

ABSTRACT

Title of Document: THE STATES ON THE HILL:
INTERGOVERNMENTAL ADVOCACY IN
AMERICAN FEDERALISM

Heather M. Creek, Doctor of Philosophy, 2013

Directed By: Professor James G. Gimpel, Department of
Government and Politics

Federal lawmakers often praise the American state governments as “laboratories of democracy” conducting policy experiments from which other governments can learn. However, federalism scholarship recognizes that the federal government has strong incentives to preempt state policy and impose federal mandates in trying to achieve national policy goals. The safeguards of state power in the federal system – political, institutional, and democratic constraints – have changed and weakened over time, leaving the state governments vulnerable to the political interests of the national government. Like other interest groups, the states have developed techniques to safeguard the balance of power in the federal system as well as communicate their policy interests to national lawmakers and educate others about their unique policy developments.

Prior studies of American federalism have relied on the behavior of public official associations representing multiple state governments as the source of information about intergovernmental advocacy and state policy goals. This dissertation argues that the study of aggregate intergovernmental interests through the positions of the associations conceals variation in the advocacy activity and goals of the individual state governments. Quantitative analysis of patterns in state lobbying behavior as well as qualitative analysis of congressional hearings is conducted using a unique database of the hearing testimony by state government officials and public official associations from the 103rd-108th Congress (1993-2004). This demonstrates that the state governments are dynamic participants in federal policymaking but their influence is not constant across all policy areas. Individual states are found to have varying levels of activity in federal policymaking which are dependent on the committee placement of members from the state's congressional delegation. In some cases the states' capacity to develop policy expertise and craft innovative policy is predictive of its participation in congressional hearings but this is not as important a factor as expected. Members of Congress are most likely to invite intergovernmental witnesses based on their relationship to the state government and, less frequently, based on the state's record of distinction in policy innovation.

THE STATES ON THE HILL: INTERGOVERNMENTAL ADVOCACY IN
AMERICAN FEDERALISM

By

Heather M. Creek

Dissertation submitted to the Faculty of the Graduate School of the
University of Maryland, College Park, in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
2013

Advisory Committee:
Professor James G. Gimpel, Chair
Professor Frances E. Lee
Professor Irwin L. Morris
Professor Wayne V. McIntosh
Professor Christopher H. Foreman

© Copyright by
Heather M. Creek
2013

Dedication

To Gregrey and Miranda.

Acknowledgements

Thanks are due to the many people who read portions of this project and provided invaluable advice. Jennifer Jensen, Carol Weissert, Ann Bowman, Richard Kearney, Wesley Leckrone, Justin Gollob, and other members of the State Politics and Policy subfield provided their insights as I presented chapters at various conferences. The Department of Government and Politics at the University of Maryland, College Park not only provided my academic training, they also provided mentorship, facilities, and funding to pay for the research assistance necessary to compile this large database of congressional testimony. My committee – Jim Gimpel, Frances Lee, Irwin Morris, Wayne McIntosh, and Christopher Foreman – gave thoughtful and detailed feedback on the design of the project and its final iteration. Jim Gimpel was a phenomenal sounding board for ideas, providing expertise from his time on the Hill and his wealth of political science knowledge. My cohort at the University of Maryland provided the support to soldier through the dissertation-writing process. Many thanks to Stephen Yoder, Brittany Bramlett, and Molly Inman for their feedback on early drafts of my prospectus and advice on completing the project. The Student American Politics Workshop at the University of Maryland read an early draft of chapter 3 and their thoughtful discussion pushed me to change and improve the design of that chapter. The project is undoubtedly improved due to the feedback from all of these people. Of course, all errors are entirely attributed to the author.

Final thanks are due to my supportive family. My husband, Greg, was a constant source of encouragement. My parents always expressed interest in the

research, even at its most incomprehensible phases. My mother-in-law, Lynne Miller, provided the kind of editorial guidance that only an English professor can offer. My daughter, Miranda, was born during the writing of the dissertation and was a constant source of inspiration. If I could make something as beautiful and amazing as her then surely I could manage to finish this project!

Table of Contents

Dedication	ii
Acknowledgements	iii
Table of Contents	v
List of Tables	vii
List of Figures	viii
Chapter 1: The States on the Hill	1
Introduction	5
Federalism: A Structure Encouraging State Advocacy	7
States as Lobbyists	12
<i>States and their State Congressional Delegations</i>	14
<i>Policy Considerations Differ by Level of Government</i>	16
States as Laboratories	17
Overview of the Study	20
Chapter 2: States and Public Official Associations	23
<i>Policy Learning Through Witness Testimony</i>	28
Data Collection	30
State Government and State Association Advocacy	33
<i>Government Operations</i>	36
<i>Public Lands and Water Management</i>	37
Niche Interests? Comparing State and POA Advocacy to the Policy Agenda	38
<i>Concentration of Witnesses from the Intergovernmental Lobby</i>	42
Observations from Hearing Testimony	45
<i>State Witnesses Signaling Agreement with the Association</i>	47
<i>Competitive Exclusion: When the State Disagrees with the Association</i>	50
<i>When the States agree on Process, Regardless of Policy</i>	54
Conclusions	56
Chapter 3: Representation and Innovation	59
Policy Learning	61
<i>General Patterns of State Testimony</i>	64
<i>Congressional Committees</i>	66
Factors Impacting the Frequency of State Witness Testimony	67
<i>Representation</i>	68

<i>State Innovation</i>	70
Results	73
<i>Committees in the House of Representatives</i>	73
<i>Senate Committees</i>	75
<i>Predicted Witness Count</i>	76
Discussion	81
Conclusion	85
 Chapter 4: Learning from the States?	 90
States and the Ongoing Tensions of Federalism	92
Policy Learning and Representation	94
Method	96
State Testimony and Policy Learning	99
The States on the Hill	102
<i>Fair Credit Reporting Reform</i>	102
<i>Field Hearing on Juvenile Crime</i>	106
<i>States in the Competition over Water Rights</i>	109
<i>Conflict between State and Federal Interests: Assisted Suicide</i>	111
<i>Representation and Innovation in Housing Policy</i>	114
<i>State Governments and the Debate over Federalism</i>	118
<i>State Policy Examples and the Violence Against Women Act</i>	123
Conclusion	126
 Chapter 5: Conclusions	 132
Public Official Associations	133
Innovation and Representation	135
Learning from the States?	137
Concluding Thoughts	139
 Appendix: Hearings Referenced	 144
 References	 147

List of Tables

Table 2.1 Hearings by Policy Topic and Proportion of all Hearings with State and Association Witnesses	43
Table 2.2 Hearings with at Least One Witness from the Intergovernmental Lobby	46
Table 3.1 Frequency of State Government Witness Testimony, 1993-2004	67
Table 3.2 Predicting the Number of State Government Witnesses per Year in the House 1993-2004	76
Table 3.3 Predicting the Number of State Government Witnesses per Year in the Senate 1993-2004	78
Table 3.4 Predicted Count of State Witnesses before a House Committee	79
Table 3.5 Predicted Count of State Witnesses before a Senate Committee	81

List of Figures

Figure 2.1	
Frequency of witness testimony in number of appearances per year	35
Figure 2.2	
Policy Focus of the Individual States and State Associations 103 rd -108 th Congress	37

Chapter 1: The States on the Hill

In September of 1999 the Subcommittee on Human Resources in the House Committee on Ways and Means held an oversight hearing on the child support enforcement program. The subcommittee chair, Congresswoman Nancy Johnson (R-CT), stated that the purpose of the hearing was to review the performance of the program which was passed in 1996 as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Much of PRWORA devolved welfare programs from the federal government to the states, but the child support legislation centralized data collection by creating a national employment database and encouraging new cooperative data-sharing relationships among the state and federal agencies. It also encouraged a range of state-level programs to establish paternity, to identify parents owing child support payments and collect those payments, and to improve access and visitation for non-custodial parents.

The chair intended to use the hearing to review the programs and assess the performance toward the original goals of the legislation. She also expressed her intent to explore future directions for federal child support programs that would encourage responsible fatherhood and improve the relationships of unmarried parents. Her goals were reiterated by the ranking Democrat on the subcommittee, Congressman Ben Cardin (D-MD) who explained the history of bipartisan agreement on the original legislation and expressed his support for bipartisan partnership on new child support initiatives discussed in the hearing. The hearing included the testimony

of witnesses from the federal department of Health and Human Services, state health and social services agencies, a state court administrator who also represented the National Association of State Court Administrators, a policy analyst from a think tank, and an advocacy organization representing noncustodial parents. In total there were eight witnesses in the hearing who were state officials representing the governments of Maryland, Minnesota, Virginia, Massachusetts, Ohio, New Jersey, Connecticut, and New York.

Both the chair and the ranking member interacted with the witnesses from their own states and commended those officials for their innovative state policies implementing the federal legislation. Connecticut and Maryland were the only two states with members of their congressional delegation on the subcommittee, but the members of Congress engaged with all of the state government witnesses and asked detailed questions about their programs. The child support provisions of PRWORA gave the states several policy tools they could use to achieve federal goals. The members of the committee were especially interested in learning which of the tools were successfully developed in each state and why they had been successful. The chair's statements and the testimony of the state witnesses indicated that these state officials had been invited to testify because they were particularly successful in using one of these tools to achieve the federal goals. They each discussed their most successful program for child support enforcement, how it was run, and how it was evaluated. Many of the state witnesses discussed the fact that they were early-adopting states that participated in pilot programs or developed their own state legislation to meet national goals prior to the federal mandate.

Several of the state government witnesses referenced their use of federal dollars to fund state child support initiatives. The witness from Connecticut who spoke on behalf of the state Supreme Court and the Conference of State Court Administrators was most outspoken on the issue of federal funding. He presented data from all of the states regarding the administration of block grants. He also testified that in the last meeting of the Conference of State Court Administrators as well as the Conference of Chief Justices, the organizations voted on resolutions urging continued federal funding of the programs and asking that the judicial branches in the states continue to be included as stakeholders in the program.

Members of the committee asked the state government witnesses to discuss the partnerships they developed with non-governmental entities, such as banks, hospitals, and private database vendors. They asked about the way the states structured their distribution of child support monies. The members also asked for recommendations from the state witnesses about the administration of the federal grant program and the relationships established between state and federal agencies. They wanted to know whether the program was properly placed in the department of Health and Human Services or if the Internal Revenue Service should also be involved in program administration.

Though the initial purpose of the hearing was oversight of the 1996 legislation, the committee members frequently referred to their goal of crafting new legislation to fund programs that would improve family relations. They asked the state witnesses to describe current state programs to promote responsible fatherhood. They wanted to hear examples of programs that already embodied the values that the

committee hoped to encourage in all of the states through new legislation. The chair questioned the state witnesses about information that needed to be integrated and shared across state agencies and requested that the witnesses do some research and submit suggestions for program coordination after the hearing.

The interactions in this hearing between witnesses representing the state governments and the members of the congressional committee illustrated the intergovernmental advocacy and policy learning that is encouraged by the American system of federalism. Policy adoption and implementation in the United States overlap multiple levels of government and result in a system where the state governments have reason to advocate for their preferences in the federal policymaking process. The federal government is dependent on the states in the implementation and oversight of federal programs, so it has motivation to learn about the policy preferences and innovations in the states. But this advocacy and learning take place in a political system with other purposes. Members of Congress are elected by individual voters, not state governments, and they face policy pressure from other interest groups and their political party. These institutional constraints will likely influence which state governments are privileged in their ability to access federal lawmakers and share their policy experiences. State government participation in federal policymaking has implications for federalism and for the creation of good public policy.

Introduction

The American system of federalism was born out of political compromise and a desire to build government institutions that would represent the people of the new nation and the states that joined together to create it. In order to protect the interests of the U.S. state governments many structural safeguards were necessary, overlapping and reinforcing one another to prevent abuse of power by one or more of the component governments (Bednar 2009). Over time, the safeguards of federalism – including the state-based political party system, state government representation in the U.S. Senate, and citizens’ loyalty to their state governments – have eroded (Nugent 2009; T. Smith 2008). What remains is a system of federalism where one of the strongest safeguards of state governments’ interests is their ability to lobby the federal government for their policy preferences.

The principle of representing state interests in the central government predates the American Constitution. The colonial Continental Congress recognized that the geographical, historical, and economic differences between the colonies would mean that each would have different interests. The earliest version of a central government structure, though weak and ineffectual, provided institutional representation for the opinions and preferences of the colonial governments (Burnett 1964). In the modern political system the states continue to engage in policy advocacy in Congress, such as the testimony illustrated in the previous example, as well as litigation challenging federal policy in the courts, and professional advocacy by lobbyists hired to represent the state or some portion of the state government.

This dissertation seeks to understand the role of the American states as advocates for their interests in the federal policymaking process. It also considers what members of Congress want to learn from state government officials and the incentives that motivate members of Congress in their interactions with officers of the states. Prior research has framed the interaction of the state and federal governments in two ways. One tradition imagines states in the role of interest groups, primarily focusing on the way that multi-state associations represent a mixture of states, localities, and various officers of these governments in Washington D.C. (Herian 2011; Arnold and Plant 1994; Cammisa 1995; Haider 1974; Pelissero and England 1987). This research is most interested in the communication between the associations and federal lawmakers and the influence that this communication may have on federal policy. The other tradition imagines the states as policy laboratories from which the federal government can learn about policy innovations when crafting federal law (Esterling 2009; C. S. Weissert and Scheller 2008; Mossberger 1999; Thompson and Burke 2007). This research is most interested in vertical policy diffusion and observes whether state policy experiments are replicated at the federal level. Both of these literatures rest primarily on studies of single policy areas or the behavior of a few public official associations. This dissertation contributes to the field of intergovernmental relations and state policy diffusion by studying the interaction of state officials with members of Congress on a wide range of policies over a twelve-year time period between 1993 and 2004. It also expands the perception of important intergovernmental actors by comparing individual state officials with representatives of public official associations in the policy process.

Federalism: A Structure Encouraging State Advocacy

The structure and evolution of American federalism over time has given the states their dual identities as independent governments and lobbyists within an intergovernmental system. The power allocation between the states and the national government at the nation's founding is described as dual federalism. Power was divided so that each level of government would have sovereignty over its own jurisdiction (Peterson 1995; Grodzins 1966). An early description of the American federal arrangement portrayed it this way:

The characteristic feature and special interest of the American Union is that it shows us two governments covering the same ground, yet distinct and separate in their action. It is like a great factory wherein two sets of machinery are at work, their revolving wheels apparently intermixed, their bands crossing one another, yet each set doing its own work without touching or hampering the other (Lord James Bryce, as quoted in Wright 1978, 21).

However, the power sharing relationship between the states and the national government is constitutionally vague due to a contradiction between the language of the Tenth Amendment and the Constitution's Necessary and Proper Clause. The Tenth Amendment states that "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the states respectively, or to the people". However, the federal legislature is also entrusted with the responsibility to create laws for the general welfare and to "make all Laws which shall be necessary and proper" to meet these ends. It is unclear which level of government has more power. This lack of clarity laid the groundwork for an ongoing

competition for power between the states and the national government (O'Toole 2007).

According to Samuel Beer (1978), this competition between levels of government was intentionally created by the founders in order to levy the power struggle into a system of “representational federalism”. The intergovernmental design was intended to improve constituents’ representation. The national government, the level of government furthest from the people, could be limited by the power of the state governments, a level of government more closely tied to the people. This distribution of power was predicated on the belief that the states did not give power to the nation and the nation did not give power to the states, but that the people created both and by their consent gave different powers to each. Beer’s image of representational federalism directly contrasts with the “compact theory” of federalism. This is the belief that the nation’s Constitution was ratified by state conventions, not the people themselves, so it was actually the states that gave power to the national government and they should be able to take it away if the national government oversteps its bounds. The rhetoric of these differing theories of federalism continues to appear in modern political debates over the proper function of each level of government.

These theories of federal power are important for framing normative judgments regarding state government advocacy in the federal system. If one accepts the compact theory of federalism then it would be natural to accept state government advocacy within the federal policy process because the legitimacy of federal policy is derived from the states. Accepting the compact theory would also lead to an

expectation that members of Congress should want to learn from state officials and be attentive to their policy interests and experiences. The theory of representational federalism does not view the state governments as the origins of national political power, but only as a functional intermediary between the national government and the people. Accepting this theory would not support an activist role for state governments in the federal policy process. Federal attention should focus on the interests of the public rather than the state governments since it is the people who give power to the governments.

Throughout the nineteenth century, presidents took responsibility for limiting the federal role in state government by vetoing laws that would have expanded the role of the national government into areas like public works construction and education. In 1822 President James Monroe vetoed a bill providing funds for a local road repair project saying,

There were two separate and independent governments established over our Union, one for local purposes over each state by the people of the State, the other for national purposes over all the States by the people of the United States. The whole power of the people, on the representative principle is divided between them. The State governments are independent of each other, and to the extent of their powers are complete sovereignties (as quoted by Wisdom 1984, 1067–1068) .

Despite the early American commitment to the values of dual federalism, many forms of intergovernmental cooperation developed including joint stock companies, land grants from the nation to the states, and shared personnel between levels of government. Passage of the Sixteenth Amendment gave the federal government an additional revenue source. The income tax provided the means for the national government to increase its policy influence over state governments through grants-in-aid to the states (O'Toole 2007).

Supreme Court decisions in *Massachusetts v. Mellon* and *Frothingham v. Mellon* in 1923 established that grants from the federal government to the sub-governments did not violate state sovereignty because they are voluntary arrangements; any state can abstain from taking federal grant money if they wish to remain unfettered by the conditions of the grant. A multitude of categorical grants to states and localities battling the economic difficulties of the Great Depression ushered in the social welfare state and deepened the U.S. political system's intergovernmental complexity (Wright 1978). V.O. Key (1956) documents this period in government development as a time when New Deal legislation and court decisions shifted policy power away from the states to the federal government. This happened at the same time that the impoverishment of local governments left them unable to administer policies they had handled in the past. Even as the federal government reduced the states' policy roles, the states increased the size of their administration and government capacity to handle the implementation of federal programs. They were preparing to become intermediaries in the federal grant system where they would take on new roles in taxing and expenditures as well as distributing federal dollars to their local governments. During this time the states became "governments that spend money they do not raise and raise money they do not spend" (Key 1956, 8).

The New Deal era introduced greater intergovernmental complexity and President Lyndon Johnson's period of "creative federalism" further increased federal grants to states and localities. During this period, influence between the levels of government ran from the top-down and from the bottom-up as the federal government sought to shape state policy and the states sought aid but chafed at federal influence

over their policies. The federal government attached restrictions to their grants to influence substantive policy content in the states and localities. As these grants became more essential for state and city governments to operate, mayors and governors found themselves spending local revenue to match federal grants and meet national priorities rather than on programs demanded by their constituents. State officials complained that the restrictions attached to federal grants were too stringent to be adapted to the needs of the localities, and that the attempt to do so was stripping localities of their independence. This complexity of competing needs and priorities defines the interdependence of governments in the United States.

Grodzins' (1966) classic image of federalism after the New Deal was that the American system no longer resembled a "layer cake," with separate functions for each level of government, but rather a "marble cake", with each level dependent on the others and in relentless negotiation for their interests within the branches of government in the nation and the states¹. Elazar (1962; 1991) described this model of federalism as one in which there is little hierarchy and the federal government is a partner to the states rather than a level of government with more power than the states and localities. He defined cooperative federalism as, "a means for encouraging nationwide efforts to meet particular problems without national government dominance, and a means for using the federal government as a backstop for state

¹ A 1996 Senate hearing on legislation to enforce Tenth Amendment values featured a witness from the Tennessee Advisory Council on Intergovernmental Relations. He referenced the various food metaphors crafted by academics to describe the federal system. He volunteered that the current era should be categorized as the "rancid nut cake period where no matter where you slice the cake, everybody is unhappy and dissatisfied with Federalism and what it has become, particular at the State and local level" (Harry Green, Tennessee Advisory Council on Intergovernmental Relations, p. 77).

efforts, rather than making the states administrative arms of a dominant Washington, D.C.” (p. 82).

There are many who believe that Elazar’s definition of federalism takes an unrealistic view of the real operations of the American system. Competitive federalism has become its own branch of fiscal federal theory dealing with horizontal diffusion and competition among state governments for economic development (see Breton 1991 and Buchanan 1997), but some theorists recognize that competition between governments also takes place in the advocacy environment of the federal government. Kincaid (1991) describes state lobbying in the U.S. Congress as an example of “mediated” intergovernmental competition. This fulfills the goals of Lockian and Madisonian visions of democracy in which the states, like other interests in society, can compete for power against one another and the federal government. Some of this is competition over limited resources, like federal grants-in-aid, and some is competition over values that influence public policy. The states have an interest in preventing the federal government from defining policy priorities in a way that stifles state priorities and the ability of the state government to craft diverse solutions to their problems.

