggregate state-year measure based upon individual federal district court judges' ideology at the state level; more positive scores indicate more conservative judges.	-0.20	0.64	-1.49	0.67	Bonica et al. 2017
Public Support for Gay Marriage	Public support for same-sex marriage, estimated from MRP analysis relying on state and national polls	34.90	10.47	10.29	67.21	Lewis & Jacobsmeier 2017
Evangelical Population	Percentage of population that identifies as Evangelical Christian or member of Latter-day Saints	28.92	11.76	10	62	Taylor et al. 2019
LGBT Population	Percentage of population that identifies LGBT	2.32	0.95	0.675	6.44	Taylor et al. 2019
Prior Anti-GM Policy	Running tally of number of gay marriage bans passed by state by year	0.98	0.87	0	3	Author
Prior Pro-GM Policy	Running tally of number of pro-gay marriage policies passed in state in other venues by year	0.12	0.39	0	2	Author
Sodomy Ban	State has adopted sodomy ban prohibiting gay sex	0.32	0.47	0	1	Caughey & Warshaw 2015
LGBT Hate Crime Law	State has adopted hate crime law increasing penalties for crimes committed on the basis of LGBT identity	0.39	0.49	0	1	Movement Advancement Project. 2019

Table C.5 (cont'd)

Rac/Eth Minority Pop.	Percentage of state residents that identify as racial/ethnic minority	24.43	14.96	2	78	Kelly & Witko 2014
Citizen Education	Percent of state's population 25 and older with bachelor's degree	25.90	5.17	12.2	41.4	U.S. Census Bureau
State Population (Ln)	Natural log of state population (in the thousands)	8.19	1.01	6.16	10.57	U.S. Census Bureau

Table C.6: Robustness Check: Policy Diffusion of Anti-Gay Marriage Policies Using CLogLog

Explanatory Variables	Anti-GM: Cloglog of Model 3
Political Learning [+]	**3.508*** **(0.350)**
Policy Learning [+]	---
Policy Learn from Leg [+]	**0.214*** **(0.078)**
Policy Learn from Leg Ref [+]	0.271† (0.141)
Policy Learn from Cit Init [+]	0.075 (0.270)
Geographic Neighbor [+]	0.802 (0.560)
Federal Government DOMA [-/+]	-0.874 (1.169)
Lawrence v. *Texas* Sup. Ct. Decision [+]	3.642† (1.962)
U.S. v. *Windsor* Sup. Ct. Decision [+]	---
NYT Issue Salience [+]	-0.003 (0.010)
Presidential Election Year [+]	0.964 (0.664)
Pro-Gay Marriage Counter [+]	**0.198*** **(0.083)**
Legislative Professionalism [+]	0.020 (0.110)
State Supreme Court Professionalism [+]	1.071 (1.239)
Difficulty Amending Constitution [-]	-0.167 (0.161)
State Gov. Party Control [-]	**-0.917*** **(0.384)**
State Supreme Court Ideology [+]	-0.023 (0.045)
Public Support for Gay Marriage [-]	-0.023 (0.045)
Evangelical Population [+]	0.024 (0.019)
LGBT Population [-]	0.145 (0.373)
Sodomy Ban [+]	0.205 (0.324)
LGBT Hate Crime Law [-]	0.367 (0.385)
Racial/Ethnic Minority Population [+]	0.013 (0.012)
Population with College Degree [-]	-0.019 (0.041)
State Population (Ln) [-]	-0.209 (0.226)
Constant	-1.965 (2.210)
N	2451
Wald $\chi^2_{(22)}$ / Log Likelihood	365.19* / -246.27
AIC	542.54

†p ≤ 0.10, *p ≤ 0.05, two tailed. Dep. variable is likelihood of adopting anti-gay marriage policy (irrespective of venue). Statistically significant complementary log-log coefficients are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Model also includes a time variable to account for temporal dependence; coefficient omitted for space considerations. The hypothesized direction of the independent variable is in brackets. AIC=Akaike information criterion

Table C.7: Robustness Check: Policy Diffusion of Pro-Gay Marriage Policies Using CLogLog

Explanatory Variables	Pro-GM: Cloglog of Multinomial Logistic Model
Political Learning [+]	**2.956*** **(0.503)**
Policy Learn [+]	0.073† (0.042)
Geographic Neighbor [+]	0.797 (0.711)
U.S. v. *Windsor* Sup. Ct. Decision [+]	0.582 (0.774)
NYT Issue Salience [+]	0.006 (0.010)
Prior Anti-GM Policy [-]	0.210 (0.272)
Legislative Professionalism [+]	0.052 (0.262)
State Supreme Court Professionalism [+]	-0.202 (2.082)
State Gov. Party Control [+]	1.011 (0.632)
State Supreme Court Ideology [-]	**-1.171*** **(0.499)**
District Court Ideology [-]	0.689† (0.398)
Public Support for Gay Marriage [+]	**0.068*** **(0.034)**
Evangelical Population [-]	0.006 (0.030)
LGBT Population [+]	0.129 (0.293)
Prior Pro-GM Policy [-]	**-2.545*** **(0.520)**
Sodomy Ban [-]	0.239 (0.581)
LGBT Hate Crime Law [+]	**0.925*** **(0.468)**
Racial/Ethnic Minority Population [-]	-0.002 (0.012)
Population with College Degree [+]	0.059 (0.055)
State Population (Ln) [+]	-0.233 (0.296)
Constant	**-10.053*** **(2.546)**
N	3253
Wald χ² (21) / Log Likelihood	201.46* / -158.05
AIC / aROC	360.11

†p ≤ 0.10, *p ≤ 0.05, two tailed. Dependent variable is likelihood of adopting pro-gay marriage policy (irrespective of venue). Statistically significant complementary log-log regression coefficients are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion.