States as Lobbyists

The growth of the interest group community and the explosion of lobbying in the 20th century has increased the impetus for states to take to Washington to defend their interests. Studies of Washington lobby directories (Schlozman and Tierney 1986) and the *Encyclopedia of Associations* (Baumgartner 2005) illustrate that organized

interest groups had their greatest increases (by at least 40 percent) in the 1960s and 1970s. The growth in the number of groups leveled off in the mid-1990s but spending on lobbying has continued to increase (Berry and Wilcox 2009). The combination of the states' increased dependence on federal funds and the proliferation of professional lobbyists and well-organized interest groups inside the Beltway means that the states need to behave like other interest groups to compete for attention and support for their policy goals. Not only do the states want to receive federal money and want to avoid federal mandates, they also want to influence the structure and goals of federal programs to meet the needs of their jurisdictions.

The academic research that views the state governments as lobbyists adopting many of the techniques of other interest groups has been most interested in the states' shared interest in increasing federal funding for state programs and reducing federal mandates and preemption. While the federal government has increased state discretion for some social welfare policies over the last 40 years, there continues to be a great deal of policy pressure from the top-down. The Unfunded Mandates Reform Act (UMRA) of 1995 sought to alleviate the immense cost of federal policies to the states. However, a study by the U.S. General Accounting Office (GAO) documented that the practice of mandates continued and that, between 2001 and 2002, "5 of 377 statutes enacted and 9 of 122 major or economically significant final rules issued were identified as containing federal mandates at or above UMRA's thresholds" ("Unfunded Mandates: Analysis of Reform Act Coverage" 2004, 4). The passage of this act did not end the federal government's policy pressure on the state governments or the states' desire to limit the imposition of federal priorities on their jurisdictions.

This complicated intergovernmental dependence incentivizes the states to use their resources to influence federal policymaking.

Salisbury (1984) characterized state governments as similar to other institutional interest groups, like universities and businesses, because they are managed, hierarchical and have lobbying goals independent of a voluntary membership. This study expands on his idea but also recognizes important differences between government institutions and non-governmental institutions in the interest group universe. While state governments may exhibit some of the same behaviors as other institutions when they lobby the federal government, state governments are political institutions as well as interest groups and thus have their own jurisdictions, powers, and constituents. They are not limited to traditional lobbying activities inside the Beltway because they have their own powers of policymaking and implementation to symbolically or fundamentally attempt to influence federal policy. They also have representational relationships to the members of Congress.

States and their State Congressional Delegations

A number of scholars have explored the institutional features and norms that shape the relationship between the state governments and their congressional delegations. While the original structure of representation called for the members of the House to be elected by the people and the members of the Senate to be appointed by the state legislatures, this changed with the passage of the Seventeenth Amendment in 1913. The decision to have the senators elected by the people of the state, rather than by the members of the state's legislature, severed the direct tie between the state's government and its representatives in Congress (Dinan 1997;

Posner 1998; Sbragia 2006). This added to the erosion of the state governments' institutional leverage over their federal government that began when the state legislatures ceased to select the members of the Electoral College in the nineteenth century (Dinan 1997).

While these changes did away with the institutional connections between the state and federal governments, there were still aspects of the political system which gave the state governments a great deal of power in Washington. Well into the twentieth century, the political party system in the United States was decentralized so that state and local officials influenced the policy goals of national lawmakers through the local control of the parties (Grodzins 1966). However, the rise of split-ticket voting reduced the frequency that a state's governor was a member of the same party as the state's two senators, and this prevented him from influencing them through the state parties. Furthermore, the implementation of the direct primary system once again increased the power of the state's voters at the expense of the leverage that state officials could exercise over their congressional delegation (Haider 1974; Posner 1998).

While previously the state and local government officials had played an important role in the party nomination process, the direct primary removed them from the position of king-makers and severed another tie between the state government and the state's representatives to the U.S. Congress. This change to the political system provoked an important development in intergovernmental relations. It was around the time that these changes to the political process occurred that the intergovernmental lobby began to develop. In the 1960s and 1970s, groups like the National Governors

Association (at that time, called the National Governors Conference) began to take a more intentional role in representing state government officials in Washington by publishing policy statements and opening offices of state-federal relations in the capital (Haider 1974).

Policy Considerations Differ by Level of Government

In addition to the evolution of intergovernmental relationships, there are other structural government arrangements that reduce the power of the state governments in the federal policy process. The national government institutions are organized functionally, by policy topics such as agriculture and banking, while representation is organized territorially, dividing the geography of the country into different states and districts (Sbragia 2006). The residents of states are represented nationally by their congressional delegation, and these members sit on committees that handle policy in particular functional categories. The structure of the government further influences divisions between the territorial interests of the states and the functional focus of national lawmakers. When making national policy, members of Congress are most likely to focus on the policy *outcomes* in a functional area, while state government officials will have an interest in both the outcomes of policy and the *location of authority* for implementing and funding that policy (Derthick 2001; Sbragia 2006). States are looking out for their institutional self-interest with the goal of maintaining as much authority over the governing of their territory as possible, while national lawmakers are concerned with meeting functional policy goals based on partisan, constituent, or interest group pressures (Sbragia 2006, 244).

Theoretically, the division between the interests of a state government and the interests of the state's congressional delegation should not be vast. After all, the state's governor and its senators are elected by voters from the same geographic region, so the electoral connection should impose similar pressures on each. However, the reality of election cycles and term lengths results in governors and senators spending different lengths of time in office and often coming up for election in different years. Thus, the nature of a given election year will bring different voters to the polls. Furthermore, the candidates' experiences with different challengers and campaign themes will impose different issue politics on the policy goals of each of these officials (Sulkin 2005). These political forces are so potent that even senators from the same state and political party often face very different pressures because they appeal to different constituencies in their policy focus and rely on different individuals and groups to make up their fundraising base (Schiller 2000). Constituency is not limited to geography and party, it involves many circles of political supporters within the geographic lines of the district (in this case, the state) which can result in two politicians elected from the same geography with very different policy goals (Fenno 1978).

States as Laboratories

Justice Brandeis of the U.S. Supreme Court was the first of many to describe the states as "laboratories of democracy" because of their ability to experiment with policy and test out different ways to solve societal problems. This metaphor has inspired a line of political science inquiry into policy diffusion among the states and,

to a lesser degree, from the states to the federal government (Walker 1969; Gray 1973; Shipan and Volden 2006, 2008; Volden 2006; Volden, Ting, and Carpenter 2008; Boehmke and Witmer 2004; Karch 2007, 2010; Lowery, Gray, and Baumgartner 2011). Of interest in this study is the idea that state policy innovations can diffuse to the federal government because of congressional interest in learning from state policy experiences. This is predicated on the idea that the states have their own elected officials and bureaucrats to develop and implement policies which means they can provide expert advice and testimony to the federal government from members of their state governments (Grady 2004). Since the 1980s the states have been expected to be especially well-situated to act as policy laboratories. From the 1970s, during Nixon's New Federalism, through the tenure of Reagan and Gingrich, more policy responsibility was devolved to the states (Karch 2007). With this new authority the state governments developed expertise in such areas as economic growth, infrastructure development, housing, education, and welfare in order to meet the modern challenges of governing (Morehouse and Jewell 2004). At the same time many of the state governments increased their institutional capacity, improving the pay and staff resources of their state legislatures which allowed for more research and policy evaluation in the state legislative process (Kousser 2005; Bowman and Kearney 2010; Squire 2007, 1992).

Most of the research on state policy innovations has focused on how states learn from one another and diffuse policy among the states. However, a small number of studies have considered federal learning from state policy innovations (Lowery, Gray, and Baumgartner 2011; Mossberger 1999; Esterling 2009; C. S.

Weissert and Scheller 2008; Thompson and Burke 2007; Boeckelman 1992). They tend to see federal learning from state policy as an extension of the theory of interest group activity as a legislative subsidy where interest groups provide information and assistance that reduces the workload of those legislators who support their positions (Hall and Deardorff 2006). In the case of the states, their policy experiences would provide models for federal lawmakers interested in learning about successful policy innovations from the states.

Unlike the literature on intergovernmental lobbying that tends to see disconnect between the interests of state governments and those of the state's congressional delegation, the research tradition on vertical policy diffusion sees connections between these levels of government. Many members of Congress come from careers in state government and those experiences should increase their interest in state policy innovations and allow policy ideas to travel from the state to the federal government (Berkman 1993; 1994). The congressional committee system may support this learning since one of the motivating factors for members of Congress seeking committee assignments is the importance of the committee's policy jurisdiction to the constituents they represent (Deering and Smith 1997). Since state governments have been found to be quite responsive to the policy preferences of their residents (Erikson, Wright, and McIver 1994), their policy experiments could be quite informative to members of Congress. This is especially the case since members are particularly interested in understanding how their policy choices will impact their political prospects (Burstein and Hirsh 2007), and they can see those political dynamics in action when policy is adopted at the state level.

Overview of the Study

The research tradition conceptualizing the states as intergovernmental lobbyists and the tradition that considers the states to be policy laboratories are not mutually exclusive. However, no study has made an effort to consider these models of intergovernmental relations side-by-side in an effort to understand the role that states play in federal policymaking. The chapters that follow focus on several important questions about the role of the state governments in the federal system. The study utilizes an original dataset of congressional hearings held between 1993 and 2004 (the 103rd to the 108th Congress) in which a state government official or a representative of a public official association testified. These cases are matched to the hearing database collected by the Policy Agenda Project in order to categorize the hearings by standardized policy codes. Chapter 2 addresses the difference between advocacy by public official associations and advocacy by individual states in congressional policymaking. Prior studies of intergovernmental relations have focused on the lobbying activities of multi-state associations. However, there are theoretical reasons to expect that state governments will actively advocate for their policy interests apart from the public official associations that represent them. This chapter compares the participation of associations and individual states across a range of policy areas and concludes that the behavior of the associations is not representative of the entire intergovernmental lobby. The individual states and the associations are active in different policy areas and are likely influential at different stages of the policy process.

Chapter 3 focuses on the frequency of state officials' appearances in congressional hearings and analyses a quantitative model explaining the variation in the number of witnesses testifying from each state government. This chapter tests two explanations for state government participation in committee hearings. The first is that states will be more likely to testify in committees in which there are members from their state's congressional delegation, especially if those members are in positions of leadership on the committee. The second is that the states with the resources and institutions necessary to craft innovative public policy will be those most likely to testify in congressional hearings. The models demonstrate more reliable support for an explanation involving the state's congressional delegation. The traditional measures of a state's capacity to craft innovative policy are not consistently related to a state's appearances in congressional hearings.

The conclusions from chapter 3 indicate that the states may not be used for purposes of learning about state policy innovations when state officials testify in congressional hearings. In order to understand what it is that members of Congress want to learn from the states I engage in close reading and analysis of a sample of hearings. The stated goals of the committee leadership and committee members, the testimony of the witnesses, and the interaction between the committee members and witnesses develops a more nuanced picture of intergovernmental advocacy and policy learning. Members of Congress do express an interest in state policy experiences and state official's expertise in policy development and implementation. Their interaction does not necessarily represent an attempt to learn from the most innovative state policies but it does reflect the tensions of policymaking in a federal system. Policy is

complex and involves cooperative relationships between all levels of government. Officials in the states and the federal government depend upon one another to develop, fund, and implement policy and evaluate whether policies are meeting their goals. When state governments participate in congressional hearings they are engaging in the power struggle that theorists believe is necessary to preserve a robust federation (Bednar 2009; Nugent 2009).

Chapter 5 concludes the study with a reflection on the findings and their implications for policymaking in a federal system. The results reinforce the dual roles legislators play as representatives of a geographic constituency as well as national policymakers. Members of Congress are interested in learning about policy experiences in the states but their interactions with state officials in congressional hearings do not prioritize learning about the most innovative state policies. They do give state officials the opportunity to advocate for their interests, both in the details of their policy preferences and their role in the federal system.

Chapter 2: States and Public Official Associations

“But ambitious encroachments of the federal government on the authority of the state governments would not excite the opposition of a single State, or of a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole.” James Madison, Federalist 46

James Madison envisioned a union of states in which opposition to federal action that encroached on state power would be uniformly adopted by all of the state governments. He believed that this would be a key safeguard balancing state powers against federal encroachment, along with constitutional safeguards such as the state legislatures' roles in appointing presidential electors and choosing the state's representatives in the U.S. Senate. These particular constitutional safeguards were eliminated, severing the direct tie between the state's government and its representatives in Congress (Dinan 1997; Posner 1998; Sbragia 2006), though some scholars doubt that the Senate acted in the interests of the states' governments (as opposed to the state's electorate) even when its members were selected by the state legislatures (Riker 1955). Institutional safeguards of the state-federal relationship are an essential structure for preventing abuses of the American system of federalism (Bednar 2009). As these other institutional safeguards of state power have weakened, the ability of the states to advocate for their interests in the federal policy process has become more important. This became increasingly institutionalized during the latter half of the 20th century with the rise of organized public official associations representing the state governments.

Most research on the advocacy activities of the states has assumed, like Madison, that the states' governments work together to influence federal action. Scholars have focused, nearly exclusively, on lobbying by public official associations when they study the influence of state governments on federal policy. Public official associations (POAs) are made up of members who are themselves members of governments (see Arnold and Plant 1994 for an overview of their history). These include prominent associations like the National Governors Association (NGA), made up of the governors of the 50 states, and associations of state bureaucrats like the American Association of State Highway and Transportation Officials (AASHTO) made up of personnel from the states' departments of transportation. Public official's associations may be national in scope, with members from all 50 states (often including the District of Columbia and the U.S. territories), or they can be regional or policy-specific, such as the Coalition of Northeastern Governors and the Interstate Oil and Gas Compact Commission. While these organizations are clearly influential players in intergovernmental advocacy, this paper considers what might have been missed by studying state lobbying through the actions of associations rather than individual states.

Using a new dataset of witness testimony in congressional hearings, this chapter will demonstrate that advocacy by individual states, acting alone, is far more common than advocacy by public official associations. It will also reveal that states and associations are commonly involved in advocating on policy within different issue niches. The text of hearing transcripts is used to further develop our

understanding of when and why states lobby alone and when they lobby Congress through public official associations.

State Witnesses in Congressional Hearings

In recent years, a number of scholars have begun to expand our understanding of contemporary federalism by focusing on the state governments as intergovernmental lobbyists. The academic literature has measured state lobbying in many ways: as the policy positions of public official associations, especially the National Governors Association and National Conference of State Legislatures (Cammisa 1995; Haider 1974; Herian 2011; Nugent 2009); the state's memorials to Congress articulating policy preferences (Leckrone and Gollob 2010); state governors' state-of-the-state addresses (Nugent 2009); and the presence of state offices in Washington D.C. (Jensen and Emery 2011; Jensen 2010; Nugent 2009; Pelissero and England 1987).

This chapter presents a new way to study the states' involvement in intergovernmental lobbying using a new database of all appearances of state government officials and public official associations as witnesses in congressional committee hearings between 1993 to 2004 (the 103rd to the 108th Congresses).

The use of congressional hearing testimony provides a valuable new perspective on intergovernmental lobbying. First, it expands the scope of intergovernmental advocates being studied. The research that has focused on lobbying and the policy positions of the NGA and NCSL is limited by the consensus nature of these organizations. NCSL policy positions need the support of at least three-fourths of the states and territories voting and the NGA requires the vote of at

least two-thirds of governors at the plenary sessions to adopt a policy position (Nugent 2009). Haider explains that while these two prominent public official associations have a great deal of legitimacy and access to federal lawmakers, they also tend to avoid controversial issues when they cannot reach an agreement and they may have less influence than other interest groups on broad federal policies.

The NGA, which is the most closely studied of all public official associations, may also face more difficulty coming to consensus on policy positions than other intergovernmental lobbies because of the prominence of the membership and the tendency of the governors to behave like “fifty prima donnas” (Haider 1974, 24).

Schneier and Gross assert that the conflicts within the governmental associations are severe and, “organizations like the Governors’ Conference are so torn by partisanship that they seldom take positions on controversial issues” (1993, 26). Individual states, however, should not be hampered by such divisions and, if a governor wishes to advocate on behalf of his or her state government’s interests and policy preferences, however controversial, then there should be little to prevent this. Dinan (2011) demonstrates that this was the case during creation of the Patient Protection and Affordable Care Act of 2010. Partisan polarization made it so that the NGA and NCSL were severely constrained by the divisions between their members. Members of the NGA were able to agree that insurance exchanges should be operated at the state rather than the federal level and they could agree on the general principle of opposing any unfunded mandates on the state governments. However, internal divisions meant that the NGA could not take a position on important policy details of the Affordable Care Act, even those that were very important to the state

governments, like the expansion of the Medicaid program. Dinan concluded that the non-partisan public official associations were overshadowed by the lobbying activities of the individual state governments during debate over the content of this legislation.

In 2012, Governor LaPage of Maine announced that he would only attend the winter meeting of the NGA because it would allow him to interact with President Obama and members of the Cabinet but he would no longer attend any policy meetings of the organization. The Bangor Daily News quoted him saying, “I get no value out of those meetings. They are too politically correct and everybody is lovey-dovey and no decisions are ever made. There are some tough decisions that need to be made in this country and we need to start making them” (Leary 2012). This sentiment is consistent with studies of the lobbying behavior of institutional interest groups that also have the choice to lobby individually or in coalitions through umbrella or trade associations. Lowery and Gray (1998) find that trade associations focus on less controversial, broader issues than do the individual institutions that make up their membership. This indicates that the picture of state government advocacy in the federal policy process is not likely to be complete when we focus only on the interests of the POAs.

Furthermore, most studies of intergovernmental associations have focused on case studies of the organizations’ advocacy activities on a specific policy issue or during a very limited time period (Cammisa 1995; Dinan 1997; Dinan 2011; Haider 1974; Herian 2011). Very few have attempted to collect time-series data on intergovernmental advocacy across a range of policy topics (but see Leckrone and

Gollob 2010 for a database of state memorials to Congress and Jensen 2010 for governors' lobbying offices in D.C.). Some scholars have begun to use state and POA testimony in congressional committee hearings to understand how congress members learn about the states' perspectives on federal policy and their experiences in policy implementation and innovation within their own jurisdiction (Dinan 1997; Dinan 2011; Esterling 2009). But these studies focus only on health policy hearings.

The study of advocacy by state governments and state public official associations in congressional hearings provides a rich data source for analysis of intergovernmental advocacy across all policy areas over a substantial length of time. It provides a forum for studying the trends in the policy focus of advocacy as well as the relationships between the witnesses from state governments and the members of Congress representing those states. The collection of data from these hearings provides a source for empirical analysis while the text of these hearings provides a wealth of qualitative detail for understanding the relationships, strategies, and attitudes of intergovernmental advocates and the congressional members they lobby. While recent scholarship has discussed the methodological flaws inherent in measuring state policy preferences by using only the positions of the public official associations (Leckrone and Gollob 2010) there has not yet been a study that compares the positions of the states to those of the associations to establish whether there is, in fact, a difference in their preferences or policy focus.

Policy Learning Through Witness Testimony

Testimony from state government and public official association witnesses in congressional committee hearings is a particularly useful source of data from the

perspective of vertical policy diffusion. This testimony represents the information that members of the federal legislature hope to learn from the state governments. In the House and the Senate, witnesses must be invited by the committee chair, usually after careful selection and sometimes vetting by committee staff as well as negotiation between the majority and minority staff of the committee (Sachs and Vincent 1999; Sachs 2004). Thus, the witnesses' testimony is intended to highlight the perspectives and debates that the members of the committee should consider when pursuing the committee's policy agenda. The chair has significant power to drive the agenda of the committee, though Senate committee chairs have greater independence than those in the House, who are often constrained by the agenda of the House majority party leadership (Cox and McCubbins 2005).

While the chair and the committee staff from the majority party make most of the decisions regarding hearing topics and witness invitations, both House and Senate rules provide the ranking minority member and minority staff the opportunity to select witnesses representing minority viewpoints (Sachs and Vincent 1999; Sachs 2004). While intergovernmental witnesses are certainly engaging in lobbying activity by testifying in a hearing, they are constrained by the committee's agenda and cannot advocate for any issue on their own agenda. Thus, committee testimony should be seen as a measure of vertical policy learning as driven by the congressional policy agenda and the chair's preferences. The content of the testimony may be the prerogative of the witness and represent the priorities of their government, or member-governments, but the topic of the hearing is set by the committee chair and generally motivated by the goals of the majority party in the chamber.

Data Collection

The data set contains information for 4692 witnesses testifying on behalf of state governments or state public official associations in congressional committee hearings during the 103-108th Congresses (1993-2004). The transcripts of hearings are archived by the Congressional Information Service (CIS) and the proprietary program, ProQuest Congressional, makes these transcripts available for text-searching online. The witnesses were identified through a keyword search of the hearing abstracts, which describe the subjects of the hearing and provide a list of witnesses and their titles and affiliations, for state names and the names of common titles and offices in state governments. Every witness who appeared in the search results was examined to determine whether the person was a current state government official testifying on behalf of their state government. If the person was identified as a state government official but was testifying on behalf of a public official association then they were distinguished from those witnesses that represent only the state government.

Most public official associations are made up of volunteer members from the state governments who maintain the organization, conduct policy research, and adopt policy positions with the help of a very small professional support staff in the organization (Arnold and Plant 1994). When these organizations send a witness to testify in a congressional committee hearing the witness is almost exclusively one of their members who is also an official in a state government. Thus, these witnesses are easily identified by the search method described above without searching the

hearing archives for each public official association by name. The notable exceptions are the National Governors Association and the National Conference of State Legislatures, both of which have large professional staff organizations as well as policy analysts producing reports and supporting the advocacy and education goals of these associations. These two associations are often represented in congressional testimony by an executive director or policy expert who is not also an official from a state government and would not be identified by the search procedure described above. Because of the prominence of these two organizations and the need for their advocacy activities to be fully represented in the database, a separate search was used to identify witnesses from the NGA and the NCSL who were not also officials from the state governments.

In order to expand the scope of the data and make additional analysis possible, the new database of state witnesses from the CIS archives was appended to the Congressional Hearings database from the Policy Agendas Project² using a process described by Rabinowitz and Laugesen (2010). The Policy Agendas Project database also utilizes the hearing documents in the CIS archives to collect standardized, long-term data on congressional hearings. Each hearing is assigned a subject-matter code consisting of 19 major policy topics to identify the primary issue discussed in every hearing. The hearings are also assigned standard committee codes to identify the committee(s) and subcommittee(s) hosting the hearing. This allows researchers to

² The data used here were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation grant numbers SBR 9320922 and 0111611, and were distributed through the Department of Government at the University of Texas at Austin. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here.

compare committees over time, even as these bodies change their names (Hunt et al. 2010).

The unit of analysis in the Policy Agendas Project database is the congressional hearing while in the new database created by the author the unit of analysis is the witness testifying in the hearing. If more than one witness from a state government or state association testified in a single hearing then the information for that hearing is repeated for each individual witness. The Policy Agendas Project database of all hearings provides a source for determining general trends in congressional hearings where any type of witness participated. This is a valuable point of comparison for the new database consisting of only state witnesses. Not only is comparison possible between trends in the testimony of state and association witnesses, but it is also possible to compare these trends to the overall focus of the congressional agenda from the 103rd – 108th Congresses.

These data provide the means for answering several questions. Is it appropriate to infer the issue preferences of individual state governments from the advocacy activities of public official associations? In what ways do the advocacy agendas of witnesses from individual states differ from the agenda of public official associations? How closely do the states and the associations mirror the overall policy focus of Congress? And finally, can the text of the hearing testimony provide insight into when and why states might testify individually instead of having their positions represented by witnesses from the public official associations?

State Government and State Association Advocacy

Figure 2.1 illustrates the general trends of state government testimony in congressional committee hearings. The overall drop in the number of witnesses is expected given the drop in the number of congressional hearings over time. In the 103rd session, at the beginning of the time period in this study, the House conducted 4,304 committee hearings and the Senate conducted 2,043 hearings. By the 108th session those numbers had dropped to 2,135 hearings in the House and 1,506 in the Senate (Ornstein, Mann, and Malbin 2008). Over the twelve-year period, 78 percent of witnesses in the database testified on behalf of an individual state government.

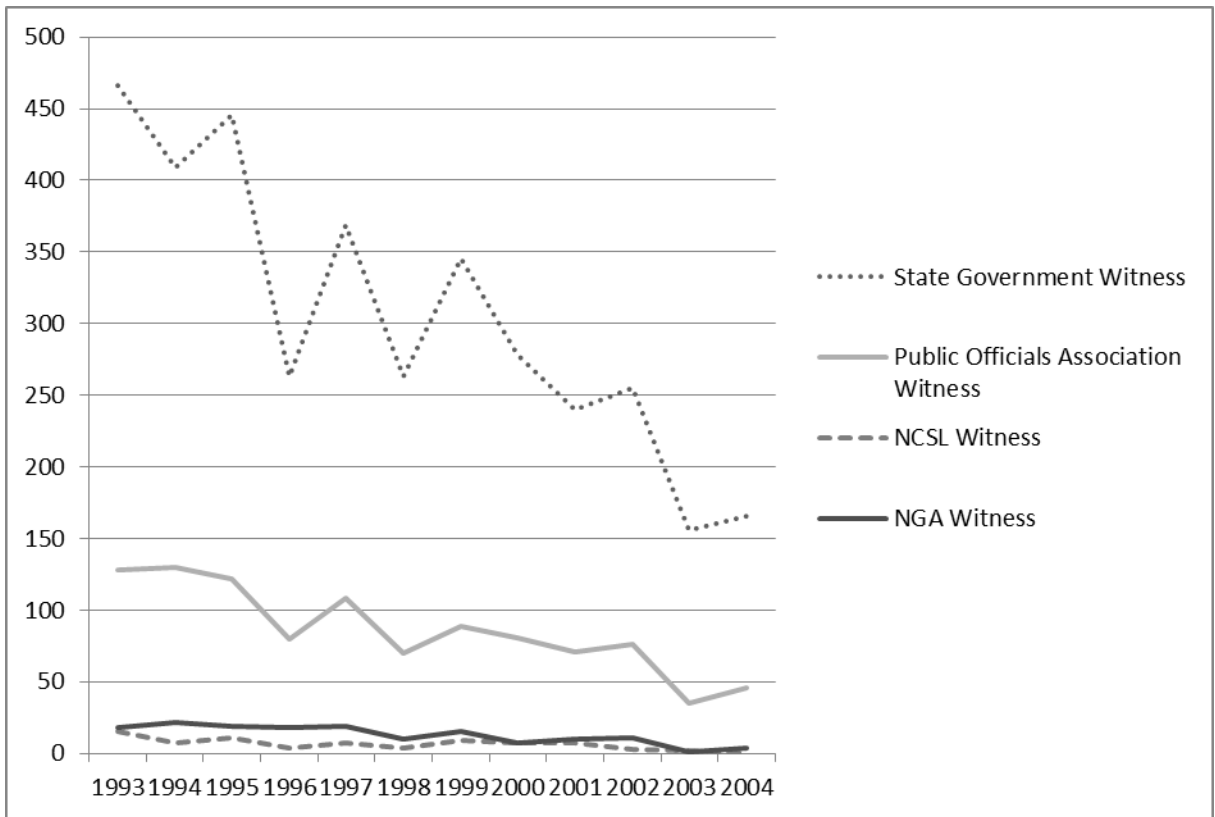


Figure 2.1. Frequency of witness testimony in number of appearances per year

Twenty-two percent of these witnesses testified on behalf of a public official association. Looking at the two most well-known and active associations as a subset

of all public official associations, the National Conference of State Legislatures and the National Governors Association, two percent of the witnesses represented the NCSL and three percent represented the NGA during this time period. Witnesses for the NGA and the NCSL include witnesses from the state governments testifying on behalf of these associations and also witnesses from the staff of the associations who are not affiliated with an individual state.

In addition to differences in the frequency of witness testimony across these groups, the state government witnesses and the association witnesses focused on different substantive policy topics in their testimony. Figure 2.2 illustrates the distribution of the individual state witnesses and witnesses from the state associations across the 19 policy areas identified by the Policy Agendas Project. Witnesses who were representing individual state governments testified most frequently on the topic of public lands and water management (14 percent of state witness testimony). In comparison, this was a policy topic that state association witnesses testified on relatively infrequently. Environmental policy was popular for both individual state witnesses and public official associations. This issue area was the focus of 14 percent of the witnesses from both the associations and the individual states, making it the most frequently lobbied issue for the associations and the second most frequent for the states.

Other noticeable policy differences were the associations' frequent advocacy in hearings focusing on banking, finance, and domestic commerce (13 percent of association witness testimony) while individual states were far less active in this area. Public official associations were also very involved in hearings on government

operations, defined by the Policy Agendas Project as policies involving such issues as budget and appropriations, intergovernmental relations, oversight, management of government agencies and employees, as well as nominations and appointments. This policy made up 12 percent of the witness testimony of public official associations, but only five percent of individual state governments. The individual state governments were more frequent witnesses on policies involving law, crime and family issues than were the witnesses for public official associations. The states were also more

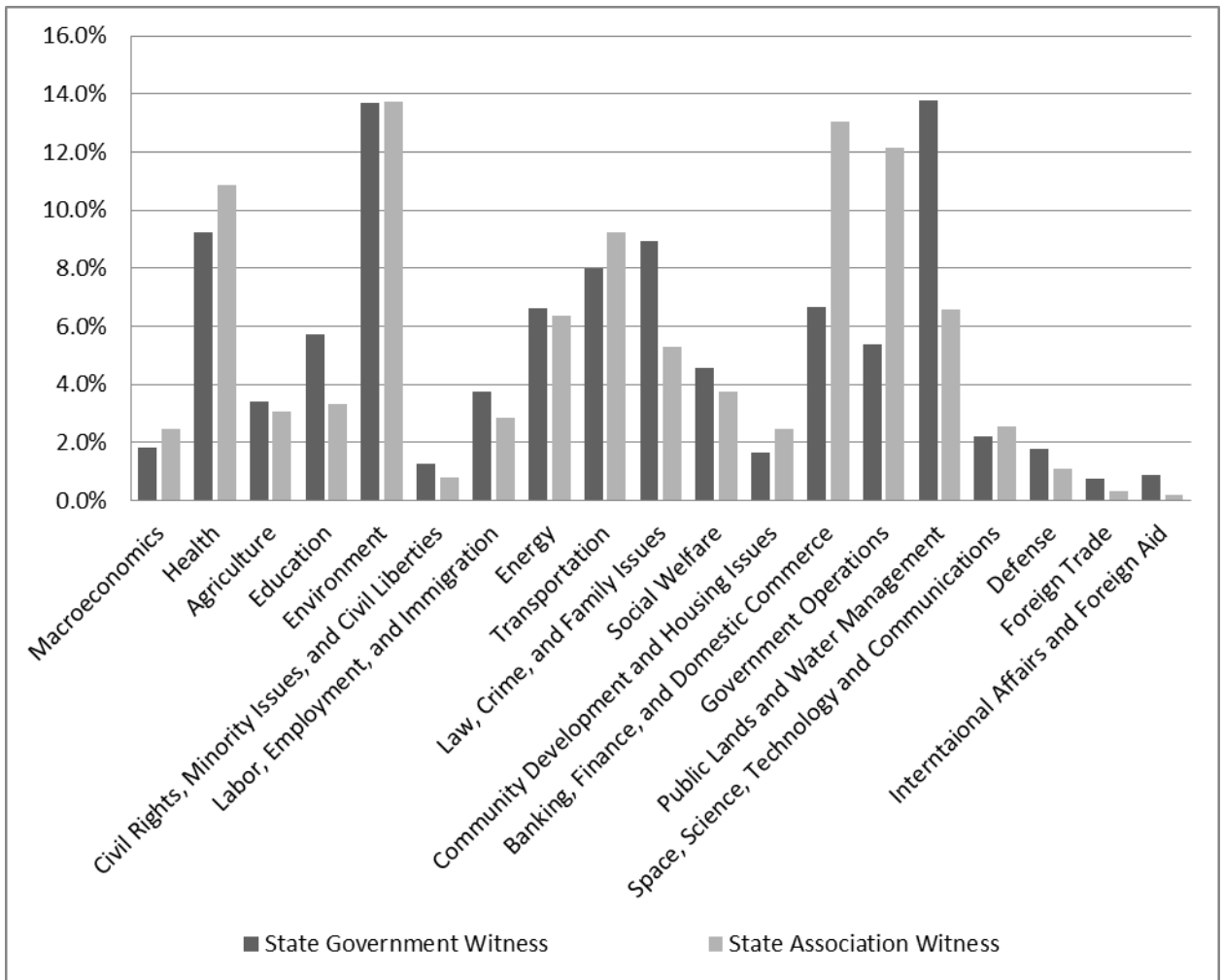


Figure 2.2. Policy Focus of the Individual States and State Associations 103rd-108th Congress

frequently active in their advocacy on education policy than were POA witnesses. Witnesses from the states and the public official associations dedicated a similar proportion of their activity to testifying in hearings concerning health policy.

Government Operations

The associations spent a greater proportion of their committee participation on issues categorized as government operations, but this is a broad issue area and should be studied further to understand the policies on which the states and associations were advocates. Most of the POA witness testimony occurred in hearings falling into the subcategory of general budget requests and appropriations for multiple departments and agencies. Associations also frequently sent witnesses to testify on issues of intergovernmental relations, including policies concerning federal grants to the states and state government finances.

Though the individual state government officials spent a smaller proportion of their overall congressional activity testifying in government operations hearings, they were also frequent witnesses on the above mentioned issues. They were also often active on other subcategories of government operations such as government efficiency and oversight hearings, and issues in campaigns and elections. These are areas in which Congress members would have reason to seek testimony from individual states. Oversight hearings often involve testimony from individual state governments discussing their implementation of federal policy. Election policy is an area over which the individual states have significant power. This was especially evident during the time period of this study when the presidential election of 2000 prompted hearings about state election law and federal adoption of the Help America

Vote Act in 2002, which involved a great deal of individual state input (Palazzolo and Ceaser 2005).

Public Lands and Water Management

A greater proportion of state government witnesses testified on the issue of public lands and water management than did witnesses from the POAs. In raw numbers, the differences were even starker. Over the twelve-year period of the study, 498 witnesses from individual states testified on this issue compared to only 67 witnesses from the public official associations. In looking at the subcategories of this issue area, very few witnesses from either the states or the associations testified on issues related to U.S. dependencies and territorial issues. The issue of national parks, memorials, historic sites, and recreation also saw little testimony from the states or the associations. Most of the witnesses from the individual state governments testified on three subcategories of this major issue area: Native American affairs; natural resources, public lands, and forest management; and water resources development and research.

It seems likely that the predominance of individual state witnesses on issues of public lands and water management can be explained by Nugent's (2009) framework for intergovernmental lobbying. He created a typology to explain the interests of the intergovernmental lobby that can be broken into "universal" interests, "categorical" interests, and "particularistic" interests based on whether the issue is able to unite all states, a small group of states, or only one or a few states. He expected that the associations would see consensus among their membership and have the most policy influence on universal interests, while categorical and particularistic interests would

divide the members and result in individual states or small coalitions lobbying on their own. The issues of public lands and water, which are tied to geography and often pit one state's interests against another, would be labeled as particularistic. The issue area of government operations, discussed above, involves more general issues of intergovernmental relations – which frequently include resistance to federal unfunded mandates or federal encroachment on state power – and these issues have a universal appeal and become important aspects of the public official associations' agendas.

Niche Interests? Comparing State and POA Advocacy to the Policy Agenda

While it is useful to understand the differences between trends in the testimony of state governments and public official associations, it is also necessary to compare the testimony of both of these groups to the larger policy agenda in Congress. The public agenda is limited and one of the primary challenges for lobbyists from any institution or organization is simply to grab the attention of lawmakers and get others to care about their issue (F. Baumgartner et al. 2009). There is reason to expect that witnesses from the intergovernmental lobby may be privileged among the interest group community. Baumgartner and Leech (2001) used federal lobbying disclosure reports to study the crowding of interest groups around particular policies. They found that the intergovernmental lobby, like the business lobby, more frequently advocates on issues with few competing organizations. Thus, they often occupy their own policy niches where they may have greater influence on policy because the issue isn't crowded with the voices of other interests.

To evaluate interest niches, Baumgartner and Leech looked at the total number of interest groups involved in each policy area. This chapter will consider the number of hearings in each policy area and the proportion of those hearings involving witnesses from the intergovernmental lobby. To do this, I aggregate the data from the unit of the witness to the unit of the hearing so I can compare the policy focus of hearings containing at least one witness from the intergovernmental lobby³ to the policy focus of the entire population of hearings from the 103rd-108th Congress. Comparing the policy focus of all congressional hearings during this time period to the policy activism of witnesses for the states and associations provides insight into the relevance of these groups. Are they primarily involved on niche issues that were not widely considered in Congress or are they players on the major issues of the day?

The most frequent topic of congressional hearings during this time period was government operations (at 14 percent of all hearings), followed by international affairs (11 percent) and foreign aid, public lands and water management, banking and finance, and health (all at eight percent). Table 2.1 shows the concentration of hearings in each issue area and the percent of hearings in each issue with at least one witness from a public official association or a state government. This table makes it obvious that, while government operations was a dominant issue for the intergovernmental lobby – especially association witnesses, these witnesses only participated in a small number of the total congressional hearings on this topic. Three percent of hearings on government operations heard from a witness from the POAs and 5 percent had a witness from a state government. This is clearly a policy area

³ In this study the definition of the intergovernmental lobby differs from that used by Baumgartner and Leech (2001) because I only include state officials or public official associations representing state officials without including local government officials or the associations that represent them.

where many interests are represented and the interests of the state governments make up only a small portion of the whole.

The intergovernmental lobby was better represented on two of the other major issues from the congressional hearing agenda. In health policy hearings, 16 percent heard from a state government witness and five percent had a witness from a POA. In the area of banking and finance, 12 percent of the hearings heard from a state witness and seven percent had a POA witness. Of the top-five issues that dominated the congressional agenda, public lands and water management heard the most testimony from the individual state governments. In 20 percent of hearings on this topic there was at least one witness from a state government. Though this is an issue with many hearings and many interests being represented, the state governments very frequently had the opportunity to voice their perspectives in hearings.

Among some of the issues that were not key aspects of the congressional agenda during this period, the states and the public official associations have established policy niches. The environment was the topic of only 5 percent of all congressional hearings but nearly a third of these hearings had a witness from a state government and 10 percent heard testimony from a POA witness. Similarly, the issue of education made up only three percent of congressional hearings but 27 percent of these invited testimony from a state government witness. These are not the most common issues on the congressional agenda, but when they are addressed, the committee frequently hears the perspectives of the intergovernmental lobby.

Table 2.1 Hearings by Policy Topic and Proportion of all Hearings with State and Association Witnesses

Issue Area	Number of Hearings	Hearings with POA Witness	Percent with POA Witness	Hearings with State Witness	Percent with State Witness
Macroeconomics	549	17	3%	37	7%
Health	1462	77	5%	231	16%
Agriculture	519	27	5%	70	13%
Education	506	29	6%	137	27%
Environment	897	92	10%	275	31%
Civil Rights, Minority Issues, and Civil Liberties	315	7	2%	34	11%
Labor, Employment, and Immigration	683	22	3%	80	12%
Energy	585	57	10%	113	19%
Transportation	762	60	8%	138	18%
Law, Crime, and Family Issues	1055	44	4%	196	19%
Social Welfare	380	25	7%	96	25%
Community Development and Housing Issues	304	20	7%	40	13%
Banking, Finance, and Domestic Commerce	1504	110	7%	178	12%
Government Operations	2403	76	3%	118	5%
Public Lands and Water Management	1443	62	4%	287	20%
Space, Science, Technology and Communications	876	23	3%	55	6%
Defense	1205	11	1%	43	4%
Foreign Trade	437	3	1%	21	5%
International Affairs and Foreign Aid	1895	2	0%	23	1%
All Issues	17780	764	5%	2172	14%

These comparisons illustrate that the state governments and the public official associations have issue niches where they focus their advocacy. Overall, these trends are consistent with prior research that considered the policy focus of state legislative memorials to Congress as another means of communicating the states' policy preferences (Leckrone and Gollob 2010). They identified health, environment, transportation, and public lands/water management as the policy areas on which the states most frequently sent memorials to Congress. The major difference between trends in legislative memorials and trends in state witness testimony is that the most frequent topic of legislative memorials was the issue of defense, while state government witnesses were rarely called to testify on defense policy in congressional hearings.