Table C.8: Robustness Check: Anti-GM Policies using Cox-Proportional-Hazards Model

Explanatory Variables	Cox-Proportional-Hazard Ratios
Political Learning [+]	2.67×10^{14}* (2.30×10^{15})
Geographic Neighbor [+]	0.403† (0.215)
Presidential Election Year [+]	1.987* (0.554)
State Supreme Court Professionalism [+]	11.737* (9.926)
Difficulty Amending Constitution [-]	0.859 (0.167)
Direct Democracy [-/+]	2.051* (0.719)
State Gov. Party Control [-]	0.738 (0.283)
Public Support for Gay Marriage [-]	0.873* (0.026)
Evangelical Population [+]	0.980 (0.015)
LGBT Population [-]	0.372* (0.122)
Prior Anti-GM Policy [-]	0.388* (0.104)
N	3,234
Likelihood Ratio $\chi^2_{(11)}$:	242.40*

†$p \leq 0.10$, *$p \leq 0.05$, two tailed. Model is Cox-proportional hazards model with venues (state legislature, legislative referendum, citizen initiative) as the strata, with dependent variable as the hazard ratio for adopting anti-gay marriage policy. Statistically significant hazard ratios at α=.05 level are in bold face. The hypothesized direction of the independent variable effect is in brackets.

Table C.9: Robustness Check: Pro-GM Policies using Cox-Proportional-Hazards Model

Explanatory Variables	Cox-Proportional-Hazard Ratios
Political Learning [+]	2724.707* (5831.775)
Policy Learn [+]	0.781* (0.041)
Geographic Neighbor [+]	0.912 (0.480)
Legislative Professionalism [+]	1.089 (0.083)
State Supreme Court Ideology [-]	0.648 (0.186)
Evangelical Population [+]	0.986 (0.015)
LGBT Population [-]	1.082 (0.238)
N	3,164
Likelihood Ratio $\chi^2_{(7)}$:	73.39*

†$p \leq 0.10$, *$p \leq 0.05$, two tailed. Model is Cox-proportional hazards model with venues (state legislature, state court, federal court) as the strata, with dependent variable as the hazard ratio for adopting pro-gay marriage policy. Statistically significant hazard ratios at α=.05 level are in bold face. The hypothesized direction of the independent variable effect is in brackets.

Table C.10: Policy Diffusion of Anti-GM Policies using Mult. Log. Reg. Clustered by State

Explanatory Variables	Legislature	Leg. Referendum	Citizen Initiative
Political Learning [+]	**3.717*** **(0.373)**	**52.688*** **(13.172)**	-1.894 (5.089)
Policy Learn [+]	0.191 (0.173)	**-1.982*** **(0.797)**	**2.848*** **(1.126)**
Geographic Neighbor [+]	0.598 (0.773)	2.830† (1.478)	**-13.046*** **(3.205)**
Federal Government DOMA [-/+]	0.487 (2.559)	**59.476*** **(17.360)**	-15.601 (15.841)
Lawrence v. *Texas* Sup. Ct. Decision [+]	2.409 (3.381)	-1.765 (2.708)	-1.922 (2.800)
NYT Issue Salience [+]	0.023 (0.023)	0.020 (0.018)	-0.002 (0.020)
Presidential Election Year [+]	0.343 (1.637)	0.383 (1.357)	2.777† (1.555)
Pro-Gay Marriage Counter [+]	-1.307 (1.443)	-1.049 (0.744)	0.080 (0.120)
Legislative Professionalism [+]	-0.163 (0.202)	0.247 (0.342)	-0.408 (0.574)
State Supreme Court Professionalism [+]	**4.123*** **(1.892)**	3.943 (4.008)	**-13.074*** **(5.441)**
Difficulty Amending Constitution [-]	0.171 (0.229)	0.086 (0.477)	**-26.223*** **(5.383)**
Direct Democracy [-/+]	0.810† (0.492)	-0.563 (0.874)	**17.407*** **(3.525)**
State Gov. Party Control [-]	**-1.858*** **(0.731)**	-0.343 (0.950)	4.963† (2.646)
State Supreme Court Ideology [+]	0.037 (0.475)	0.844 (0.808)	**-6.826*** **(1.759)**
Public Support for Gay Marriage [-]	-0.152† (0.080)	-0.226† (0.121)	-0.125 (0.085)
Evangelical Population [+]	0.001 (0.025)	0.050 (0.057)	**-0.575*** **(0.130)**
LGBT Population [-]	-0.507 (0.734)	0.179 (0.646)	**-5.649*** **(2.167)**
Prior Anti-GM Policy [-]	**-2.518*** **(1.067)**	-0.902† (0.542)	**-7.614*** **(2.005)**
Sodomy Ban [+]	0.573 (0.478)	0.422 (0.670)	1.361 (1.585)
LGBT Hate Crime Law [-]	0.370 (0.737)	0.835 (0.733)	-0.519 (1.106)
Racial/Ethnic Minority Population [+]	0.012 (0.026)	**0.072*** **(0.033)**	-0.096 (0.081)
Population with College Degree [-]	0.011 (0.053)	0.158 (0.104)	**-0.410*** **(0.146)**
State Population (Ln) [-]	-0.073 (0.331)	-1.172† (0.619)	2.017† (1.189)
Constant	-3.236 (2.877)	**-72.357*** **(14.965)**	**-33.383*** **(16.419)**
N	2451	Wald χ² (48):	**421.14***
AIC	521.14	Log Likelihood:	-210.57

†$p \leq 0.10$, *$p \leq 0.05$, two tailed. Repeated-events competing risks model estimated using multinomial logit model. Dependent variable is likelihood of adopting anti-gay marriage policy by venue. Dependent variable has four categories, baseline category is not adopting an anti-gay marriage policy. Statistically significant coefficients are in bold face. Robust standard errors, clustered by state (rather than state-year), are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion.