Concentration of Witnesses from the Intergovernmental Lobby

In order to evaluate the potential policy impact of congressional testimony from the intergovernmental lobby it is helpful to know whether that testimony is usually coming from one source or whether committee members are hearing from multiple witnesses representing intergovernmental interests. Knowing the average number of witnesses testifying in a hearing can help us to understand when members of Congress were more likely to hear from multiple witnesses, and possibly conflicting testimony, from the intergovernmental lobby.

The majority of hearings in which a member of the intergovernmental lobby testified involved only one witness from a state government or public official association (68 percent). In most cases, when a state government official or representative from a POA testified before Congress, they were the only witness

representing the interests of state governments in the hearing. Only eight percent of the hearings had more than two witnesses from the intergovernmental lobby testifying in the same hearing. Of these, a very small number of large, multi-day hearings involved 10 or more witnesses with a state or POA affiliation (11 such hearings were held between 1993 and 2004). On average there were 1.74 witnesses from the intergovernmental lobby in each hearing in the dataset. The average for public official association witnesses was .38 witnesses in each hearing and the average for individual state governments was 1.36 witnesses in each hearing.

Table 2.2 provides an overview of the concentration of witnesses representing state government interests within each policy area. On average, more than two witnesses from the intergovernmental lobby testified on issues of energy and on transportation. The policy areas of macroeconomics, the environment and government operations came close to an average of two witnesses from states or associations in each hearing. In these policy areas, the committees were more likely to hear from multiple witnesses representing state interests. As expected, the policy areas related to defense and foreign affairs had a small concentration of intergovernmental witnesses in their hearings. Of the domestic issue areas, civil rights, minority issues, and civil liberties had a very small average number of intergovernmental witnesses, as did banking, finance and domestic commerce. Banking and commerce is especially notable because it is a policy area in which there was frequent participation by state and POA witnesses but their lack of concentration indicates that these witnesses were spread across many hearings. This may indicate that there was more consensus among the state governments on this issue and thus, members of the committee could hear from

Table 2.2 Hearings with at Least One Witness from the Intergovernmental Lobby

Issue Area	# Hearings	# Inter-governmental Witnesses	Average Number of Witnesses in Hearing		
			State Government	Public Official Association	Both
Macroeconomics	47	91	1.40	0.53	1.94
Health	284	445	1.18	0.39	1.57
Agriculture	91	154	1.35	0.34	1.69
Education	152	240	1.36	0.22	1.58
Environment	321	634	1.54	0.44	1.98
Civil Rights, Minority Issues, and Civil Liberties	40	54	1.15	0.20	1.35
Labor, Employment, and Immigration	93	165	1.46	0.31	1.77
Energy	150	304	1.59	0.43	2.03
Transportation	166	383	1.74	0.57	2.31
Law, Crime, and Family Issues	223	376	1.44	0.24	1.69
Social Welfare	108	202	1.52	0.35	1.87
Community Development and Housing Issues	57	84	1.04	0.44	1.47
Banking, Finance, and Domestic Commerce	259	373	0.93	0.51	1.44
Government Operations	162	318	1.21	0.77	1.98
Public Lands and Water Management	328	565	1.52	0.20	1.72
Space, Science, Technology and Communications	72	106	1.11	0.36	1.47
Defense	51	75	1.25	0.22	1.47
Foreign Trade	23	30	1.17	0.13	1.30
International Affairs and Foreign Aid	24	34	1.33	0.08	1.42
All Issues	2692	4633	1.36	0.38	1.74

one witness representing the policy goals of all the states. As illustrated in figure 2.2, this was a policy area in which a large percentage of the public official association witnesses testified. If there was agreement among the state governments in this issue area then the associations would have the authority to speak on behalf of unified state government interests.

Observations from Hearing Testimony

The data from witness testimony in congressional hearings provide a wealth of new information about the state governments as actors in the federal policy process, but the text of these hearings are also a rich source from which to make observations about the behavior of the intergovernmental lobby. Beyond the policy trends in the testimony from state witnesses and the differences in the patterns of state government testimony and the testimony from public official associations, the question remains: why would a state government witness testify in a hearing instead of having their views represented by a public official association? Conversely, when will the associations be most likely to represent the state governments without any opposition from their members?

Prior studies have observed that partisan and ideological divisions between the state governments and, consequently, the members of public official associations, can lead to a lack of consensus on issues and failure for the association to become active on a particular policy (Cammisa 1995; see also Derthick 2001 for a theoretical explanation of this behavior). However, observations from the testimony and interactions in congressional committee hearings indicate that partisan divisions are

far from the only reason that the public official associations would not represent the state governments' interests. And partisan *agreement* is not the only reason that associations would speak unopposed on behalf of the states.

Lowery and Gray (1998) explore Salisbury's (1984) assertion of the dominance of institutions in the interest group community and their theories provide a framework for understanding state and public official association advocacy. They conceive of institutional interests groups as businesses or organizations that can lobby individually or together in the form of trade associations. They test multiple theories for why the institutions lobby on their own and why they form larger umbrella associations to represent the group's interests. These theories are equally useful to explain when states choose to lobby individually and when they lobby through public official associations.

Three explanations for patterns in intergovernmental lobbying are described here. The first is what Lowery and Gray call "signaling theory", which suggests that individual institutions will use umbrella associations as cooperative partners that can provide another source for communicating their message to policymakers (Lowery and Gray 1998, 236). I find evidence that the state witnesses may use this method in instances where they are in agreement with the consensus of the public official association but witnesses from the individual states have easier access to congressional hearings. This may be the case because the state governments can move faster than the associations, meaning that the individual state governments can present their ideas and positions without taking the preparation time that the procedural requirements of the associations demand. Thus, the state witnesses voice

their agreement with the association in their testimony, signaling that there is broad consensus on the issue and that the state has allies that support their policy goals.

The next theory is that of “competitive exclusion”, which expects that individual institutions will be motivated to advocate for their interests in part because they are unhappy with the advocacy being done by the associations to which they belong (Lowery and Gray 1998, 236). In short, the states may advocate individually when they disagree with the policy positions adopted by the association. This can occur because the associations require a super-majority, but not a unanimous vote, to come to a policy position, and there are members with views that are left unrepresented by the majority-vote.

Finally, the states may allow their positions to be represented by the associations when the state governments can agree on *policy process* regardless of their preferences for *policy outcomes*. This final observation is most closely in keeping with Madison’s expectation, quoted at the start of this chapter, that the states will work together to oppose federal policy that preempts their authority, even when they disagree on the policy outcomes they hope to achieve. It is likely that this can occur only on relatively narrow policies in the right type of political environment.

State Witnesses Signaling Agreement with the Association

In March of 2003, three governors appeared before a hearing in the Subcommittee on Health within the House Committee on Energy and Commerce. The intention of the hearing was to present the perspectives of the States on potential reforms to Medicaid (see the Appendix for all hearings referenced in this dissertation). The members of the subcommittee hoped to learn about each

governor's innovations in implementing Medicaid and the challenges they faced under the current structure of the program. The governors who testified were Jeb Bush, a Florida Republican, Bill Richardson, a Democrat from New Mexico, and Bill Rowland, the Republican governor of Connecticut. All three of these governors were active members of the National Governors Association, but as witnesses they were identified as only testifying on behalf of their state governments.

Though the hearing was not held to consider Medicaid reform proposals by the Bush Administration, and this point was reiterated several times by the subcommittee chair, the witnesses and members of Congress who spoke in the hearing all addressed the administration proposals and expressed their support or opposition to them. While there were clear partisan divisions in the statements by members of Congress, the testimony of the governors was less divisive. The governors from Connecticut and New Mexico were both former members of Congress, and Governor Richardson had been a member of the Subcommittee on Health during his tenure, so even members from the opposing party expressed an interest in hearing the ideas and concerns of their former colleagues.

The Republican witnesses, Governor Bush and Governor Rowland, were both most concerned with increasing the flexibility that the states would have to implement the federal policy. Rowland said he felt hamstrung by members of Congress who thought they could run his state better than he could. Governor Bush took a less antagonistic stance toward the federal government but explained that the bureaucratic process for requesting the waivers that allow the states to innovate in their Medicaid policies were burdensome and inefficient. Both Republican governors expressed

their preference for more policy flexibility and not necessarily more federal money for their states. Their fear was that the federal government would cut money and would fail to increase the state's flexibility, forcing the states to spend more of their own budgets to implement policy preferences forged inside the Beltway. Governor Richardson did not disagree on the need for policy flexibility, but he did express his opinion that the federal government would hurt the foundations of Medicaid if it gave the states more flexibility but less money for policy implementation. He argued that this would result in a net loss for society as states responded by cutting eligibility for entitlements among populations in need.

Despite these disagreements on their policy preferences, the three governors did all agree on the need for Medicaid reform, the need for the federal government to learn from the innovations and struggles in the states, and the important role that the National Governors Association could play in helping to develop these reforms. All three governors mentioned their involvement as members of the NGA and the fact that the NGA was convening a committee to study the issue and establish bipartisan agreement on preferred policy reforms. At the time of the hearing the NGA had not yet reached an agreement that they could present to Congress. A small group of Republican governors, including Governor Bush, had authored a joint letter to the George W. Bush Administration making policy recommendations and Governor Richardson referenced policy proposals endorsed by the Democratic Governors Association, but the bipartisan NGA had not reached a consensus on their policy proposals yet.

This example illustrates one of the weaknesses of public official associations that reaches beyond partisan divisions. These associations are political institutions and, like Congress, the NGA does its work through a committee process. While the process results in proposals that are well-researched and draw legitimacy from their bipartisanship, they take time to work their way through the deliberative process (Herian 2011; Nugent 2009). Thus, the state governments may be acting consistently with the “signaling theory” of institutional interests groups, where they are in agreement with their umbrella association and want to signal to lawmakers that there are multiple interests with the same policy goals. However, the states may testify more frequently than the associations even when there is some consensus across the states on an issue because the public official associations are not yet ready to take a stand on the issue. This could mean that individual state governments are better equipped to influence policy early in the process, when the committees are still defining the problems, considering alternatives, and deciding on the scope of the agenda. The associations would then be limited in their role if they enter the process after the agenda is set and the alternatives agreed upon. Scholars largely agree that the early points in the policy process are where power is concentrated because this is where many of the important decisions about policy priorities are made (Bednar 2009; Schattschneider 1960).

Competitive Exclusion: When the State Disagrees with the Association

When Richard Russman, state senator and chair of the New Hampshire Senate Environment Committee, testified before a joint subcommittee hearing within the House Commerce Committee, he was not just speaking on behalf of the state of New

Hampshire, he was testifying in opposition to the National Conference of State Legislatures. Russman was a former member of the NCSL's Committee on the Environment but at this hearing he was opposed to the policy recommendations made by this prominent public official's association. The NCSL was represented in the hearing by Craig Peterson, the Majority Leader of the Utah Senate, who testified on behalf of his state and also described the policy positions of the NCSL.

The hearing took place in the spring of 1997 and involved congressional oversight of new national ambient air quality standards (NAAQS) being developed by the Environmental Protection Agency under the Clean Air Act. The controversial standards stirred up regional divisions in the country and state government witnesses testified in this hearing on behalf of Utah, Michigan, New Hampshire, New York, Pennsylvania, and Ohio. The NCSL expressed their concern that the EPA had not conducted appropriately extensive research before beginning to generate these new standards. The association asked that the agency consider the geographic, meteorological, and climactic differences across states and not adopt standard rules that treat all states the same. Peterson recommended, on behalf of NCSL, that the subcommittees treat the NCSL as an expert on problems that arise in the bureaucratic rulemaking process over time. NCSL believed that if the new rules went into effect after an expedited review process that later review would result in overturning the original rules which would be costly and confusing for states to implement. The states would need to purchase new equipment in order to comply with the new standards, so NCSL recommended a full review prior to adoption so states could be reasonably certain that the rules would last and their investment would be

worthwhile. Furthermore, if Congress would not fully fund the new requirements under these rule changes then this would be considered an unfunded mandate on the states.

Russman criticized the NCSL's statement on the basis of the association's standard process for evaluating new agency standards, saying that they were jumping to critique a *proposed* rule in the way that they would usually reserve for critiquing *final* rules. He walked through the list of NCSL suggestions and criticisms arguing that they were misguided, except where they asked Congress to fully fund new rules to avoid unfunded mandates. Russman submitted a list of state and local government and industry members who worked with the EPA to craft the new rules. He argued that the state governments had already had an opportunity to participate in the rulemaking process through the efforts of these individuals. Though he was not identified as speaking on behalf of any association other than his state of New Hampshire he often referenced the opinions of the other New England states and presented findings compiled by a group called the Northeast States for Coordinated Air Use Management. He argued that the EPA would need to establish uniform standards for all states since the Midwestern states were known to shirk their clean air responsibilities, resulting in air pollution drifting into other regions.

Obvious regional divides were illustrated throughout the state witnesses' testimony on this policy. While the NCSL achieved the super-majority vote of its members to adopt a policy stance on this issue, they were not able to appease all of the states with their testimony. The opposition was noticeably unrelated to partisan politics. There was a clear partisan divide among the members of the congressional

subcommittees, with the Republican members skeptical of the new EPA standards and the Democrats supportive of uniform air quality rules for all the states, but the state witnesses were mixed. Democrats from the state legislatures of Michigan and Pennsylvania agreed, at least in part, with Peterson, the Republican from Utah who spoke for the NCSL. Their testimony more closely resembled the “signaling theory” discussed above, where they explained their own state’s issues but also voiced agreement with their umbrella association’s policy position. Russman, a Republican from New Hampshire, was joined by a Democrat in the New York State legislature in his support of the EPA and opposition to the NCSL’s position. Russman emphasized the partisan divides in his own state yet said that there was bipartisan agreement throughout the governor’s office, agencies, legislature, and state industries to support the new EPA standards.

Russman’s testimony was motivated by his disagreement with the umbrella association in which his institution was a member and he presented the policy position of the states that were unhappy with the advocacy being done by the association representing them. Dinan (2011) found evidence of similar disagreements during the debates over health insurance reform in 2009. Members of the NCSL endorsed a provision that would allow the federal government to create a “public option” health insurance plan to compete against private insurers but later some state officials advocated individually for the ability to opt out of the public insurance option. In each of these cases, partisanship didn’t prevent the NCSL from adopting a position on behalf of the state governments, but other divisions prompted disaffected states to testify against the policy positions of the NCSL.

When the States agree on Process, Regardless of Policy

The previous examples focused on the circumstances in which the state governments might be compelled to testify individually rather than letting the public official associations represent their views. But there are also situations where the associations are well-suited to represent the states' interests and the states will offer no opposition or individual positions eroding the legitimacy of the public official association's testimony. In one such case, the National Governors Association testified before the Senate Committee on Indian Affairs regarding proposed legislation amending the Indian Gaming Regulatory Act. In this hearing the Executive Director of the NGA spoke on behalf of all the state governors. He said he felt comfortable doing this, even though the proposed legislation was still under review by the governors, because of the NGA's long history of negotiation on tribal gaming policies on behalf of the states.

The state governments took a range of positions on the type of gaming they wanted in their states. Some states were far more comfortable with a broader scope of acceptable Indian gaming than others but all the states could agree on the role they should be playing in negotiating gaming compacts and regulating the tribal gaming industry, and this should be an important role. The NGA opposed language in the bill that might chip away at the states' abilities to establish the scope of gaming allowed in their states. Furthermore, the governors opposed any changes to federal law that would allow tribes to negotiate gaming rules with the Secretary of the Interior rather than the state governments. The NGA also criticized the current policy of requiring tribal representatives to sit on the Indian Gaming Commission, but not giving state

governments that same ability to serve on the oversight body. Despite their disparate opinions on gambling, the governors had established a long history of cooperation through the NGA to lobby for increasing the role of the states in negotiating and regulating tribal gaming compacts.

A hearing on a very different policy is also illustrative of the associations' ability to represent the states when they are unified behind a policy process, even if they take very different positions on preferred policy outcomes. This hearing before the House Judiciary Committee heard the testimony of William Waren, the federal affairs counsel for the National Conference of State Legislatures over the issue of enacting a federal product liability law. This policy was a key component of the Republican's Contract with America during the 1994 congressional elections. The party that opposed the growth of the federal government in many ways wanted to establish uniform standards for tort reform at the federal level. The NCSL witness pointed out this irony and testified that many of the state governments were strong believers in tort reform but they did not believe that the federal government should preempt the states in this area. Waren explained that, despite the states' disagreement over their preferences for reforms of product liability laws, they were able to agree that these laws should be crafted by the states alone. They could not agree on policy outcomes, but they could agree on the process by which those policies should be crafted.

These examples of state agreement on process are clearly limited. In the previous example where EPA standards were under review, the NCSL and some of the state governments were arguing for more flexibility while other states argued for

uniform standards to be applied to all states. There are times where the states are willing to stand together to protect their right to a process where they can craft their own policies, as Madison expected in Federalist 45. But there are other times when the policy outcomes are so important to the state that it will not stand alongside other states to demand more flexibility or oppose preemption. At these times the state's policy goals are more important than principles of federalism.

Conclusions

This chapter has demonstrated that it is important to consider the advocacy activities of the individual states in addition to the public official associations in order to evaluate intergovernmental influence in American politics. This is the first study to directly compare the advocacy of states and intergovernmental associations. Doing so makes it clear that there are differences in the policy areas in which they are most frequently involved, the amount of influence they might wield in policy niches, and the potential for conflicting arguments to be made by their witnesses. Close reading of the hearing transcripts also provides a means to understand how the advocacy of the states and associations fits with the theories of institutional interest group behavior. This helps to explain when and why states advocate individually and when the associations have the authority to speak unopposed on behalf of the state governments.

The patterns of witness testimony indicate that in some policy areas the state governments and the public official associations spend similar proportions of their own agendas advocating on the same issues and that their activities on many issues

reflect the overall proportion of the congressional agenda dedicated to these same topics. However, the individual state governments have a stronger presence on certain niche issues, especially the environment and education, where they may have more of an opportunity to influence federal policy. The individual state governments also have a frequent presence on public lands and water management issues, a policy area that cannot be considered a niche because of its large presence on the congressional agenda, but in which the individual states are frequent advocates. Congressional committee testimony is admittedly only one of many advocacy activities in which interest groups, including the state governments, can engage. However, Nugent (2009) identifies hearing testimony as a key component of the states' participation in safeguarding their power in the U.S. system of federalism, and Schlozman and Tierney (1986) find that congressional committee testimony is the most common tactic used by policy advocates to lobby for interest groups' priorities. Recent scholarship has found causal evidence that information presented in congressional hearings can affect the likelihood that a policy proposal will be enacted (Burstein and Hirsh 2007). Thus, the use of congressional hearings to study the trends in state government lobbying of federal policy is well-founded. Furthermore, the fact that the policy focus of state testimony is largely reflective of the policy focus of another form of state lobbying, legislative memorials to Congress, provides validity that these activities are useful indicators of the state governments' federal policy priorities.

The findings described in this chapter indicate that it is not appropriate to infer the policy goals of the state governments by studying the consensus positions of the

public official associations. The data indicate that the associations and states have different policy priorities and the stories told in the hearing transcripts show that state governments may be able to react more quickly to federal policy and thus, be involved earlier in the policy formulation process than the public official associations. Analysis demonstrates that even when the associations come to a majority consensus on a policy, they still may face opposition from the states that were not in the majority. In prior studies, the associations have been pictured as powerful faces of the state governments, which at times they are, but often there is dissent that is not revealed in the position papers published by the associations. The states are individual lobbyists, as well as members of multi-state associations. They have multiple ways of advocating for their interests in the federal policy process. In order to better understand the nuanced process of state advocacy in a system of federalism, attention needs to be paid to the individual states and the way they represent their own interests in the national government.

Chapter 3: Representation and Innovation

A recent article in *Publius: The Journal of Federalism* began with the question, “Is anyone listening to the Laboratories of Democracy?” (Lowery, Gray, and Baumgartner 2011). Scholars, pundits, and politicians have referenced the “laboratories” metaphor for the states since Supreme Court Justice Brandeis first used it in a 1932 dissent, making the observation that states in the American system of federalism may choose to serve as policy laboratories, trying out experiments from which the rest of the country can learn. During the first presidential debate of the 2012 election, Mitt Romney lauded the concept of states as laboratories of democracy in reference to giving state governments more leeway for innovation on Medicaid policy (Scott 2012).

The state as laboratories analogy is apt for understanding policy development in a federal system, and it is at the basis of research that studies the correlates of policy learning among units of government in American politics. While much of this literature is concerned with the *adoption* of public policy in one jurisdiction after it has been adopted in another jurisdiction, some scholars are recognizing that policy experimentation and learning involves a complex process in which the adoption of the policy is only one step, with policy attention and development of the policy agenda being equally important areas of study (Jones and Baumgartner 2005; Karch 2007b; Kingdon 2003; Lowery, Gray, and Baumgartner 2011).

Karch (2007, 31) states that “one could reasonably argue that the essence of policy diffusion is officials’ awareness of and interest in policy innovations that exist in other jurisdictions”. It is this awareness, or as it is often called, policy attention,

which is the key element of intergovernmental learning and is the rationale for studying the aspects of the policy process that came prior to policy adoption. If units of government are learning from one another's policy experiments then we can expect that there is a process of observation and consideration that takes place prior to any bill sponsorships, recorded committee votes, or a legislative chamber's rejection or acceptance of policy. Time and resource constraints on lawmakers ensure that they are limited to weighing a small number of plausible options (Lindblom 1959; 1979). The information that legislators need in order to consider policy options is a valuable commodity and those individuals and groups with direct access to lawmakers are in the best position to have their interests represented in the policy process (Mooney 1991). There is also an expectation that state governments, like other institutional interest groups such as universities and corporations, enjoy a privileged position in the interest group universe (Salisbury 1984). It is especially valuable to understand patterns in state policy advocacy if governments are treated with more legitimacy than other interests seeking to influence Congress.

Congressional hearings are an important aspect of interest group access to lawmakers. Witness testimony in a hearing indicates that not only does that individual or organization have access to members of Congress but also that the committee leadership has decided that the policy position held by that witness is important enough to be communicated publicly to their colleagues and placed in the public record. From the perspective of federalism, intergovernmental participation in hearings indicates that the state governments most frequently invited to communicate their policy preferences, concerns, and experiments to the members of Congress are

those with the most opportunity to influence federal policy through vertical policy diffusion. This chapter will evaluate the frequency with which individual state governments testified before congressional committee hearings and will consider the factors that influence their access to federal lawmakers. It focuses on two explanations for state government participation in the federal policy process: the characteristics of the state's congressional delegation and the state government's own policy environment.

Policy Learning

While vertical policy learning from the states to the federal government is less frequently studied than horizontal policy diffusion among the states, several studies have taken up the question of whether the federal government is effectively utilizing the states as policy laboratories. When Lowery et al. (2011) asked whether the federal government was listening to the laboratories of democracy, they conducted a macro-level analysis of aggregate policy agendas in the state governments to see if they had a direct impact on the policy agenda of the federal legislature. They failed to find support for this model of policy learning in the short term and across a wide range of policy topics, but they acknowledged that aggregate policy attention is not the only way to conceptualize policy learning and they encouraged further exploration of this question using different indicators of learning.

Studies of vertical policy diffusion involve a number of different ways to measure the concept of policy learning. Most of this research focuses on only one policy area or a case study of a particular bill adoption. Mossberger (1999) studied

federal learning from state enterprise zone policy and found that the federal lawmakers had some general knowledge of the state's experiences when they were crafting the federal legislation. Thompson and Burke (2007) studied Medicaid demonstration waivers and found limited evidence that the federal government was learning from the states. Esterling (2009) studied congressional hearings on Medicaid, focusing on the interactions in committee hearings between members of Congress and witnesses from the state governments. He found that state witnesses were more likely to be treated like experts by the committee members when they were testifying on policy where the goals of the federal and state governments aligned, such as cost containment for prescription drugs. When the federal and state government interests were not aligned, as in the conflict over intergovernmental transfers of Medicaid funds, other witnesses that did not represent the state governments appeared to be more persuasive to members of the committees than did the state government witnesses.

While case studies are valuable for understanding the details of the policy process in particular context, they are also limited in their scope and shine light on only a small portion of the policy agenda. Likewise, studies focusing only on policies that were adopted, rather than policy in other stages of the legislative process that may not pass, portray only a small segment of the state's potential for influence in federal policy. Boeckelman (1992) examined a wide range of policies and found little evidence of federal learning from state policy experience. However, his study focused only on federal policy adoptions. Weissert and Scheller (2008) studied the full range of health policies from 1993-2006, but they also only examined whether the

federal government learned from the states in crafting policy that was signed into law. They found only two pieces of domestic health legislation with intergovernmental implications where the federal government seemed to be learning from state experiences⁴.

It is important to expand the study of policy learning beyond those cases where the federal government enacts a law. Congress can acquire valuable information from the state governments even if this information does not result in policy adoption. An example discussed in the prior chapter is just such a case. In 1999, the Senate Committee on Indian Affairs heard testimony regarding proposed amendments to the Indian Gaming Regulatory Act. The committee invited testimony from the state governments, the tribal leadership, and federal bureaucrats implementing the law. They discovered that there was such a high level of disagreement between these groups, and no appetite for compromise, that the amendments did not move forward. This is a case where the federal government was actively seeking the opinion of the state governments to inform their policymaking, yet what they learned resulted in not adopting the policy under consideration. Thus, it may prove more effective to study policy learning by beginning with the source of communication, observed here through congressional committee testimony, rather than an expected outcome of that communication, like policy adoption.

Unlike prior studies of vertical policy learning, this chapter does not limit analysis to one policy area, a particular piece of legislation, or only enacted legislation. Instead, it considers the hearing testimony of all of the witnesses from the

⁴ Though the authors conclude that there was limited evidence of vertical policy learning in health policy, the two pieces of legislation where they did find evidence that the federal government learned from state experiences were quite important bills: SCHIP and HIPAA.

state governments who testified before Congress between 1993 and 2004 (the 103rd - 108th Congress). This range of observations allows for a broader definition of policy learning since it considers all cases in which state governments communicated their interests to the federal government, whether they were expressly advocating for or against federal policy, explaining their experiences in policy implementation, or calling attention to a problem in their state to inform federal lawmakers as they considered policy options. All of these circumstances offer valuable opportunities for the national government to learn from the states. By beginning with a source of information sharing, this chapter can identify the states that are most frequently involved in congressional testimony and seek to understand why some have greater access than others⁵.

General Patterns of State Testimony

Table 3.1 presents the frequency of congressional testimony by each of the state governments during the period between 1993 and 2004. While the country's four most populous states were also the four states with the most witnesses testifying before both chambers of Congress during this time, it is clear that this story involves far more than state size. There are notably different patterns in state participation between the two legislative chambers. Tiny Vermont, falling in the lowest third of the states for its number of witnesses testifying in the House, had the second-highest number of witnesses testifying in Senate hearings. The state of Florida had the second highest number of witnesses testifying in the House but didn't make it into the

⁵ The committee hearings are not the only source of information sharing and policy learning but, for reasons outlined in the previous chapter, it is reasonable to assume that the information presented in committee hearings represents the policy priorities of the committee and serves as a public record for the information that members of Congress may have learned in less formal settings.

top third of states with witnesses before the Senate. New York was the only state ranked in the top 10 for the number of witnesses in both House and the Senate committee hearings. The great variation in hearing participation among the states suggests need for further exploration.

Table 3.1. Frequency of State Government Witness Testimony, 1993-2004

All Hearings*		House Hearings		Senate Hearings	
New York	272	New York	189	New York	81
Texas	210	Florida	157	Vermont	72
Florida	200	Texas	156	Montana	62
California	166	California	119	Oregon	62
Maryland	153	Virginia	109	Idaho	60
Pennsylvania	146	Maryland	105	Wisconsin	58
New Jersey	144	New Jersey	105	Ohio	57
Oregon	143	Pennsylvania	101	Utah	57
Virginia	143	Illinois	90	Texas	53
Ohio	140	Michigan	84	Washington	50
Wisconsin	137	Massachusetts	83	Maryland	48
Utah	132	Ohio	82	California	47
Massachusetts	122	Oregon	80	North Dakota	47
Washington	122	Wisconsin	79	Iowa	46
Illinois	120	Utah	75	Minnesota	45
Michigan	113	North Carolina	72	New Mexico	44
Idaho	110	Washington	70	Pennsylvania	44
Nevada	106	Nevada	66	Florida	43
Minnesota	104	Louisiana	59	Hawaii	40
Vermont	97	Connecticut	55	Nevada	40
North Carolina	95	Minnesota	55	Massachusetts	38
Louisiana	90	Idaho	50	New Jersey	36
Iowa	86	Georgia	44	Rhode Island	36
Connecticut	85	Arizona	42	New Hampshire	35
Montana	80	Delaware	40	Wyoming	34
New Mexico	80	Iowa	40	Virginia	32
New Hampshire	70	Missouri	39	Alaska	31
Wyoming	70	Indiana	36	Louisiana	31
Delaware	69	Kentucky	36	Maine	31
North Dakota	69	Oklahoma	36	Connecticut	30
Arizona	65	South Carolina	36	Illinois	30

Missouri	64	Wyoming	36	Delaware	29
Oklahoma	64	New Mexico	35	Michigan	29
Georgia	59	Kansas	34	Colorado	28
Rhode Island	58	New Hampshire	34	Oklahoma	28
Hawaii	57	Nebraska	28	Missouri	25
Kansas	57	Vermont	25	Arizona	23
Colorado	53	Colorado	24	Kansas	23
Kentucky	53	Tennessee	23	North Carolina	21
Alaska	52	North Dakota	22	South Dakota	21
South Carolina	52	West Virginia	21	Mississippi	20
Indiana	51	Rhode Island	20	Kentucky	17
Nebraska	46	Alaska	19	Nebraska	17
Maine	43	Montana	18	Georgia	15
Tennessee	38	Alabama	17	South Carolina	15
Mississippi	36	Arkansas	15	Tennessee	15
West Virginia	35	Mississippi	15	Indiana	14
South Dakota	30	Hawaii	13	West Virginia	14
Alabama	26	Maine	12	Alabama	9
Arkansas	24	South Dakota	9	Arkansas	9

*The total number of witnesses for each state may not be equal to the sum of House and Senate hearings because some of the witnesses testified before joint hearings.

Congressional Committees

This chapter explores the factors influencing the frequency of each state's appearances in congressional hearings by looking at eight committees in the House and Senate. These committees represent a mixture of policy committees and constituency committees as defined by Deering and Smith (1997). Deering and Smith derived these categories by surveying members of Congress about their motives for requesting particular committee assignments. Constituency committees are those whose members use their committee assignment to represent a specific demographic constituency in their district – such as farmers or veterans. Policy committees are those that members join with the goal of crafting policy on important

national issues. The constituency committees in this study are Energy and Natural Resources and Environment and Public Works in the Senate as well as Resources and Transportation & Infrastructure in the House of Representatives. The policy committees are Judiciary and Health, Education, Labor & Pensions in the Senate and Energy & Commerce and Education & the Workforce in the House.

Factors Impacting the Frequency of State Witness Testimony

The dependent variable in these models is a count of the number of government witnesses from each state testifying before each of eight standing committees in the House and Senate during each congressional session from 1993-2004. The independent variables in the models are divided into two categories: those indicating the state's representation in Congress and those representing state-level characteristics commonly associated with the state's capacity for policy innovation. These are based on two hypotheses about the motivations for members of Congress to learn from the state governments. The first is that members of Congress may be inclined to invite testimony from officials in their own states. Their ability to do so will vary based on their individual positions of power and the committee placement of the state's congressional delegation. The second hypothesis is that members of Congress may invite testimony from the states that are in the best position to act as policy innovators and present expert opinions from which the federal legislature could learn.

Representation

The connection between members of Congress and their electorates is well-studied, but the connection between the federal legislators and their state governments is less frequently studied and poorly understood. One of the fallacies in our theoretical understanding of American federalism is that state government interests will be automatically protected by the members of Congress who share all or some of their constituency. This presumption is often wrong because members of Congress do not necessarily want to give or share credit for favorable policy with officials from the state and, thus, federal and state officials are sometimes considered “rivals, not allies” (Kramer 2000, 224).

Despite this competition for credit between officials in the state and national governments, there are still several reasons to believe that members of Congress may have an incentive to give voice to their state government’s interests by inviting state officials to testify in congressional hearings. Over time, members of the federal legislature have increasingly come into office after first serving in their state legislatures (Berkman 1993; 1994). Berkman argues that this increases the likelihood that policy ideas and information will travel from the states to the federal government because members have had policy experience in the state and now bring those connections and perspectives into the federal government. Members of the committee may rely upon the relationships they built in their own state governments and tap into these sources of expertise when they invite former colleagues or members of the state’s bureaucracy to testify in congressional hearings.

Though any member of a committee can request that a hearing be held on a specific topic and that certain witnesses be invited, the actual process of doing so is controlled by the committee leadership. Hearing agendas are set by the chair and the committee's majority party staff in consultation with the office of the committee's ranking minority member (Sachs 2004; Sachs and Vincent 1999). Generally, for every three witnesses invited by the majority party, one witness can be selected by the minority party on the committee. However, in some cases the majority committee leadership can use their power to set the schedule to limit the minority's time and ability to invite appropriate witnesses.

The committee leadership also operates under different constraints in the House and the Senate. House committee leaders are constrained to a greater degree by their party agenda while the Senate's tradition of individual autonomy would suggest that the committee leadership would have more leeway to set the agenda for their committee hearings without as much interference from the chamber's leadership (Sinclair 2000). Furthermore, the Senate maintains a long tradition of protecting the rights of the minority party (Binder 1997) which would lead us to expect that the ranking minority member could have more power to invite testimony from their state in the Senate than in the House.

Four measures of a state's committee representation in Congress are pertinent for hypothesis testing about a state's presence in congressional hearings. The first is the number of majority party members from the state serving on each committee⁶. The next two are dichotomous measures of whether the committee chair is from the

⁶ An alternate model replaced this measure with the total number of members (majority and minority party) from the state's delegation on each committee. The results were similar for both measures.

state and whether the ranking minority member is from the state. Finally, I include a measure of the state's representation per capita. There are two versions of this measure: a state's House representation per capita is used when testing the model for witnesses before a House committee and the Senate representation per capita is used when modeling state testimony before a Senate committee. These were calculated by dividing the state's population by the number of members representing the state in each chamber. This is a necessary control due to the established bias in legislative policymaking toward states that are overrepresented in the House and Senate (Ladewig and Jasinski 2008; Lee and Oppenheimer 1999).

State Innovation

The diffusion of public policy among the state governments is a very thoroughly studied area of political research and it is reasonable to expect that some factors which are important in explaining state-to-state learning will also be important for understanding which state are engaged in state-to-federal policy learning. Early advances in the study of policy diffusion sought to identify states that were likely to be policy innovators – spearheading new policy solutions that would be adopted by other states. Walker (1969) found that slack resources could explain a state's lack of innovation, as states with less wealth, urbanization, and industrialization could not afford to develop potentially costly policy experiments. If the federal government seeks to learn from the states with the greatest capacity to grapple with societal problems and innovate on public policy then, based on the slack resources hypothesis, they would be more likely to invite witnesses from the governments of states that are wealthier and more urbanized. Following the example of Karch (2007b), the models

in this chapter use the state's real per capita income (inflation adjusted) as a proxy for slack resources. Urbanization is measured as the state's population density.

A state's legislative professionalism is another key explanatory variable for the state's capacity to innovate in areas of policy and become a source of policy diffusion and learning. Legislative professionalism is a concept that scholars have tried to measure since the early 1970's as they sought to make a connection between the institutional structures of state government and the policymaking capacity of the jurisdiction (Grumm 1971). Currently, the index created by Peverill Squire (1992; 2007) is commonly used to assess the professional capacity of the state legislatures. It uses specific qualities of the U.S. Congress as a baseline against which it measures the member salary, average days in session, and average staff per member of the U.S. state legislatures. The resulting measure is a scale from 0 to 1 indicating the level of similarity between the state legislature and the federal legislature on these characteristics, with a score of 1 being a perfect match.

Theoretically, more professionalized legislatures result in a longer-serving and more experienced body, better qualified members, more time dedicated to policy development and deliberation, and more balanced policy influence between the legislative and executive branches (Squire 2007). Empirically, legislative professionalism has been correlated with higher legislative efficiency, the number of bills enacted per legislative day (Squire 1998), increases in the adoption of highly technical and complex policy (Ka and Teske 2002), and the production of more innovative public policy because members have more incentive to become policy specialists and more time to craft solutions to meet societal challenges (Kousser

2005). All of these qualities should incentivize members of Congress to want to hear from witnesses in state governments with more professionalized legislatures.

Furthermore, a state's legislative professionalism is closely tied to the state governor's decision to maintain a branch office in Washington, another indicator of intergovernmental influence and the state's interest in maintaining relationships with federal lawmakers (Jensen 2010).

The final innovation variable represents scholars' attempt to go beyond measures of state *capacity* for policy innovation and instead measure the *actual* policy innovation of a state government. Walker (1969) originated this line of inquiry, but the most recent development calculates an updated measure of a state's rate of policy adoption during two-year periods using 189 policies that were enacted in the states between 1912-2009 (Boehmke and Skinner 2012). The benefit of including this measure in addition to traditional predictors of policy diffusion is that Boehmke and Skinner's (2012) dynamic measure of policy innovation has more variability than measures of urbanization, per capita income, or legislative professionalism. For instance, during the period of this study, 1993-2004, the state of New York had very little change in its measure of legislative professionalism but its dynamic measure of policy innovation changed every two years, ranging from 0 in a year where none of the policies were adopted, to .14, in its most innovative period⁷. Thus, the model contains three measures of policy innovation that are relatively stable over time and one that varies based on the state government's rate of policy adoptions over a two-year period.

⁷ The dynamic policy index is calculated as a rate ranging from 0 to 1 (0 indicates that none of the policies were adopted during that period, 1 would indicate that all were adopted during that period). During the time-frame of this study the variable's range is 0 to .36.

Results

Committees in the House of Representatives

Table 3.2 presents the results of a negative binomial regression model for the number of state government witnesses testifying before four committees in the House of Representatives during each congressional session. The table presents coefficients and also the standardized incident-rate ratios for the variables that reach accepted levels of statistical significance. The standardized incident-rate ratio (std. IRR) is interpreted as the factor change in the dependent variable for a one-standard deviation increase in the independent variable. Values greater than one indicate an increase in the rate of witness testimony and values less than one indicate a decrease.

Across all four House committees the variable with the most consistent, positive relationship to the number of witnesses from a state government is the number of majority party members serving on the committee. The presence of a committee chair from the state was never related to an increase in state witnesses and the presence of a ranking minority member from the state was only positive and statistically significant for one House committee, Transportation. The measure of House representation per capita yielded positive and statistically significant results for two of the House committees, Education & Workforce and Energy & Commerce. Thus, states with an apportionment that over-represents their population in the House of Representatives are expected to have a higher number of witnesses from their state government testifying before these two committees than those states that are under-represented. This is especially notable since the model controls for the number of members from the state on the committee, so it seems that apportionment has an

independent effect, beyond the benefit of having a larger delegation to sit on the committee.

Table 3.2. Predicting the Number of State Government Witnesses per Year in the House 1993-2004

HOUSE	Education & Workforce		Energy & Commerce		Transportation		Resources	
	Coef. (SE)	Std. IRR	Coef. (SE)	Std. IRR	Coef. (SE)	Std. IRR	Coef. (SE)	Std. IRR
Majority Members	0.468** (0.086)	1.47	0.372** (0.060)	1.33	0.203** (0.030)	1.22	0.866** (0.124)	2.26
Chair	0.244 (0.468)		0.833 (0.489)		0.165 (0.519)		0.525 (0.456)	
Ranking Minority Member	0.388 (0.569)		0.318 (0.237)		0.797** (0.211)	1.13	-1.689** (0.562)	0.79
Representation Per Capita	1.958** (0.750)	1.25	1.397* (0.616)	1.17	0.613 (0.838)		0.506 (0.853)	
Urbanization	0.001* (0.000)	1.25	0.001** (0.000)	1.30	0.001* (0.000)	1.19	0.000 (0.000)	
Real Per Capita Income	-0.050 (0.042)		-0.034 (0.018)		-0.025 (0.029)		-0.037 (0.012)	
Legislative Professionalism	2.120** (0.648)	1.31	2.401** (0.411)	1.36	2.227** (0.290)	1.33	-2.341** (0.633)	0.74
Policy Innovation Index	3.217 (2.100)		-0.326 (1.429)		1.593 (2.186)		0.712** (2.214)	1.04
Constant	-2.127 (1.121)		-1.224 (0.792)		-0.937 (1.263)		0.174 (0.946)	

negative binomial regression with robust standard errors clustered by Congress, two-tailed test
 N = 300 ** p<.01 *p<.05

Of the policy innovation variables in the House model, urbanization and legislative professionalism were positive and statistically significant in three of the four committees. The exception was the House Committee on Resources in which Western state officials were frequent witnesses. In spite of the Western states' low scores on traditional measures of policy innovation, they maintain a regional expertise

on issues that are important to the Resources Committee. This was the one House committee in which the dynamic policy innovation index had a positive and statistically significant relationship to the number of officials from a state invited to testify.