Table C.11: Policy Diffusion of Pro-GM Policies using Mult. Log. Reg. Clustered by State

Explanatory Variables	Legislature	State Court	Federal Court
Political Learning [+]	**14.643*** **(4.912)**	1.215 (0.854)	0.882† (0.466)
Policy Learn [+]	**-0.192*** **(0.076)**	-0.029 (0.091)	**0.337*** **(0.103)**
Geographic Neighbor [+]	-1.781 (2.001)	**-3.735*** **(1.743)**	2.966† (1.521)
U.S. v. *Windsor* Sup. Ct. Decision [+]	**3.040*** **(1.127)**	2.812 (2.020)	-1.502 (2.389)
NYT Issue Salience [+]	0.004 (0.008)	0.006 (0.010)	**0.037*** **(0.012)**
Prior Anti-GM Policy [-]	-0.028 (0.628)	-0.510 (1.478)	0.642 (0.663)
Legislative Professionalism [+]	0.015 (0.519)	0.367 (0.383)	0.416 (0.572)
State Supreme Court Professionalism [+]	3.473 (5.522)	0.659 (5.280)	-5.768 (4.226)
State Gov. Party Control [+]	0.512 (1.593)	-0.287 (1.804)	1.289 (1.542)
State Supreme Court Ideology [-]	-2.217 (1.750)	-0.091 (1.044)	-1.935 (1.194)
District Court Ideology [-]	0.795 (1.095)	-1.327 (0.813)	**1.391*** **(0.690)**
Public Support for Gay Marriage [+]	0.070 (0.073)	0.000 (0.060)	**0.220*** **(0.057)**
Evangelical Population [-]	-0.078 (0.070)	-0.155 (0.140)	**0.128*** **(0.052)**
LGBT Population [+]	1.193 (0.744)	-0.748 (0.697)	-0.533 (0.670)
Prior Pro-GM Policy [-]	-3.259 (0.774)	-1.503 (1.183)	**-3.696*** **(1.065)**
Sodomy Ban [-]	**-14.102*** **(1.113)**	0.689 (1.335)	1.105 (0.978)
LGBT Hate Crime Law [+]	**16.539*** **(1.201)**	2.018 (1.345)	0.445 (1.115)
Racial/Ethnic Minority Population [-]	-0.039 (0.042)	-0.009 (0.042)	-0.000 (0.030)
Population with College Degree [+]	0.086 (0.151)	0.074 (0.151)	0.010 (0.098)
State Population (Ln) [+]	-0.448 (0.793)	-0.718 (0.666)	0.584 (0.582)
Constant	**-38.673*** **(6.839)**	-3.215 (5.160)	**-21.486*** **(5.510)**
N	3253	Wald χ² (48):	278.12*
AIC	380.12	Log Likelihood:	-139.06

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of adopting pro-gay marriage policy by venue. Dependent variable has four categories, baseline category is not adopting a pro-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state (rather than state-year), are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion.

APPENDIX D

Table D.1: Anti-Gay Marriage Models' Var. Descriptions, Descriptive Statistics, and Sources

Variable Name	Description	Mean	Sd. Dev.	Min	Max	Sources
Political Learning	Proportion of states successful in their pursuit of anti-gay marriage policies via institutional venue	0.74	0.36	0	1	Author
Similarity in Legislative Professionalism	Euclidean distance between state's legislative professionalism score and average score of those states that pursued anti-gay marriage policy via given venue. Reverse coded so that increase indicates more similar.	-1.17	1.21	-8.60	0	Author, using Bowen and Greene's 2014 measure
Similarity in Citizen Ideology	Euclidean distance between state's citizen ideology and average ideology of those states that pursued anti-gay marriage policy via given venue. Reverse coded so that increase indicates more similar.	-20.54	16.59	-71.41	0	Author, using Berry et al.'s 2010 measure
Similarity in Difficulty in Amending Constitution	Euclidean distance between state's difficulty in amending constitution and avg. difficulty of those states that pursued anti-gay marriage policy via given venue. Reverse coded so that increase indicates more similar.	-1.03	0.82	-4	0	Author, using Lupia et al.'s 2010 measure
Geographic Neighbor by Venue	Proportion of geographically contiguous neighbors that adopted anti-same-sex marriage policy by venue by start of year	0.29	0.37	0	1	Author, "geographically contiguous" defined by Berry & Berry 1990
Policy Learning by Venue	Cumulative number of states successfully picking venue to pursue anti-gay marriage policy by year	15.12	13.42	0	36	Author
Federal Gov. DOMA	Dummy =1 for every year post passage of 1996 Defense of Marriage Act	0.83	0.38	0	1	Author
Lawrence v. *Texas* Sup Ct. Decision	Dummy =1 for every year post U.S. Supreme Court's 2003 *Lawrence* v. *Texas* decision that invalidated states' sodomy laws	0.57	0.50	0	1	Author
Pres. Election Year	Dummy=1 if presidential election in that calendar year, 0=none	0.22	0.41	0	1	Author
Pro-Gay Marriage Counter	Cumulative number pro-gay marriage policies enacted regardless of venue	9.09	13.32	0	46	Author

Table D.1 (cont'd)

Evangelical Population	Pct. of population that identifies as Evangelical Christian or member of Latter-day Saints	28.92	11.76	10	62	Taylor et al. 2019
LGBT Population	Percentage of population that identifies LGBT	2.32	0.95	0.675	6.44	Taylor et al. 2019
Prior Anti-GM Policy Success	Running tally of gay marriage bans passed by the state in other venues	0.76	0.84	0	3	Author
State Supreme Court Professionalism	Professionalism scores based on judicial salaries, number of staff, and docket control; higher scores indicate greater capacity	0.58	0.15	0.25	1.00	Squire 2008
State Supreme Court Ideology	Aggregate state-year measure based upon individual state supreme court justice scores; more positive scores indicate more conservative	-0.09	0.48	-1.18	1.04	Bonica & Woodruff 2015
Dir. Democracy State	Dummy=1 if state allows direct or indirect citizen initiatives	0.48	0.50	0	1	NCSL
Public Support for Gay Marriage	Public support for same-sex marriage, estimated from MRP analysis relying on state and national polls	34.90	10.47	10.29	67.21	Lewis & Jacobsmeier 2017
State Population (Ln)	Natural log of state population (in thousands)	8.19	1.01	6.16	10.57	U.S. Census Bureau

Table D.2: Pro-Gay Marriage Models' Var. Descriptions, Descriptive Statistics, and Sources