Senate Committees

The results for the Senate committee models are presented in Table 3.3. As in the House model, the most consistent factor related to the invitation of state officials to committee hearings was the number of majority party members from the state's delegation serving on that committee. Unlike the House model, the presence of a committee chair from the state had a positive and statistically significant relationship to the number of witnesses from that state testifying in three of the four Senate committees. The same was true of the presence of a ranking minority member from the state.

The measure of Senate apportionment also demonstrated a statistically significant, positive relationship with the number of state witnesses in three of the four Senate committees. The states that are advantaged in their representation per capita in the upper chamber are expected to have higher numbers of state officials testifying in committee hearings, even controlling for the presence of majority party members on that committee. Far fewer of the innovation variables demonstrated notable relationships to the number of witnesses from the state government in the Senate committee models than in the House models. Urbanization had a positive, statistically significant relationship in only one committee, Environment and Public

Works. Likewise, the measure of legislative professionalism was positive and statistically significant in only one committee, Judiciary.

Table 3.3. Predicting the Number of State Government Witnesses per Year in Hearings in the Senate 1993-2004

SENATE	Energy & Natural Resources			Environment & Public Works			Judiciary			Health, Ed, Labor, Pensions		
	Coef.	Coef.	Std. IRR	Coef.	Coef.	Std. IRR	Coef.	Coef.	Std. IRR	Coef.	Coef.	Std. IRR
Majority Members	1.431** (0.248)		1.82	0.859** (0.134)		1.42	0.565** (0.135)		1.27	0.565** (0.210)		1.26
Chair	0.223 (0.441)			1.324** (0.206)		1.24	1.380** (0.316)		1.21	2.059** (0.537)		1.33
Ranking Minority Member	1.711** (0.549)		1.22	2.093** (0.098)		1.34	2.193** (0.359)		1.36	-1.177 (0.995)		
Representation Per Capita	0.033 (0.080)			0.140** (0.036)		1.17	0.317** (0.080)		1.41	0.193** (0.047)		1.23
Constant	-0.706** (0.219)			-0.542 (0.194)			-1.346** (0.216)			-0.928** (0.218)		
Urbanization		-0.002* (0.001)	0.54		0.001* (0.000)	1.21		0.000 (0.000)			0.001 (0.000)	
Real Per Capita Income		-0.004 (0.037)			-0.003 (0.030)			-0.025 (0.034)			-0.019 (0.035)	
Legislative Professionalism		0.578 (1.082)			-0.430 (0.413)			2.306* (0.916)	1.345		1.376 (0.808)	
Policy Innovation Index		-1.247 (2.731)			1.725 (2.241)			1.503 (1.376)			-3.979 (2.191)	
Constant		0.301 (0.711)			-0.028 (0.505)			-0.625 (0.765)			-0.026 (0.765)	

negative binomial regression with robust standard errors clustered by Congress, two-tailed test
N = 300 ** p<.01 *p<.05

Predicted Witness Count

The standardized incident-rate ratios are a useful measure for comparison across variables but they lack an intuitive interpretation for the relationship between the independent and dependent variables. Predicted counts provide a simple measure

of the relationship: they represent the expected number of witnesses from a state during one session of Congress based on the values of the independent variables. The counts were calculated by varying the value of one independent variable while setting the other independent variables to their observed values, as suggested by Hanmer and Kalkan (2013)⁸.

Table 3.4. Predicted Count of State Witnesses before a House Committee

House	Majority Members on Committee from State			State's Legislative Professionalism		
	0	4	Change	Lowest	Highest	Change
Education & Workforce	0.55	3.60	3.05	0.52	2.06	1.54
Energy & Commerce	0.99	4.45	3.46	0.80	3.65	2.85
Transportation	0.81	1.83	1.02	0.64	2.63	1.99
Resources	0.53	18.43	17.90	2.35	0.51	-1.84

Note: Predicted counts were calculated using the results from table 2 while holding all variables at their actual values. All reported counts are statistically significant at $p < .05$

Table 3.4 presents the predicted counts of witnesses before the House committees for the two most consistently important variables: the number of majority members from the state on the committee and the state's measure of legislative professionalism. As the number of majority members on the committee from the same state increases from zero members to four members the predicted number of witnesses testifying from that state also increases. The smallest predicted effect is seen in the Transportation Committee, where only one additional witness is expected from the state. Both the Education & Workforce Committee and the Energy &

⁸ This method involves holding each of the other independent variables at their observed values for each case, calculating the relevant predicted count for each case, and then averaging over all of the cases to produce the value of the predicted count. Hanmer and Kalkan demonstrate that this is more useful than the "average-case" approach where the values of each of the other independent variables are set to the sample means.

Commerce Committee would expect to have approximately three additional witnesses from the state. The largest effect is predicted in the House Resources committee, where nearly 18 additional witnesses would be expected from a state if the state's majority membership on the committee increased from zero to four members. This large value is the result of the number of Western states with multiple majority-party members on the committee that routinely sent many state witnesses to testify before the Committee on Resources.

To understand the relationship between the number of state witnesses and the state's legislative professionalism, the change in the predicted count is calculated by varying the value of the legislative professionalism index from the lowest value, .03 which was held by the state of New Hampshire, to the highest value, .66 which was given to the state of New York while holding all other variables in the model at their observed values. The number of witnesses from a state would be expected to increase by nearly two in the Education & Workforce Committee and the Transportation Committee, nearly three in the Energy & Commerce Committee, and would decrease by two in the Committee on Resources. The expected effect in the Resources Committee runs counter to the hypothesis that increased state legislative professionalism would result in more witnesses testifying from that state. This is likely because the state government witnesses that dominated that committee came overwhelmingly from Western states with low measures of legislative professionalism.

The Senate models showed little evidence of an important relationship between measures of state policy innovation and witness participation in committee

hearings. Measures of the state’s congressional delegation and state representation demonstrated consistently positive and statistically significant relationships to the number of state government witnesses in the models. The predicted number of state witnesses for the Senate committees is presented in Table 3.5. Compared to the House models, the predicted change in state witnesses for an increase in the number of majority party members on the committee is smaller: an increase of nearly two for Energy & Natural Resources, but an increase of one or less for the other three committees. It should be noted that the number of majority party members from the same state serving on one committee has greater variation in House committees than in Senate committees: hence the predicted count is calculated for a change from zero to four majority party members of the state’s delegation in the House but is calculated for a change from zero to one majority party member from the state in the Senate.

Table 3.5. Predicted Count of State Witnesses before a Senate Committee

House	Majority Members on Committee from State			Chair from State			Ranking Minority Member from State			St. Deviation increase in Senate Representation ^a		
	0	1	Change	0	1	Change	0	1	Change	1	2.09	Change
Energy & Natural Resources	0.56	2.36	1.80	-	-	-	0.91	5.51	4.60	-	-	-
Environment & Public Works	0.82	1.93	1.11	0.97	3.69	2.72	1.00	8.06	7.07	1.08	1.26	0.82
Judiciary	0.46	0.82	0.36	0.51	2.12	1.61	0.50	4.84	4.34	0.52	0.74	0.22
Health, Ed, Labor, Pensions	0.58	1.00	0.42	0.58	5.32	4.74	-	-	-	0.70	0.86	0.17

Note: Predicted counts were calculated using the results from table 3 while holding all variables at their actual values. All reported counts are statistically significant at $p < .05$

^aChange in Senate Representation was calculated from a value of 1 (equal to one-person-one-vote representation) to a standard deviation increase to 2.094.

Unlike the House committee models, the Senate models demonstrated a positive and statistically significant relationship between the number of witnesses

from the state government and the presence of a committee chair or ranking minority member from that state. Compared to a model where the state does not have ties to the committee chair, when the committee chair is from the state the expected number of state government witnesses increases by approximately two for the Judiciary Committee, three for the Environment & Public Works Committee, and five for the Committee on Health, Education, Labor & Pensions. The expected impact of the state's relationship to the committee's ranking minority member is even larger than that of the committee chair. When the ranking minority member is from the state, that state can expect an increase in the predicted number of witnesses ranging from approximately four in the Judiciary Committee, five in the Energy and Natural Resources Committee, and seven in the Environment and Public Works Committee.

Three of the four Senate committee models also indicated that states with a higher apportionment of representation per-person would expect to see an increase in the number of witnesses from the state. The predicted number of state witnesses based on the index of per-capita Senate representation is included in Table 5. This is calculated by changing the index from a value of one, indicating apportionment consistent with one person, one vote, to a value of 2.09 which is a one standard deviation increase. Representation based on the one person, one vote model is reflected in states like Maryland and Wisconsin, while the standard deviation increase is the value of per capita apportionment held by states like Ohio and Illinois. The expected increase in the number of state witnesses is quite small compared to other factors in the Senate model.

Discussion

The most consistent and substantively interesting outcome of these models is the relationship between the number of majority party members from a state's delegation on a committee and the number of officials from that state testifying before the committee. This result calls into question Kramer's claim that competition between state officials and members of Congress prevents members from wanting to promote or safeguard state interests (Kramer 2000). It lends credence to Berkman's (1993, 1994) argument that members of Congress do have incentives to promote the interests of their state governments, perhaps because of prior experience holding office in the state and drawing upon the expertise of former colleagues to testify in congressional hearings. The finding does not necessarily mean that the members and their state officials are in agreement on the content or goals of policy. The relationship does indicate that members of Congress give their own state government officials opportunities to appear in committee hearings. Research on the interaction between state government witnesses and their congressional delegation members will shine more light on what members of Congress hope to learn from state government witnesses.

Another important finding is the rather limited relationship between traditional measures of state policy innovation and the number of witnesses from the state testifying in congressional hearings. Of the three measures used to represent the capacity of the state to craft innovative policy - urbanization, per capita income, and legislative professionalism - legislative professionalism seems to demonstrate the most consistent statistically and substantively interesting relationship to the frequency

of testimony by state officials. The theory that supports the importance of legislative professionalism in state-to-state policy diffusion is also compelling in a model of federal learning from state governments. States with more professionalized legislatures are more efficient and execute more complex and technical policy (Squire, 1998; Ka & Teske, 2002). The impact of greater legislative professionalism should increase the pool of expert witnesses from the entire state government, not just the legislative branch. If a professional legislature develops complex public policy on a wide range of issues then they will have executive branch officials who also develop policy expertise as they implement these complex and technical policies, thus increasing the number of elected officials and bureaucrats from that state who could offer valuable testimony to congressional committees. In four of the committees, three in the House and one in the Senate, the results support this hypothesis.

If the relationship between a state's legislative professionalism and the number of state witnesses testifying in Congress was weaker than expected, the relationship between the state's actual measure of policy innovation and the frequency of state testimony was almost nonexistent. In only one committee was there any evidence that Boehmke and Skinner's (2012) index of dynamic policy innovation in the state governments had a statistically significant, positive relationship to the number of state witnesses testifying in committees. This may be due to the challenges inherent in measuring the actual policy innovation of the states. Boehmke and Skinner (2012) acknowledge that their measure is limited because it is based on the state's adoption rate from a universe of 189 possible policies chosen by the authors. This measure may fall short in predicting the state's participation in

congressional hearings because the state government might have distinguished itself through innovations in a policy area not captured by this measure. Another possibility is that the state might have a history of innovation that isn't captured during the two-year period of time in which the innovation ratio is calculated or state officials might have developed policy expertise through research and debate on policy that did not result in policy adoption and thus isn't captured in this innovation measure that is adoption-dependent. For any of these reasons the traditional measures of a state's *capacity* for policy innovation outperforms this measure of *actual* policy innovation in these models of state witness testimony before congressional committees.

The differences between the House and Senate committee models of state government testimony provide important information for understanding the relationship between the state governments and members of Congress. They also expose interesting puzzles about the differences in committee leadership between the two chambers. The House committee models presented a mixed picture where measures of state policy innovation and measures of the state's congressional delegation demonstrated statistical relationships to the frequency of state government testimony before the committees. In the Senate models, the measures of state policy innovation were far less important in predicting state witness testimony. In the Senate, not only was there a relationship between the state delegation's seats on the committee and the invitation of state witnesses, but the presence of a state delegation member in a position of committee leadership – either the chair or the ranking minority member – showed statistically and substantively important connections to

the frequency of state official's testimony before the committee. This may indicate that the Senate and the House retain the representational goals envisioned by the founders, in which the House represents the people of their districts while the Senate represents the state as a whole – paying special attention to the interests of the state government when crafting federal policy.

The interesting puzzle arises from the evidence that the presence of a ranking minority member from the state is related to higher numbers of state government witnesses in House and Senate committees than the presence of a committee chair from the state. Committee chairs have the advantage of their party's control in the chamber and their own power to direct the legislative agenda for their committee. However, it appears that the chairs do not use this authority to highlight witnesses from their state government nearly as often as the committee's ranking members. A possible explanation is that while the chair has nearly unlimited power to craft the agenda of the committee hearing and invite witnesses, she may choose not to invite testimony from her own state because she is already aware of the state's issue agenda and has the power to represent it herself. The ranking minority member and the rank-and-file committee members, lacking the power to control the committee's agenda, might then request to have their states' voices heard in committee testimony. This also might result from the ranking member using his opportunity to invite witnesses as a way to cultivate relationships in the state, given that he may not be able to exert much influence over policy from his position in the minority party.

Clearly these models do not depict the full range of factors that impact state witness participation in congressional hearings. The House Committee on Resources

is a particularly obvious example of this. It is likely that there are some policy-specific factors, such as the percent of federal lands in the state, which could explain the large presence of Western states testifying in these hearings, resulting in the negative relationship between legislative professionalism and state witnesses before the House Resources Committee. However, the purpose of these models isn't to replicate all of the factors influencing state government testimony, but rather, it is to explore some of the common predictors of state-to-state policy diffusion in a model of state participation in the federal policymaking process. The results provide valuable information regarding the factors predicting which state governments are most frequently represented in congressional hearings and contribute to the development of the federal policy agenda.

Conclusion

The topics of congressional hearings are often used as measures of the policy attention of federal legislators and a reasonable representation of the broad policy agenda (F. R. Baumgartner and Leech 2001; Jones and Baumgartner 2005; Lowery, Gray, and Baumgartner 2011). This dataset, which catalogs the participation of state government officials in committee hearings during the 103rd – 108th congressional sessions, reveals a great deal of variation among the states in their frequency of participation in hearings. The study of state government participation in committee hearings provides an opportunity to compare participation among the states and draw inferences about the motivations driving members of Congress to invite witnesses from the state governments.

This chapter examines factors fitting two hypotheses explaining why some state governments are given more frequent opportunities than others to communicate their experiences and positions to members of congressional committees. It considers measures of congressional representation and tests whether the power and committee placement of members of the state's congressional delegation can improve the likelihood of state government witnesses being called to testify. It also considers measures of the state government's ability to craft innovative policy themselves and asks whether congressional committees are hearing testimony from those states which are most innovative.

There is evidence that the traditional measures of a state government's policy innovation predict the frequency of testimony by state officials in some congressional committees, especially House committees. However, more consistent evidence is found for a strong link between features of the state's congressional delegation, particularly the number of majority party members from the state sitting on the committee, and the state government's participation in House and Senate committee hearings. If members of Congress are inviting witnesses from their own states because of a desire to learn from state experiences or listen to state interests with the intention of developing policy solutions then the results of this chapter provide support for a robust safeguard of federalism. Scholars have provided significant evidence that members of Congress represent the interests of their constituents, but this chapter demonstrates the connection between congressional delegations and their state governments as well. The following chapter will explore the information that committees seek to learn from state government witnesses and will further probe the

relationship between congressional delegation members and the witnesses from their state.

The results of the state innovation variables beg the question: does it matter if the U.S. Congress isn't consistently seeking testimony from the most innovative state governments? If the structure of a federal system allows for the national government to learn from the policy experiments in the states, do the results of this inquiry represent a failure to learn from the laboratories of democracy? It is concerning that the states that are most frequently represented in congressional hearings are not always those that are policy innovators. However, I believe that this is as much an opportunity to reflect on the measures favored by political scientists as it is a critique of policy learning in the federal system. Even early in the development of the research tradition on state policy diffusion, scholars questioned whether it would be possible to define certain states as more or less innovative than others (Gray 1973; Savage 1978). Variation in state legislative behavior over time and across issue areas limits the generalizability of any quantitative measure of state policy innovation. Modeling this concept is inherently challenging.

Ideally, a quantitative measure of state policy innovation would be both time and policy dependent in order to compare and rank the states on their relative activity for every issue. Enormous in scope, this measure would also be fraught with value judgments. If a state passed five laws regarding environmental regulation, but modified the legislation to mollify interest group opposition, would it be considered more or less innovative than a state that passed fewer but stronger environmental regulations? What about the state with an energetic legislative branch that is active

on a policy but an executive that is lax in policy implementation? Would the federal government have reason to learn from this state's experiments when the programs do not live up to the goals of the legislation? However challenging it is to measure the concept of state policy innovation, it is notable that traditional measures of the concept are not consistently powerful in predicting the number of state witnesses invited to congressional hearings. If members are choosing state government witnesses more frequently because of their political motives or their desire to feature their own state rather than a more innovative state then, indeed, this would represent a failure to learn from the most valuable laboratories of democracy.

While this chapter sheds light on some of the reasons why states have unequal access to congressional committee proceedings it leaves unanswered a number of questions about the impact of this access. Most prior research on vertical policy learning assumes that state officials are educating federal legislators about policies crafted by the state governments and encouraging Congress to adopt similar policies. However, a large-scale study of state communication to Congress across a wide range of policy areas has not previously been conducted, so the nature of the vertical learning that takes place in congressional hearings is unknown. The prior chapter discussed the advocacy activities of the public official associations and demonstrated that this advocacy is used to communicate the policy preferences of the associations in much the same way that non-governmental interest groups advocate for their preferred policies. It is possible that the individual state governments are featured in hearings, not as models of innovative policymaking, but as advocates expressing their preferences like other lobbyists. The following chapter investigates the interaction

between congressional committee members and the state witnesses in their hearings to provide more information about the policy learning that takes place when the state governments visit Capitol Hill.

Chapter 4: Learning from the States?

The prior chapters have considered the frequency with which public official associations and individual states testify in congressional hearings. The findings are informative in that they illustrate patterns about intergovernmental advocacy that were previously unknown but they aren't really valuable without understanding the content of the communication and its potential to educate and persuade federal lawmakers. In order to evaluate whether the state governments are being invited to testify based on their policy expertise or to fill some other purpose it is necessary to examine the testimony of these witnesses and their interactions with members of the committees.

State-federal relations in health policy has been characterized as the “continuing struggle of the states, torn between sovereign and supplicants in their wish to call on the federal government for more financial support but desperate to control their own health policy destinies” (W. G. Weissert and Weissert 2012, 6). This image of the states requesting more money from the federal government while also requesting more flexibility over policy implementation is a well-established paradigm for the tensions of the federal system. It stands in opposition to the more optimistic image of the states as democratic laboratories educating members about their policy experiments. The first represents communication between units of government that is rote and predictable, unlikely to present new information to members of Congress. The second represents the idea that a system of federalism benefits democracy because it enables units of government to experiment with policy

and learn from one another. It is the image of the American system captured by E.E. Schattschneider (1960) when he described the potential to widen the scope of conflict over policy by pursuing policy goals in multiple jurisdictions.

Much of the media and scholarly attention to issues of federalism has focused on conflicts over preemption of state policy and unfunded mandates. If the state governments are simply appealing to Washington for more money and more policy discretion, then their participation in federal policymaking would not represent an example of learning from the laboratories of democracy. This overwhelming focus on conflicts between the levels of government ignores the cases where government officials might be learning from one another. A state official may testify against legislation that imposes burdens on the state by describing the state's policy innovations and explaining how the federal law would limit the state's ability to handle policy problems in its own jurisdiction. This type of communication marries a discussion of state advocacy over federal policy with examples of state policy experiments that do provide an opportunity for intergovernmental learning. It would not be an example of Congress learning from state experiences with the intention of replicating successful state policy, but it does illustrate the type of intergovernmental lobbying and bargaining that could protect the balance of power in American federalism.