Variable Name	Description	Mean	Sd. Dev.	Min	Max	Sources
Political Learning	Proportion of states successful in their pursuit of pro-gay marriage policies via institutional venue	0.36	0.36	0	1	Author
Similarity in Legislative Professionalism	Euclidean distance between state's legislative professionalism score and average score of those states that picked same venue to pursue pro-gay marriage policy. Reverse coded so that increase indicates more similar.	-1.35	1.30	-8.58	0	Author, using Bowen and Greene's 2014 measure
Similarity in Supreme Court Professionalism	Euclidean distance between state's high court professionalism score and average score of those states that picked same venue to pursue pro-gay marriage policy. Reverse coded so that increase indicates more similar.	-0.29	0.25	-1.00	0	Author, using Squire's 2008 measure
Similarity in Citizen Ideology	Euclidean distance between state's citizen ideology and average ideology of those states that picked same venue to pursue pro-gay marriage policy. Reverse coded so that increase indicates more similar.	-28.48	19.01	-71.84	0	Author, using Berry et al.'s 2010 measure
Similarity in Supreme Court Ideology	Euclidean distance between state's high court ideology and average ideology of those states that picked same venue to pursue pro-gay marriage policy. Reverse coded so that increase indicates more similar.	-0.51	0.38	-1.86	0	Author, using Bonica and Woodruff's 2015 measure
Similarity in District Court Ideology	Euclidean distance between state's district court ideology and average ideology of those states that picked same venue to pursue pro-gay marriage policy. Reverse coded so that increase indicates more similar.	-0.59	0.43	-1.67	0	Author, using Bonica et al.'s 2017 measure
Geographic Neighbor by Venue	Proportion of geographically contiguous neighbors that picked venue by start of year to adopted pro-same-sex marriage policy	0.05	0.16	0	1	Author, "geographically contiguous" defined by Berry & Berry 1990
Policy Learning by Venue	Cumulative number of states successfully picking venue by year to pursue pro-gay marriage policy	2.84	4.73	0	20	Author

Table D.2 (cont'd)

Lawrence v. *Texas* Sup Ct. Decision	Dummy =1 for every year post U.S. Supreme Court's 2003 *Lawrence* v. *Texas* decision that invalidated states' sodomy laws	0.57	0.50	0	1	Author
U.S. v. *Windsor* Sup Ct. Decision	Dummy =1 for every year post U.S. Supreme Court's 2013 *U.S.* v. *Windsor* decision that invalidated federal DOMA	0.13	0.34	0	1	Author
Pres. Election Year	Dummy=1 if presidential election in that calendar year, 0=none	0.22	0.41	0	1	Author
Prior Anti-Gay Marriage Policy	Running tally of number of gay marriage bans passed by state by year	0.98	0.87	0	3	Author
Evangelical Population	Percentage of population that identifies as Evangelical Christian or member of Latter-day Saints	28.92	11.76	10	62	Taylor et al. 2019
LGBT Population	Percentage of population that identifies LGBT	2.32	0.95	0.675	6.44	Taylor et al. 2019
Prior Pro-GM Policy Success	Running tally of pro-gay marriage policies passed by the state in other venues	0.12	0.39	0	2	Author
Public Support for Gay Marriage	Public support for same-sex marriage, estimated from MRP analysis relying on state and national polls	34.90	10.47	10.29	67.21	Lewis & Jacobsmeier 2017
State Population (Ln)	Natural log of state population (in the thousands)	8.19	1.01	6.16	10.57	U.S. Census Bureau