The prior chapter indicated that the committee assignments of state delegation members are more important in determining the invitation of witnesses from the state government than is a state's level of policy innovation. This relationship sheds doubt on the idea that members of Congress are motivated to learn from policy experiments

in the states but it does not eliminate the possibility that policy learning is taking place during these interactions. This chapter takes up the question of what the federal government wants to learn from the states when state government officials are invited to testify in congressional hearings. It diverges from prior studies of vertical policy learning by including hearings that did not necessarily result in passage of legislation. This recognizes that hearing witnesses can educate members of Congress even if there isn't immediate policy change reflecting that learning. Communication, agenda setting, and debates over policy values and the proper purpose of government take place between state and federal officials throughout the policymaking process.

States and the Ongoing Tensions of Federalism

Some theories of intergovernmental relations see the states as advocates for a balance of power that protects state interests in the federal system (Kincaid 1991; Nugent 2009). Members of Congress, for pragmatic or philosophical reasons, may also seek to protect the states from federal overreach and encourage diversity of policy through the states. In this way, the federal government can use state testimony in hearings for a few purposes. If the committee has the inclination to centralize power over a policy, they may highlight a successful state policy experiment that they intend to establish as a mandate for all states. If the committee has the desire to decentralize power over a policy, they may highlight state problems complying with federal mandates and the states' need for more flexibility in order to craft useful solutions to social problems. And, if the committee wants to encourage the state governments to craft policy solutions to a problem but does not want to preempt state power in this

area, then the committee may highlight a state's policy as an educational tool; a way to present an innovative solution to a problem that could be voluntarily adopted by other states. In this way the committee hearing would function as an information clearinghouse where the greater media and public attention to federal policymaking could be used to communicate state solutions that should be implemented by other states.

These possible relations between members of the state and federal governments reflect the tensions and competing values inherent in the American federal system. Steuerle et al. (1998) explain that if a "best" policy were known then the most efficient power allocation would be one in which all policy was crafted and implemented by one unit of government. However, this is both antithetical to American values and unlikely since it is rare that politicians can agree on the "best" program to achieve policy goals. As policy is crafted and implemented at various levels of government there needs to be a forum where the various units of government can meet to discuss the problems and solutions and discover ways to improve efficiency even as states and localities maintain their involvement in crafting and implementing policy. Congressional hearings are one place where the role of government and allocation of power can be debated. The tensions of federalism exist between the competing values of equality and diversity as well as between uniformity and experimentation. Where equality and uniformity of policy are favored, the central government will play a more important role in policy but when diversity and experimentation are favored policy will be devolved to the states and localities. One way of reconciling these tensions is by assigning roles in policymaking in which the

central government passes laws establishing a minimum level of uniformity and equality, thus codifying base expectations while allowing states and localities to experiment beyond that level (Steuerle et al. 1998).

Policy Learning and Representation

Any study seeking to explain what Congress wants to learn from the state governments needs to first acknowledge the diverse scholarly perspectives on this question. As the prior chapter discussed, scholars who have examined state participation in the policy process have primarily focused on one piece of enacted policy or a few policies in one issue area (Esterling 2009; C. S. Weissert and Scheller 2008; Mossberger 1999; Thompson and Burke 2007). Boeckelman (1992) did look for federal learning from the states on a range of issues but he developed a narrow definition of policy learning. He argued that states can serve as laboratories in two ways: by diffusing their policy innovations to other states or through federal adoption of state policy. Boeckelman posited that there are good reasons for the states to learn from one another when crafting policy since the states operate with limited informational resources. However, he did not believe that the federal government would have the same motivation to learn from state policy since Congress has more resources in the form of staff, expertise, and interest group involvement than the state legislatures. This argument ignores several important features of the national legislative branch. Congressional workload is very high so information shortcuts are efficient ways to help members of Congress make policy decisions. Members of Congress are also risk-averse and do not want to adopt policy that might have

negative effects. Finally, there is an electoral connection to the states that incentivizes relationships between the state's congressional delegation and the state government.

Even given the erosion of the institutional features that linked the congressional delegation to the state government, such as the selection of senators by the state legislatures and the role of the state party in candidate selection, there are still reasons to believe that a state's policy experiences are informative to their congressional delegation. If the state government is responding to policy priorities of the constituents then it is beneficial for members of the state delegation to pursue those policy objectives, or at least call attention to them. By learning from the policy experiments in the states the members of Congress are meeting two goals: they are reducing their workload by learning from the experiences of a government that has already invested the start-up costs of adopting and evaluating a policy in its own jurisdiction and they are responding to policy priorities of their constituents. Erikson, Wright, and McIver (1994) argue that state governments are quite attentive to the policies preferred by the majority of the public in the state. Thus, state policy development can provide a heuristic for members of Congress to observe the priorities of their constituents and learn from the policy experiences in their states.

Furthermore, members of Congress are risk averse so they value learning about policy experiences in other jurisdictions in order to understand the potential benefits and unintended consequences prior to enacting legislation (Leyden 1995; Burstein and Hirsh 2007). Through this lens policy learning from the "laboratories of democracy" would support the political and policy information needs of the members

which would help them to evaluate the outcomes of policy and the political implications of pursuing it. This behavior would be consistent with the theory of dual congresses where members must balance their responsibility to make national policy with the imperative that they represent district or state constituencies (Herrnson 2007; Davidson, Oleszek, and Lee 2011). This conception of policy learning would not necessarily highlight the work of the most innovative state governments. If members are primarily motivated by political and representational goals then they will seek out testimony from their own states regardless of the state's level of policy innovation. They may hope to learn from state policy experiences, but will not get the full benefit of this learning opportunity if they fail to bring in state officials with the most expertise.

This chapter will consider the interaction of state officials and members of Congress in committee hearings to determine what members want to learn from the states and the extent to which other goals of the members are supported by their interaction. In addition to the goal of crafting good policy, members of Congress can be expected to pursue goals related to reelection and political influence through their participation in congressional committees (Fenno 1973; Smith and Deering 1983; Deering and Smith 1997).

Method

This chapter uses the transcripts of congressional committee hearings in which state government witnesses testified in order to evaluate several questions, primarily, what do members of Congress want to learn from state officials? Does their

communication represent an attempt to learn from the policy experiences in the state government? This information is gleaned from the opening statements made by members of the committee, especially those of the chair and ranking minority member, which explain the purpose of the hearing and the reason for inviting certain witnesses. It also comes from the questions that members ask of the hearing witnesses after they have delivered their prepared testimony. The second set of questions I ask concern the content of the state official's testimony. What message are they delivering to the committee? Does it fit within the accepted paradigm of more money and more policy flexibility for the states? If they are taking a position on policy then what type of evidence do they offer to support their position? How does it compare to the content of other witnesses, especially members of Congress who testify in the hearing? Do the state witnesses provide additional information about policy experiences in their jurisdiction that members of Congress do not?

In order to answer these questions I engage in close reading of congressional hearing transcripts. Between 1993 and 2004, 4,692 witnesses from the states and public official associations testified before congressional committees. It would be impossible to read and manually code the content of each of these hearings in a reasonable amount of time. This is especially true since the puzzle of what the members of Congress seek to learn from the states and what information the state witnesses provide the committee cannot be gleaned from a simple reading of the witnesses' prepared statements. These questions require examination of the statements of committee members, especially the introductory statement by the chair, witnesses' statements, and the interaction of all participants during questioning.

Esterling (2009) found that the questions asked of witnesses in committee hearings provided important information about the way members of Congress perceived witnesses and whether they were interested in learning substantive, falsifiable information that could inform legislative decisions.

To draw conclusions about the relationships between members of a state's congressional delegation and the state's government witnesses I initially selected a sample of hearings with witnesses from three states: Maryland, Tennessee, and Oregon. This was to ensure that there would be variation in the geographic interests of the states and the partisan make-up of the state government and state congressional delegation. These states also represent variation in their rate of participation in congressional hearings. One-hundred and fifty-three government witnesses testified from the state of Maryland, 143 from the state of Oregon, and 38 from Tennessee. For comparison, the state with the highest number of witnesses during this time period was New York with 272 and the state with the fewest witnesses was Arkansas with 24. While the sample of hearings was drawn based on the presence of a witness from one of these states, many of the hearings featured witnesses from other state governments.

Additionally, as features of a hearing raised new questions I selected additional cases for consideration. For instance, in 2002 the Subcommittee on Public Lands and Water Management in the Senate Committee on Energy and Natural Resources held a field hearing in Redmond, Oregon. The only member of the committee present was Senator Ron Wyden of Oregon and the content of the hearing seemed to be an extension of Senator Wyden's constituent service. In order to

understand if all field hearings were used for this reason I selected several more cases in Maryland, Tennessee, New Mexico, Colorado, California, and Florida that provided varied perspectives on the purpose of field hearings. The appendix provides a full list of the hearings used in this analysis and the state government officials testifying in the proceedings.

State Testimony and Policy Learning

Analysis of the hearing transcripts demonstrates five primary conclusions about the role of state government officials in congressional hearings and their implications for federal policy. Each of these are explained here and then illustrated through discussion of specific cases.

Policy is complex. The dominant image of policymaking in Washington is of two opposing camps sparring over well-known policy divisions. This is not the image that one sees in congressional hearings featuring the testimony of state witnesses. Few hearings demonstrated partisan division among the members and even fewer highlighted the partisanship of state government witnesses. In several hearings a partisan issue, such as whether abstinence-only education is effective at reducing teen pregnancy, was raised briefly and then very clearly avoided by all participants in the hearing. The focus of these hearings was on policy detail: effective strategies for program implementation, ways of measuring progress toward policy goals, suggestions for program design and management, and examples of cooperation between governments and agencies. The amount of cooperation and coordination necessary to adopt, implement, and evaluate policy was on display in every hearing.

Even when members of the committee and non-governmental witnesses exhibited partisan conflict the witnesses from the state governments rarely did.

Members of Congress pay attention to policy experts. Members on the committees wanted to hear about policy examples in the states, both to understand what was politically possible and what the actual outcomes of public policy were. Salisbury's (1984) theory that institutional interests have greater legitimacy than other types of interest groups in legislative lobbying was born out in these cases. State officials and the directors of federal agencies were treated very similarly when they testified in committee hearings. Local officials and non-governmental organizations involved in the implementation of policy were also questioned as experts. This was the case whether the committee was holding an oversight hearing to evaluate policy or holding a legislative hearing to craft new policy (though these distinctions were rarely meaningful, as I discuss later). For the most part, elected officials from the states were better able to speak about the political feasibility of policy while officials from state agencies were better able to discuss the details of implementation. Members of Congress asked more questions about policy implementation and management than they did about constituent reactions to state policy or the political environment in the state. The political feasibility of policy was implicit in many state witness statements.

Members simultaneously engage in policymaking and representation. The selection of witnesses combined the goals of learning from innovative state policy and featuring states connected to committee members. Often a witness fulfilled both purposes. Even Tennessee, which is a low-innovation state on most traditional

measures, had witnesses testifying about novel state policies. Members of Congress may hope to feature witnesses from their states for purposes of representation but they also have incentives to choose members of the state government who are experts in policy. There were few instances where a state witness gave testimony that was purely emotional or partisan without demonstrating a substantive grasp of the policy under discussion. These witnesses also provided the committee with information and examples that would be valuable to the policy debate in Congress.

Hearings can play a symbolic role. This may be one of the dominant public perceptions of congressional hearings because the hearings that the public is most likely to learn about are those that are staged for maximum media exposure. None of the hearings featuring state witnesses seemed primarily geared to an audience beyond the hearing room but some committee chairs did express the goals of using the hearing to reach an outside audience such as the White House, other members of Congress, specific policy stakeholders, and the general public. In some hearings a member of the committee said that the hearing was staged for the purpose of moving a piece of legislation along by framing it in a certain way. Even in hearings where the members acknowledged symbolic goals there were often still examples of policy learning from the state government witnesses. In these cases the state witnesses were likely selected to help with the symbolic goal of the hearing but, unlike the citizen witnesses who were selected to “put a face on the policy”, the state government witnesses generally received thoughtful, detailed questions from members of the committee about their experience with policy.

Many sources discuss state policy experiments. Information about problems in the states that need policy solutions, as well as state policy experiments, came from many sources. Members of the committee give examples of their state's policies. Witnesses from federal agencies, local governments, industry, and advocacy organizations all referenced state policies. The difference between the testimony of a state government witness and a witness who wasn't a state official who referenced state policy was the level of detail. Members of the committee and members of Congress from other committees who testified in the hearing demonstrated some knowledge of their state's policies. But the detail about the political environment needed to enact policy and the structure and management necessary for its success in the state came primarily from officials in state government.

The States on the Hill

The following cases illustrate the range of policies on which the state government witnesses testified. The most prominent areas where state witnesses were featured included public lands and water, environment, banking and finance, health, crime and family, and government operations (which includes policies classified as intergovernmental relations and appropriations).

Fair Credit Reporting Reform

The issue of policy complexity and state-federal cooperation was evident in a hearing before the Subcommittee on Consumer Credit and Insurance in the House Banking, Finance, and Urban Affairs Committee. In October of 1993 the committee

met to consider H.R. 1015, the Fair Credit Reporting Reform Act which would regulate credit bureaus to protect consumers from errors on their credit reports caused by the credit bureau and violations of their privacy due to the sale of personal finance data. The goals of the legislation seemed universally agreeable to the members of the committee but a prior version of the bill had been defeated during the prior session due to conflict over the preemption language. Committee members expressed their determination to pass the law in the 103rd Congress but recognized that they needed to bring the state attorneys general on board in order to be successful. Unified opposition from the state governments was credited with killing the bill during the prior session even though the goals of the legislation were appealing to members of Congress and state officials.

The attorneys general from Maryland and Illinois testified in the hearing. Both Maryland and Illinois had members of their delegation on the subcommittee. Representative Gutierrez from Illinois arrived late to the hearing and was unable to introduce the Attorney General from his state, Roland Burris, prior to his testimony. Gutierrez arrived in time to question the witnesses and apologized to Mr. Burris saying that the introduction of a state witness was “a responsibility, and obviously a privilege and an honor”. Roland Burris represented his state and also the National Association of Attorneys General (NAAG) which was in opposition to this bill due to its preemption language. He chaired a committee of NAAG and served on a task force of that organization that examined the Fair Credit Reporting Reform Act. Every one of the state attorneys general signed a statement opposing any federal preemption in the legislation.

Burris justified the opposition to preemption by saying that the states wanted to retain the power to regulate credit reporting beyond the regulations stipulated by the federal law. He referenced the fact that 20 states had enacted their own fair credit laws and that the states had opportunity to learn from one another and demonstrate to Congress the protections that are needed. His state of Illinois did not have its own fair credit law. In response to questions from the committee he said that in the past he had introduced a bill in the Illinois legislature that was almost identical to the federal law, but it did not pass. He supported the goals of the federal legislation and wanted the federal law to pass so that the citizens of Illinois would have a basic level of protection. However if the federal law retained language preempting the state laws then he would not support it. He hoped that Illinois would pass their own fair credit law in the future and he wanted the state to have the flexibility to pass more stringent laws than the federal statute if that was the will of the state lawmakers.

In addition to the preemption language, he opposed the preeminence of the federal regulators and argued that the states and the Federal Trade Commission should share concurrent enforcement of the law. He wanted the state attorneys general to have the ability to enforce the federal law in state or federal court. He did not believe that the FTC would have the workload capacity to handle the cases that were currently being handled by the states. He cited several examples of antitrust and consumer protection laws that were enforced by both the states and federal governments as a model for the administration of this legislation.

Maryland Attorney General Joseph Curran Jr. was introduced to the committee by Representative Wynn from Maryland who proudly described his state

as a policy leader on the issue of credit reporting. Curran testified that Maryland had had a credit reporting law in effect for several years and he used his testimony to communicate how the Maryland law was structured, why it was considered very effective, and why a federal law would be necessary for states without a law like Maryland's. Like Burris, he wanted a federal law to establish a baseline of protection for the citizens but he opposed a policy that would prevent the states from innovating beyond the federal law.

He specifically called the states "laboratories" when referencing what had already been done on fair credit policy in the states. He defended a controversial proposal in the federal law that would allow all consumers to receive one free credit report per year in order to check that their credit history was accurate. This provision in the federal policy was receiving push-back from industry lobbyists but the provision had been quite successful in Maryland. He referenced a Maryland education campaign encouraging all state residents to check their credit report yearly. He asked that the states not be preempted by the federal law because the states were doing such valuable and creative work in developing their own credit laws.

There were other witnesses in the hearing who were consumers expressing what they wanted from federal law but the state government witnesses addressed the functional details of the federal law: how it would operate and which agencies would have the power to implement and regulate it. The testimony of the attorneys general was clearly valuable to committee members as evidenced by the number and details of questions asked of them compared to other witnesses. During questioning both attorneys general argued that federal law was needed to establish a "floor" to protect

the basic rights of consumers but that states were in the best position to defend those rights with the coordination of the FTC. The Maryland AG explained that the people of his state would feel most comfortable taking their complaints to state level officials rather than the federal officials. He also argued against preemption because in the future the state would need to retain the ability to strengthen the law since state lawmakers are closest to the people and know the needs of their constituents better than federal lawmakers.

Field Hearing on Juvenile Crime

In December of 1996 the Subcommittee on Youth Violence of the Senate Judiciary Committee held field hearings in Memphis and Nashville, Tennessee, to review problems of youth violence and delinquency in Tennessee and consider strategies to prevent juvenile crime. The chair of the subcommittee was Fred Thompson of Tennessee. He stated that his subcommittee was scheduled to reauthorize the Federal Juvenile Justice and Delinquency Prevention Act later that year and he didn't feel that the federal law had done anything to curb youth violence so he wanted to learn about local and state solutions to the problem before taking up the federal law. This was not the only field hearing held by the subcommittee. During 1996 he held a series of hearings around the country investigating state and local solutions to the issues of youth violence. These hearings took place in states that did not have members of their delegation on the subcommittee or even on the Judiciary Committee. Thompson also held multiple hearings on the same subject in D.C. which featured other state and local officials from around the country.

Senator Thompson began the hearing in Nashville with a statement of his goals for the hearings and the questions that he hoped the witnesses would answer.

What we essentially are here doing today, in addition to high-lighting the problem that we are all too familiar with, is trying to determine what works in solving the problem. Obviously, with the demographics being what they are, if we don't get ahead of the curve, if we can call it that at this stage, we're going to be in big trouble in a few years. So the question is, What is working? What's working on the local level? What's working on the State level? What's not working on the local and State level? What Federal programs are beneficial? (Senate Hearing "Images, Reality, and Solutions to the Violent Juvenile Crime Problem" p. 2)

The state witnesses in the hearing included Tennessee Governor Don Sundquist as well as two state commissioners from the Department of Youth Development and the Department of Health. One Tennessee state representative and two state senators also testified. It was clear that Senator Thompson already had a relationship with Governor Sundquist and their dialog in the hearing was a continuation of prior conversations. The governor highlighted some of Tennessee's innovative solutions to the problem of juvenile crime but he also used some well-worn phrases in thanking Senator Thompson for "looking outside of Washington" for ideas and asking him to "cut through the red tape and some of the mandates" to get the bureaucracy out of the way of Tennessee's innovations. Though the governor did not provide much detail in his testimony, the state programs that he introduced in his statement were discussed further by the commissioners of the state agencies.

The two commissioners testified about specific state-wide programs dealing with juvenile justice. They explained in detail how the programs were using federal money, what the program goals and outcomes were, and why they needed more flexibility in the federal rules to implement similar programs. The senator asked many questions about the programs' outcomes and the state's needs. The witness'

primary argument was that Tennessee was trying to work across agencies to solve the problem of juvenile crime but federal money was often tied to specific programs with very narrow goals. When the state would receive grant money from three different federal programs to address multiple aspects of the problem of juvenile crime they had to deal with mandates attached to each little pot of money. This made it difficult for state officials to use federal money in a comprehensive program. They made the argument that fewer mandates would allow comprehensive state programs to operate with increased efficiency. They also presented an argument for more federal support for crime *prevention* programs. They recently had federal funds rescinded because one of their programs had become too successful and no longer met the requirement that it be addressing a “crisis”. The senator questioned them about their results and whether their outcomes would justify more federal money. He focused on short-term goals of keeping successful programs funded and long-term goals of establishing efficient and supportive federal programs for the states.