Figure D.1: Pred. Prob. of Picking Venue for Anti-GM Policies as Political Learning Increases
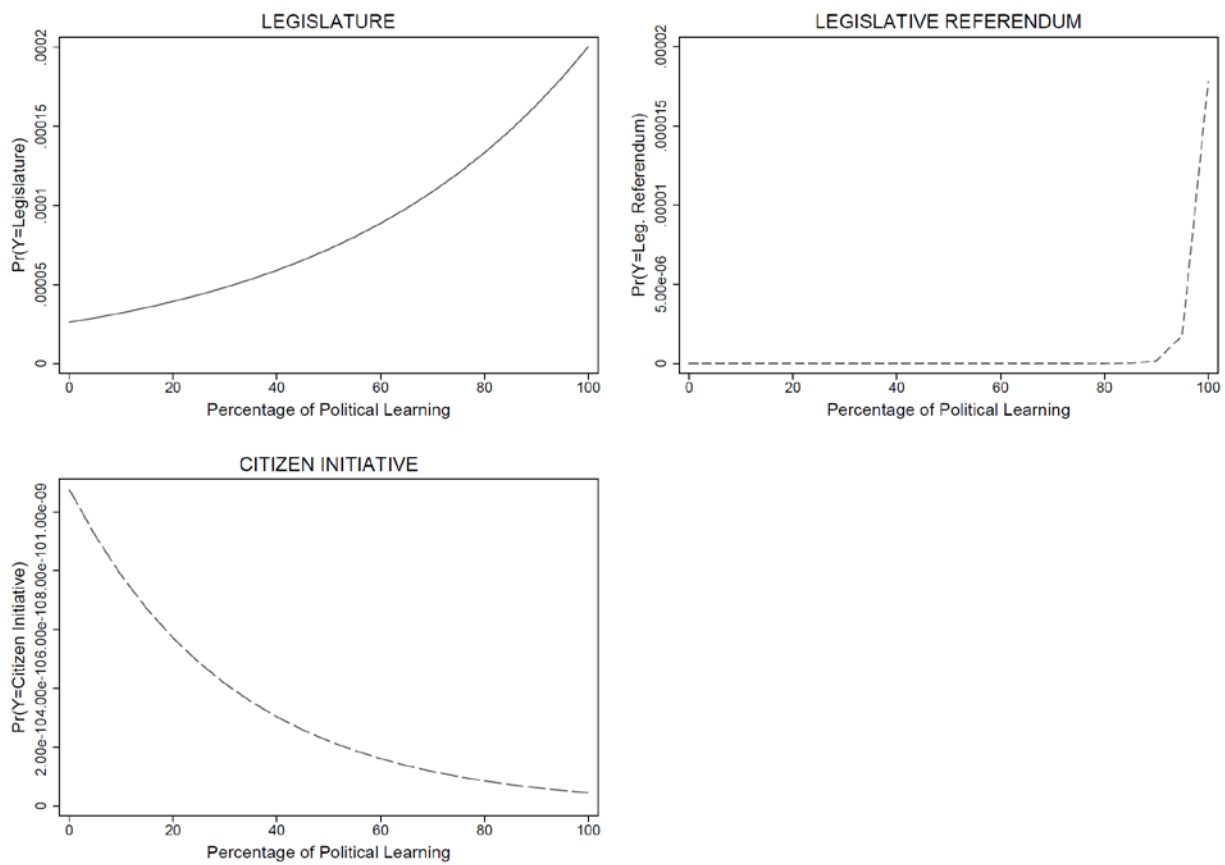
Figure D.2: Pol. Learning and Time's Interactive Effect on Venue Choice for Anti-GM Policies
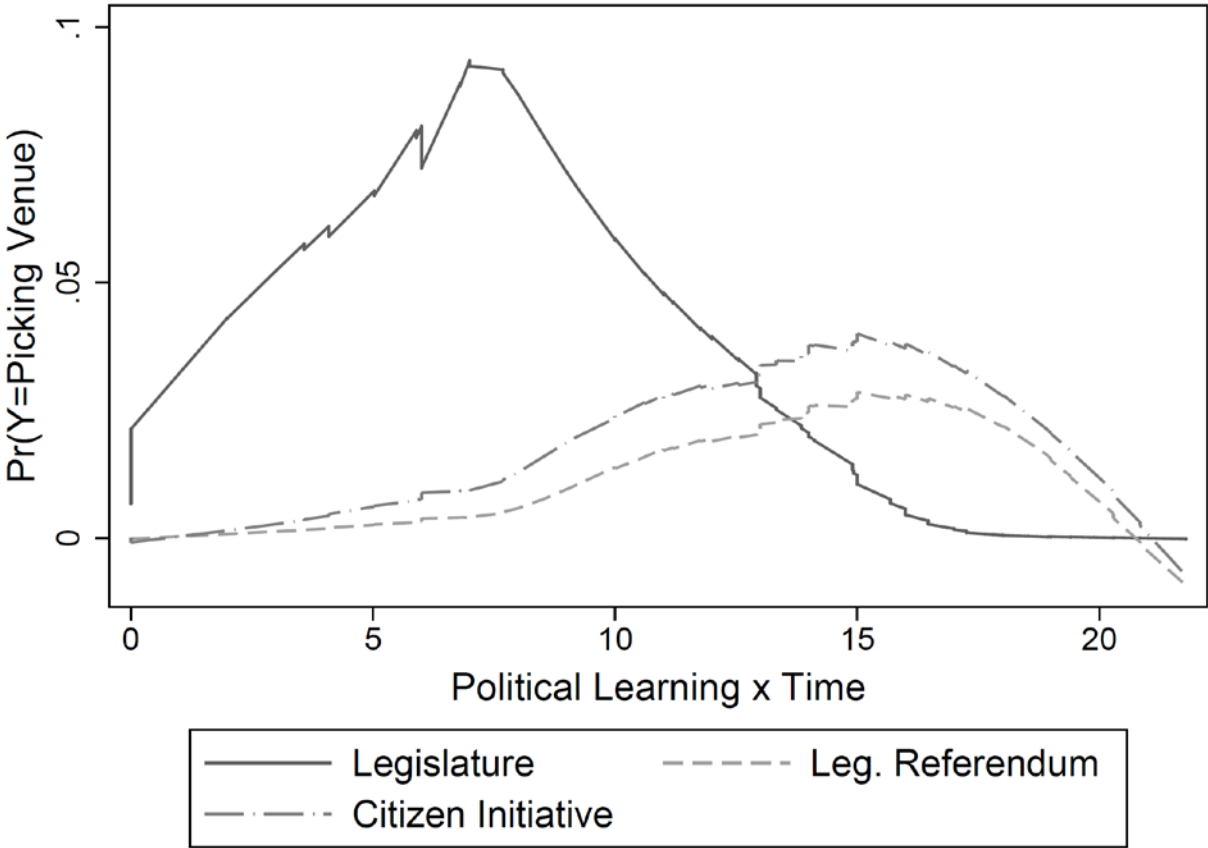
Table D.3: Venue Diffusion of Anti-GM Policies using Logit, Comp. Log-Log, and Ord. Logit

Explanatory Variables	Logit	Comp. Log-Log	Ordered Logit
Political Learning [+]	1.693* (0.680)	1.768* (0.641)	1.752* (0.736)
Similarity in Legislative Professionalism [+]	0.267* (0.114)	0.236* (0.102)	0.257* (0.118)
Similarity in Difficulty Amending Constitution [+]	1.294* (0.267)	1.145* (0.243)	1.365* (0.262)
Similarity in Citizen Ideology [+]	0.063* (0.017)	0.055* (0.016)	0.062* (0.016)
Geographic Neighbor [+]	0.953† (0.572)	0.786 (0.500)	0.943† (0.559)
Policy Learn by Venue [+]	0.048* (0.016)	0.046* (0.015)	0.038* (0.016)
Federal Government DOMA [+]	0.487 (0.604)	0.519 (0.545)	0.598 (0.575)
Lawrence v. *Texas* Sup. Ct. Decision [+]	1.774* (0.590)	1.704* (0.544)	1.707* (0.581)
Presidential Election Year [+]	1.019* (0.274)	0.887* (0.240)	1.085* (0.281)
Pro-Gay Marriage Counter [+]	0.027 (0.033)	0.028 (0.032)	0.020 (0.033)
Evangelical Population [+]	0.006 (0.019)	0.005 (0.017)	0.002 (0.019)
LGBT Population [-]	0.767* (0.351)	0.659* (0.312)	0.780* (0.340)
Prior Anti-GM Policy [-]	-0.732* (0.310)	-0.666* (0.230)	-0.837* (0.304)
State Supreme Court Professionalism [+]	3.194* (1.252)	3.014* (1.123)	3.166* (1.211)
State Supreme Court Ideology [+]	0.703* (0.317)	0.554* (0.277)	0.594† (0.307)
Direct Democracy [-/+]	1.096* (0.362)	1.026* (0.335)	1.166* (0.350)
Public Support for Gay Marriage [-]	-0.074* (0.036)	-0.071* (0.033)	-0.086* (0.037)
State Population (Ln) [-]	-0.174 (0.155)	-0.169 (0.136)	-0.157 (0.144)
Constant, Constant, Cuts	-1.931 (1.972)	-2.093 (1.762)	1.937, 2.98, 3.77

	Logit	Comp. Log-Log	Ordered Logit
N	2505	Wald χ²(19):	**267.91*, 322.16*, 240.14***
AIC	525.59, 527.88, 702.65	Log Likelihood:	-242.79, -243.94, -329.33

†p ≤ 0.10, *p ≤ 0.05, two tailed. First model is logistic regression model, with dependent variable as the likelihood of picking any venue to pursue anti-gay marriage policy. Second model is a complementary log-log model, with dependent variable as the likelihood of picking any venue to pursue anti-gay marriage policy. Third model is ordered logistic regression model where dependent variable has four ordered categories: no venue, state legislature, legislative referendum, citizen initiative. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets.

Table D.4: Venue Diffusion of Anti-GM Policies using Cox-Proportional-Hazards Model

Explanatory Variables	Cox-Proportional-Hazard Ratios
Political Learning [+]	2.86×10^{24}* (2.04×10^{25})
Similarity in Legislative Professionalism [+]	1.042* (0.106)
Similarity in Difficulty Amending Constitution [+]	2.630* (0.577)
Similarity in Citizen Ideology [+]	1.053* (0.016)
Presidential Election Year [+]	2.115* (0.511)
Evangelical Population [+]	1.005* (0.010)
State Supreme Court Ideology [+]	1.156* (0.268)
Direct Democracy [-/+]	1.762* (0.404)
N	3,300
Likelihood Ratio $\chi^2_{(8)}$:	226.39*

†p ≤ 0.10, *p ≤ 0.05, two tailed. Model is Cox-proportional hazards model with venues (state legislature, legislative referendum, citizen initiative) as the strata, with dependent variable as the hazard ratio for picking venue to pursue anti-gay marriage policy. Statistically significant hazard ratios at α=.05 level are in bold face. The hypothesized direction of the independent variable effect is in brackets.

Figure D.3: Pred. Probability of Picking Venue for Pro-GM Policies as Political Learning Increases
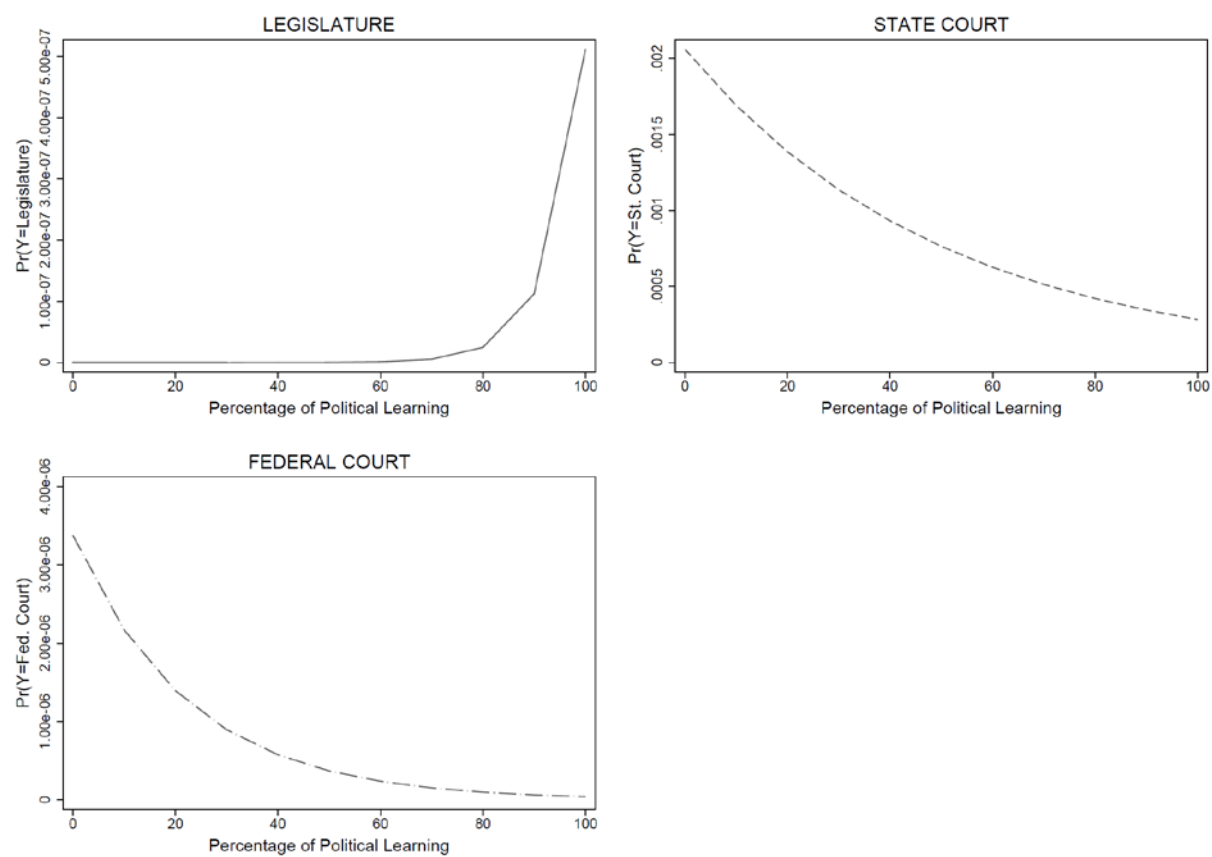
Figure D.4: Pol. Learning and Time's Interactive Effect on Venue Choice for Pro-GM Policies
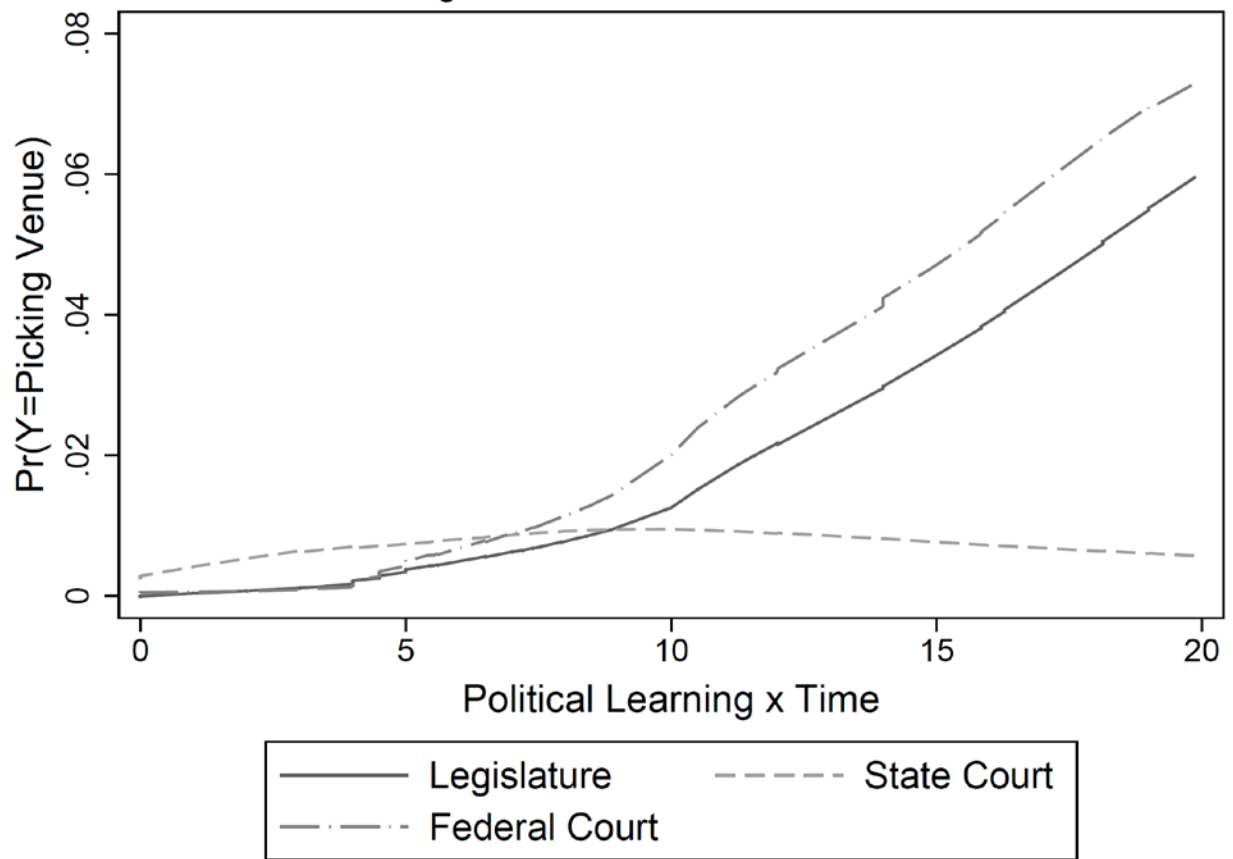
Table D.5: Venue Diffusion of Pro-GM Policies using Logit, Comp. Log-Log, and Ord. Logit

Explanatory Variables	Logit	Comp. Log-Log	Ordered Logit
Political Learning [+]	-0.042 (0.779)	0.227 (0.704)	-0.750 (0.783)
Similarity in Legislative Professionalism [+]	-0.090 (.146)	-0.089 (0.146)	-0.116 (0.143)
Similarity in Supreme Court Professionalism [+]	0.972 (1.467)	1.623 (1.418)	1.487 (1.468)
Similarity in Citizen Ideology [+]	**0.081*** **(0.015)**	**0.073*** **(0.013)**	**0.077*** **(0.015)**
Similarity in Supreme Court Ideology [+]	**1.837*** **(0.561)**	**1.640*** **(0.507)**	**1.775*** **(0.571)**
Similarity in District Court Ideology [+]	0.663 (0.408)	0.521 (0.364)	0.542 (0.420)
Geographic Neighbor by Venue [+]	0.308 (0.248)	0.193 (0.478)	0.820 (0.570)
Policy Learn by Venue [+]	**0.235*** **(0.056)**	**0.206*** **(0.048)**	**0.280*** **(0.065)**
Lawrence v. *Texas* Sup. Ct. Decision [+]	2.170† (1.130)	**2.294*** **(1.098)**	2.095† (1.137)
U.S. v. *Windsor* Sup. Ct. Decision [+]	**1.395*** **(0.558)**	**1.277*** **(0.512)**	**1.258*** **(0.509)**
Presidential Election Year [-]	-0.656 (0.526)	-0.710 (0.495)	-0.545 (0.490)
Anti-Gay Marriage by State [+]	0.308 (0.549)	0.264 (0.227)	0.422† (0.252)
Evangelical Population [-]	-0.019 (0.027)	-0.014 (0.023)	-0.021 (0.028)
LGBT Population [+]	0.450 (0.294)	0.301 (0.250)	0.313 (0.295)
Prior Pro-GM Policy [-]	**-1.752*** **(0.372)**	**-1.487*** **(0.329)**	**-1.611*** **(0.370)**
Public Support for Gay Marriage [+]	0.054† (0.030)	**0.055*** **(0.026)**	0.041 (0.031)
State Population (Ln) [+]	-0.060 (0.157)	-0.050 (0.143)	-0.009 (0.155)
Constant, Constant, Cuts	-2.782 (2.208)	-3.136 (1.998)	2.055, 2.542, 3.206
N	3,322	Wald $\chi^2_{(18)}$:	**235.07*, 278.80*, 292.14***
AIC		Log Likelihood:	-195.54, -195.53, -271.92

†$p \leq 0.10$, *$p \leq 0.05$, two tailed. First model is logistic regression model, with dependent variable as the likelihood of picking any venue to pursue pro-gay marriage policy. Second model is a complementary log-log model, with dependent variable as the likelihood of picking any venue to pursue pro-gay marriage policy. Third model is ordered logistic regression model where dependent variable has four ordered categories: no venue, state legislature, state court, federal court. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state-year, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets.

Table D.6: Venue Diffusion of Pro-GM Policies using Cox-Proportional-Hazards Model

Explanatory Variables	Cox-Proportional-Hazard Ratios
Political Learning [+]	0.106 (0.275)
Similarity in Supreme Court Ideology [+]	**8.779*** **(4.546)**
Similarity in Citizen Ideology [+]	**1.064*** **(0.016)**
Prior Pro-GM Policy [-]	**0.213*** **(0.070)**
Evangelical Population [-]	**0.949*** **(0.012)**
LGBT Population [+]	0.802 (0.162)
N	3,173
Likelihood Ratio $\chi^2_{(6)}$:	**118.54***

†p ≤ 0.10, *p ≤ 0.05, two tailed. Model is Cox-proportional hazards model with venues (state legislature, state court, federal court) as the strata, with dependent variable as the hazard ratio for picking venue to pursue pro-gay marriage policy. Statistically significant hazard ratios at α=.05 level are in bold face. The hypothesized direction of the independent variable effect is in brackets.

Table D.7: Venue Diffusion of Anti-GM Policies using Mult. Logistic Reg. Clustered by State

Explanatory Variables	Legislature	Leg. Referendum	Citizen Initiative
Political Learning [+]	2.038† (1.195)	46.327† (24.620)	-3.170† (1.885)
Similarity in Legislative Professionalism [+]	**0.364*** **(0.148)**	**2.306*** **(0.840)**	0.267 (0.202)
Similarity in Difficulty Amending Constitution [+]	0.669† (0.375)	1.156† (0.608)	**4.347*** **(1.433)**
Similarity in Citizen Ideology [+]	**0.064*** **(0.030)**	**0.101*** **(0.040)**	0.033 (0.033)
Geographic Neighbor by Venue [+]	.239 (0.813)	1.071 (2.267)	2.102† (1.173)
Policy Learn by Venue [+]	**0.227*** **(0.039)**	0.162 (0124)	-0.237† (0.142)
Federal Government DOMA [+]	-0.353 (1.309)	**14.950*** **(2.976)**	**12.926*** **(0.759)**
Lawrence v. *Texas* Sup. Ct. Decision [+]	**5.000*** **(1.365)**	0.508 (0.901)	-1.044 (1.261)
Presidential Election Year [+]	.739 (.632)	0.832 (0.601)	**2.226*** **(0.699)**
Pro-Gay Marriage Counter [+]	**0.198*** **(0.098)**	0.007 (0.104)	**-0.252*** **(0.102)**
Evangelical Population [+]	0.013 (0.026)	0.086 (0.057)	**-0.154*** **(0.058)**
LGBT Population [-]	.817 (1.063)	0.758 (0.617)	**-1.310*** **(0.648)**
Prior Anti-GM Policy [-]	-0.724 (0.864)	0.136 (0.769)	**-1.650*** **(0.626)**
State Supreme Court Professionalism [+]	**3.854*** **(1.673)**	2.130 (3.447)	1.187 (3.661)
State Supreme Court Ideology [+]	**1.045*** **(0.522)**	1.186 (0.763)	0.033 (0.033)
Direct Democracy [-/+]	**1.202*** **(.564)**	-1.262 (0.861)	**19.415*** **(1.420)**
Public Support for Gay Marriage [-]	-0.064 (0.073)	-0.018 (0.082)	**-0.110*** **(0.039)**
State Population (Ln) [-]	-0.213 (0.254)	-0.403 (0.648)	-0.298 (0.493)
Constant	-1.904 (2.870)	**-61.773*** **(24.493)**	**-27.959*** **(2.899)**
N	2505	Wald χ² (46):	437.04*
AIC	**535.04**	Log Likelihood:	-218.52

†p ≤ 0.10, *p ≤ 0.05, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of picking a venue to pursue anti-gay marriage policy. Dependent variable has four categories, baseline category is not picking a venue to pursue an anti-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

Table D.8: Venue Diffusion of Pro-GM Policies using Mult. Logistic Reg. Clustered by State

Explanatory Variables	Legislature	State Court	Federal Court
Political Learning [+]	**15.157*** **(4.498)**	-1.987* (0.649)	**-4.430*** **(1.782)**
Similarity in Legislative Professionalism [+]	0.045 (0.378)	-0.274† (0.156)	0.019 (0.191)
Similarity in Supreme Court Professionalism [+]	-3.908 (4.611)	**4.487*** **(1.850)**	0.519 (3.140)
Similarity in Citizen Ideology [+]	**0.160*** **(0.046)**	**0.078*** **(0.030)**	**0.066*** **(0.022)**
Similarity in Supreme Court Ideology [+]	2.831† (1.571)	1.330 (0.911)	**2.045*** **(0.941)**
Similarity in District Court Ideology [+]	0.337 (1.044)	0.303 (0.390)	0.558 (0584)
Geographic Neighbor by Venue [+]	**-2.744*** **(1.199)**	-2.187 (1.358)	1.220 (0.917)
Policy Learn by Venue [+]	0.324† (0.167)	0.125† (0.073)	**0.369*** **(0.139)**
Lawrence v. *Texas* Sup. Ct. Decision [+]	**27.666*** **(4.524)**	1.318 (1.108)	**16.696*** **(3.240)**
U.S. v. *Windsor* Sup. Ct. Decision [+]	1.535† (0.873)	1.972 (1.165)	**4.473*** **(1.743)**
Presidential Election Year [-]	-2.504† (1.354)	0.299 (0.530)	0.918 (0.963)
Anti-Gay Marriage by State [+]	-0.313 (0.520)	0.040 (0.425)	**0.858*** **(0.314)**
Evangelical Population [-]	-0.071 (0.055)	-0.040 (0.033)	0.037 (0.050)
LGBT Population [+]	**1.601*** **(0.638)**	0.616 (0.452)	-0.142 (0.541)
Prior Pro-GM Policy [-]	**-1.797*** **(0.906)**	**-1.446*** **(0.737)**	**-1.493*** **(0.469)**
Public Support for Gay Marriage [+]	**0.108*** **(0.045)**	0.029 (0.045)	**0.102*** **(0.050)**
State Population (Ln) [+]	-0.007 (0.353)	0.023 (0.220)	0.027 (0.267)
Constant	**-32.771*** **(5.383)**	-1.275 (2.537)	**-19.406*** **(6.785)**
N	3322	Wald $\chi^2_{(49)}$:	405.84*
AIC	509.84	Log Likelihood:	-202.92

†$p \leq 0.10$, *$p \leq 0.05$, two tailed. Repeated-events competing-risks model estimated using multinomial logit model. Dependent variable is likelihood of picking a venue to pursue pro-gay marriage policy. Dependent variable has four categories, baseline category is not picking a venue to pursue a pro-gay marriage policy. Statistically significant coefficients at α=.05 level are in bold face. Robust standard errors, clustered by state, are in parentheses. Models also include a time variable to account for temporal dependence; coefficient is omitted from the table due to space considerations. The hypothesized direction of the independent variable effect is in brackets. AIC = Akaike information criterion and aROC = Area under the ROC curve.

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