Two of the three state legislators testified about the details of state legislation to create programs preventing juvenile crime. The senator was very interested in the state legislature’s oversight of state-wide programs. He complained that at the federal level they had little time to evaluate the success of their initiatives and he depended on the state to tell him what programs were working. The third state legislator did not give testimony about policy but instead expressed his strong views about the role of the federal government and the unconstitutionality of federal mandates on the states. While the senator briefly expressed some agreement with those sentiments he largely

ignored this witness during questioning and focused on the testimony of the members who spoke about policy details.

The attention paid to the state witnesses was similar to the senator's interaction with witnesses who discussed implementation of programs by the local governments as well as witnesses from non-profits that were also implementing programs dealing with juvenile crime. The state witnesses provided more detail about administrative structures and the local-state-federal-private cooperation that was necessary to make these programs work. Witnesses who delivered statements driven by emotion or ideology received less attention from the senator than those who spoke about policy.

States in the Competition over Water Rights

In July of 1994 the Subcommittee on Oversight and Investigations in the House Committee on Natural Resources held an oversight hearing to examine water use practices on Bureau of Reclamation projects. At issue was the practice of "water spreading" which was the use of water from Bureau of Reclamation projects in any area that wasn't authorized to receive it. Reclamation laws were enacted to govern projects funded by federal tax dollars to make water available for specific purposes. The hearing was to consider abuses of the law and consider whether federal policy changes might be necessary. There were many competing interests involved in the discussion and the members of the committee seemed intent on learning whether the current arrangement of state-tribal-community task forces working with the Bureau of Reclamation was satisfactory and fair to all involved or whether federal legislative

action was necessary in order to balance tribal water rights, farming water needs, and environmental goals.

Two members of the Oregon State congressional delegation served on the subcommittee and Bob Smith of Oregon was the ranking minority member. Over half of the subcommittee were members of Western states and the members from California, Utah, Idaho, and Oregon were most active in this hearing. The hearing involved testimony from federal agencies involved in the enforcement of irrigation water use, an official from Oregon's Department of Water Resources, Indian tribes, environmental groups, and groups representing the irrigation needs of particular regions in Oregon, Washington, and Idaho.

Much of the testimony, including the statements made by committee members and a member of Congress from Idaho who testified as a witness, focused on the interests of particular groups that were dependent on water for farming and fisheries. The members of Congress expressed the concerns they were hearing from their constituents and explained that the purpose of the hearing was to try to understand the whole picture. The witness from Oregon's state government was distinctive in that he explained the issue with a level of specificity that none of the committee members had expressed in their statements about the problem. He talked about the problem of water spreading from a management perspective and seemed to have a grasp of the complete picture as perceived by local interests, state governments, and federal program management. Oregon was considered a national leader in policy relating to instream water flow protection.

One reason that Oregon's testimony might have been valuable to the committee was that the state made an effort to balance economic and environmental claims by engaging in open communication with rural, agricultural stakeholders, Indian tribes, and local governments. Oregon had been quite active in task forces on Bureau of Reclamation projects. Members of the committee asked the witness from Oregon's Department of Water Resources about current conflicts over water law and the role that Oregon had played in resolving them. He advocated more cooperative relationships between local, state, and federal interests. He did not object to federal oversight and regulation but he did explain that Oregon state officials worked to be respectful of competing local interests as well as federal regulations and suggested that whatever action the federal government chose to take to adjudicate these conflicting interests, it would need to be respectful of Oregon's right to manage water distribution in its own jurisdiction.

Conflict between State and Federal Interests: Assisted Suicide

In July of 1998 the Subcommittee on the Constitution in the House Judiciary Committee held a hearing to consider H.R. 4006, the Lethal Drug Abuse Prevention Act of 1998. The bill's authors wrote the legislation in response to a decision by the U.S. Attorney General that physician assisted suicide did not fall under the jurisdiction of the Controlled Substances Act of 1970 and thus, the Drug Enforcement Administration had no power to regulate the use of drugs in this procedure. This legislation would make it possible for the Drug Enforcement Administration to revoke the licenses of physicians or pharmacists who knowingly used pain relief drugs to end a patient's life. Physician assisted suicide had recently become a point

of national debate in response to Oregon's legalization of this procedure through a state referendum. There were no members of Oregon's congressional delegation on the committee but four of the state's members of the House testified in the hearing and Governor Kitzhaber of Oregon was also a witness.

This hearing was quite polarized and displayed more hostility than most other hearings featuring state government witnesses. The chair of the subcommittee made an opening statement condemning physician assisted suicide and equated it to other practices that he found abhorrent, like partial birth abortion. The ranking Democrat on the committee responded in an opening statement arguing that Congress was responding inappropriately to a state law with which it disagreed by threatening to undo the will of the people of Oregon using national legislation.

Governor Kitzhaber's testimony in this hearing focused on the political context of the state legislation, emphasizing that the law had passed through a public referendum that was widely supported by the citizens of his state. He also discussed the proper role of the governments in a federal system and argued that historically the medical profession was regulated by the state governments and not at the federal level. He disapproved of the legislation's attempt to restrict physician assisted suicide through the indirect means of drug licensing instead of by restricting physician assisted suicide outright and having a national debate on that issue.

There were very few questions for the Governor or any other witnesses on the panel. The Governor was briefly asked about some of the perceived problems with Oregon's law and he explained that the initiative process in the state had produced a law with few implementing rules. In the next state legislative session they intended

to address this and improve the law. He felt that it would be inappropriate for the federal government to enact legislation preempting Oregon's law because of a perception that Oregon's law had not been crafted well. Though disagreeing with the legality of Oregon's policy, the committee chair agreed that opposition to the details of Oregon's law should not drive the debate in Congress. He felt that the general principles of the value of human life should guide the committee in establishing a federal policy.

Four members of the Oregon congressional delegation testified against the federal law using many of the same arguments as the Governor of Oregon. They argued especially that because the Oregon law was passed by the initiative process that this bill would be an example of Washington lawmakers overriding the will of the people. They accused Republican members of the committee of expanding "big government". A few of these members argued that the federal government should not interfere in the Oregon law and instead observe what happens and learn from Oregon's policy experiment.

It was not evident that members of the committee sought to learn anything specific about Oregon's policy from the testimony of the governor. Issues of federalism were raised by members of the committee but it was clear that the driving issue here was the policy itself and not issues of state policy discretion. The committee spent far more time with the next panel of witnesses which consisted of representatives of the American Medical Association (AMA) and the American Pharmaceutical Association (APA). These witnesses also discussed issues of federalism and their positions were that drug policy should be regulated on at the state

level. They discussed in detail the possibility of eliminating the federal review board that was proposed in this law and instead having these regulations administered by state medical boards. The AMA and APA witnesses approved of this state-level administration. The questions for this panel from the members of the committee were extensive and detailed and a few members of the committee thanked the witnesses and commented that they learned something new from the discussion.

While Oregon's policy would be considered innovative, in that it was a pioneer in this policy area, it would be unrealistic to expect this hearing to involve federal learning from the state's policy experiment. The hearing was held because the majority party members, particularly the chair, of the committee opposed the state law and wanted to craft federal law that would preempt it. The state official from Oregon was featured as an advocate for his state's policy preference, not as resource to educate members about a policy innovation. Unlike most of the state government witnesses in other hearings, there wasn't a substantive difference in the information provided by the governor representing the state and the members of Congress from Oregon who made statements in favor of their constituents' interests. This was likely because the issue was already polarized and controversial and the state of Oregon was seen as a party to that controversy instead of a policy expert. In this hearing the AMA and the APA representatives were the administrative policy experts providing detail to help the committee improve the policy.

Representation and Innovation in Housing Policy

In a hearing before the Subcommittee on VA, HUD, and Independent Agencies Appropriations in the Senate Appropriations Committee, three Maryland

delegates testified about the details of state policy dealing with the problem of predatory lending and real estate flipping. This field hearing took place in Baltimore, Maryland, in March of 2000 and it represented an example of the confluence of representation of constituent interests and featuring state innovation. Attention to the policy problem came about because Baltimore had the highest rate of FHA foreclosures per-capita in the country. The city's newspaper, the Baltimore Sun, and some prominent civic associations were investigating the problem and brought it to the attention of the public and the policymakers. Maryland state lawmakers were dealing with the problem at the state level and the state of Maryland had two Senators positioned on committees where they could do something about this policy at the federal level. Senator Barbara Mikulski of Maryland decided to investigate this issue in her subcommittee and also encouraged colleagues in other committees to pursue the topic. She was the ranking minority member of the VA, HUD, and Independent Agencies Appropriations Subcommittee. She was the only member of her committee who attended the hearing, though the chair sent members of his staff to listen to the testimony. Senator Paul Sarbanes from Maryland also attended the hearing, though he wasn't on the committee hosting the hearing. He was the ranking minority member on the Senate Committee on Banking, Housing, and Urban Affairs. Through this position he would also have an opportunity to influence federal policy on this topic.

The senators were representing the interests of their state government and constituents by holding a hearing on this subject but they were also using the hearing to get a better understanding of the problem and the solutions that had been tried at

the state and local level. They were interested in state policy solutions but also the programs being developed by community organizations. They asked many questions of the witnesses and set up future meetings to discuss the issue with members of the community and state lawmakers. Senator Mikulski commended the Maryland delegates who testified in the hearing for their work on the issue and said that the Maryland General Assembly was leading the nation in dealing with the problem of real estate flipping. While this may have been true, it is also likely that the state lawmakers and the state's senators were all motivated to pursue this issue because of the publicity of the problem and the demand of their constituents.

The testimony of the state delegates explained the legislative effort to require licensure for housing appraisers since poor appraisals were one feature of the problem. However, one delegate explained that the bill died in the prior session because appraisers were federally regulated so this was a policy that needed to be taken up at the federal level. Maryland had recently closed loopholes in their regulations for the housing industry to reduce real estate flipping. The witness encouraged more regulation at the federal level and also recommended that the federal government partner with the states to ensure that they were both supporting each other in financial regulation and enforcement. One of the state delegates educated the senators about new forms of abuse arising from the practice of predatory lenders creating non-profits to provide financial counseling to first-time homebuyers and naming their non-profits with the names of prominent community institutions, like art galleries and hospitals to make them sound legitimate and trustworthy. Senator Mikulski was evidently surprised by this testimony. She suggested a possible

solution using the Department of Housing and Urban Development to approve the non-profits that offered counseling to first-time homebuyers.

The state government witnesses focused on the political necessity of addressing this issue which was so important to the state residents. Since the witnesses were state delegates, their arguments about the necessity of addressing this issue came with the message that as state legislators they had the support of their constituents to pursue these policies. Their message was that the state of Maryland was crafting innovative policy but it was also politically popular policy. They also explained that they had done nearly everything they could do at the state level. Some of the discussion between these witnesses and the senators involved the limits on state laws and the need for coordination between federal and state lawmakers to close all of the loopholes that invited these practices. Senator Mikulski was open to this cooperation and asked what she could do to support the state's policy initiatives through federal legislation.

This hearing represented the symbolic and substantive goals of the members of Congress. Due to the prominence of the housing problem, especially in Baltimore, and the demand that government do something to address it, Senator Mikulski and Senator Sarbanes had symbolic motivations to hold a field hearing in their state and feature victims of fraudulent real estate practices alongside state lawmakers pursuing solutions. It was clear that not all of the information presented in the hearing was new to the Senators, though both expressed surprise at some testimony and asked detailed questions of the witnesses to learn more. The hearing was part of an ongoing dialog between the senators, state lawmakers, constituents, and community leaders.

Throughout the hearing Mikulski and Sarbanes would address antagonistic comments to the house-flippers, as if there was an audience of them watching the hearing on-line or on C-SPAN. They warned those engaging in this practice that their abuse of Maryland residents was at an end. The dominant message of this hearing was “something is being done” and by inviting the witnesses from the state government the message was that something was being done at the state and federal levels. The senators expressed their interest in learning about the policies being implemented in the state and they sought to coordinate state and federal policy, but the hearing also helped the senators communicate a public message about their attention to the problems of their constituents.

State Governments and the Debate over Federalism

The 104th Congress saw the Republicans return to power and an increased interest in the role that the states and the federal government should play in the American system of federalism. The Unfunded Mandates Reform Act (UMRA) passed in 1995 and welfare reform during 1996 devolved much of the social safety net to the states through the Personal Responsibility and Work Opportunity Act (PRWORA). Throughout the spring and summer of 1996 the Senate Committee on Governmental Affairs held hearings on S. 1629, The Tenth Amendment Enforcement Act, a bill with the stated goal of protecting the rights of the states and the people from abuse by the federal government. It specified a series of parliamentary requirements imposed on the legislative branch when considering any bill that had the intention of preempting state law. It also imposed restrictions on preemption through

federal regulatory rules and provided guidance to the courts on the interpretation of the Tenth Amendment.

The hearings on this bill reflected a partisan divide among the committee members. The majority saw this as a major priority while the minority expressed their support of the intention of the bill but disagreed that it should be a legislative priority unless it was proven that UMRA had failed to protect the states' interests. Witnesses on this legislation were all members of the Senate, officials from state governments, city mayors, or constitutional law professors.

Over the course of the hearings there were nine witnesses from state governments including Alabama, Alaska, Virginia, South Carolina, Colorado, Ohio, and three from Tennessee. One of the days of testimony was held as a field hearing in Nashville, Tennessee. The committee chair was Senator Stevens from Alaska and the ranking Democrat was Senator Glenn from Ohio. Senator Stevens interacted with the witness from Alaska but Senator Glenn, though present at the hearing and active in discussion with his fellow senators, had no interaction with the witness from Ohio. Tennessee and Colorado also had members of the state delegation on the committee, but only Senator Thompson from Tennessee interacted with the witnesses from his state government.

The bill was such a high priority within the majority party that the Majority Leader, Bob Dole, was the first witness to testify in favor of the bill. The testimony from members of the Senate and the statements by members of the committee were philosophical, discussing their views on the proper structure of federalism, and procedural, reflecting the concern that this bill was written in such a way that it was

either unenforceable or would give too much power to the Senate parliamentarian. Some of the state witnesses devoted their prepared testimony to statements of philosophy about state-federal relations but others gave examples where this bill might improve policy problems resulting from the current balance of power.

Virginia's attorney general cited the coercive federal mandates in the Clean Air Act and the regulatory burdens attached to grant funds for special education under the Individuals with Disabilities Education Act. The solicitor general from Colorado testified about the cost of implementing centralized emissions testing program for cars. He argued that in matters of environmental protection his state had developed ways to achieve national environmental goals at a lower cost than federal programs but they had not been able to implement these programs due to federal regulations.

The South Carolina attorney general was also a member of the National Association of Attorneys General, which had not yet taken a position on the legislation but was discussing the possibility of voting on their official position. At the request of the chair he agreed to have his committee staff from the NAAG meet with staff from the Senate committee to work on the language of the bill. Similar discussions took place between state legislators who were also in the leadership of the National Conference of State Legislatures (NCSL). The NCSL had already taken a position on the bill and the organization was anxious to work with the committee staff to provide support and suggestions for improving the legislation. The chair was open to bringing them into the process and at the end of first day of hearings he explained his commitment to holding hearings throughout the country with the intention of

gathering proof from the states that the bill would be beneficial. He asked the NCSL to suggest locations for the next hearing.

During the field hearing on this legislation in Tennessee the chair mentioned that the NCSL had recommended some of the Tennessee legislators as knowledgeable witnesses. The day of testimony in Nashville sought to fulfill the chair's goal of gathering examples from state government officials but it also produced a philosophical discussion about the purpose of federalism and a tactical discussion about bringing policy practice in line with their position on federalism. This conversation between Senator Thompson, Senator Stevens, and the state officials discussed how to reverse the trend of state dependence on the Federal government.

Senator Thompson (R-TN). When did we get into the business of Washington, D.C. deciding how much money Chattanooga ought to be spending to get a retired person across the street or down the street or across town to meet with some children? How do we reverse that process? Or are what we talking about now, we want the money but no strings? Do we still want the money? Or if we cut the money off, we can't do that precipitously. Of course, that leaves the State at greater disadvantage. Do you have in mind a process that we can work our way out of this situation? (Senate Hearing "S. 1629 The Tenth Amendment Enforcement Act of 1996" p. 81)

The witnesses, a state senator and the president of the Tennessee Advisory Council on Intergovernmental Relations, both expressed a willingness to give up some federal funding but also the need to do so slowly so that the state and local government would have time to improve their management, become more efficient, and decide how to increase their own budgets to cover the programs they cared about that would no longer have federal funding. These witnesses, as well as those on other panels, expressed their appreciation for cooperative programs where the state governments were given an opportunity to build relationships with the federal agencies.

In some instances the state officials acknowledged the importance of having the federal government involved in state policy. The Deputy Director of the Tennessee Division of Drinking Water Supply testified that he supported the Safe Drinking Water Act and believed that the federal government was right to be involved in this policy area but was concerned that the regulations were coming out of the EPA without regard for an implementation time-table that was palatable or possible in the states:

While States can benefit from centralized research and standard setting ability of the EPA, in the absence of a crisis or inaction by local government, is it wise for Congress or the EPA to attempt to micro-manage issues it assigns to States to handle, or for Congress to place statutory burdens on the EPA without recognizing the Courts can use the Congressional Acts to enforce their own environmental agenda?

I think we need some uniform standards nationally to prevent States from competing for probably not the best issues, but allow the States then to implement, have the flexibility to meet or achieve those standards, is what I would look for. (Senate Hearing "S. 1629 The Tenth Amendment Enforcement Act of 1996" p. 91-95)

All of the state government witnesses who testified in these hearings supported the legislation in some way. Some offered suggestions for how to modify it but most spent their testimony explaining their perspective on federalism from their position in a state government. They provided examples of policy problems and inefficiencies resulting from federal preemption that this bill might alleviate. Members of the committee questioned the state witnesses in order to establish why the bill was important, emphasizing the values and limits of federalism, but also to learn about concrete examples of how the bill might address problems of governing in the states.

State Policy Examples and the Violence Against Women Act

In 1994 the Violence Against Women Act became a part of the omnibus crime bill but provisions of the package, especially the policy of mandatory arrest in domestic abuse cases, were very controversial. The bill had been delayed from passage and the chair of the Subcommittee on Crime and Criminal Justice in the House Committee on the Judiciary, Chuck Schumer, wanted to draw attention to its importance and try to move the crime bill along. The hearing featured testimony by two state government witnesses, a Maryland state delegate and an official from the New York State Office for the Prevention of Domestic Violence. The state official from New York was introduced by Representative Schumer from New York but there was no member of the Maryland delegation on the committee.

Mr. Schumer explained that there were three reasons for the hearing: the first was to publicize the issue of domestic violence and put a personal face on the problem. The next was to discuss the potential policy solution called mandatory arrest, which was part of the Violence Against Women Act but was very controversial and at risk of being removed from the conference report. The third was to highlight the Violence Against Women Act which had passed the House and Senate and was rolled into the omnibus crime bill that was still pending passage. Mr. Schumer was an original cosponsor of the bill and wanted to prevent it from being watered down in the conference report. He also wanted to influence the White House to take a stand on the crime bill. Many members of the committee, including Senator Biden who testified in the hearing on behalf of the Senate version of the bill, were critical of the administration's failure to take the lead on this issue and expressed the hope that this

hearing would move the White House to action. The committee was interested in the views of state government officials because the chair explained that the Violence Against Women Act would involve coordination across state lines by requiring states to recognize the protective orders issued by other states, incentivize states to treat domestic violence as a serious crime, and create a model state program encouraging comprehensive reform, arrest, prosecution, and judicial policies.

Delegate DeJuliis of Maryland testified about her experience crafting, passing, and implementing the Maryland Domestic Violence Act of 1994. She saw the major policy advances in Maryland as being police training so that police would tell abused women about their rights as well as services and shelters available to them. Members of the subcommittee were interested in her political experience dealing with this issue as well as the details of policy implementation in Maryland. Delegate DeJuliis was asked to respond to a question regarding the political argument that elements of the Violence Against Women Act were not part of the government's job. She explained that in her view the government is an extension of the people and Maryland had the political will to address this issue because the people wanted action to reduce crime.

Some committee members were concerned about the ability to implement the law since women often return to their abusers because of financial dependence or because they have children together. The Maryland delegate explained that Maryland dealt with this problem by compelling women to testify against their abusers under certain circumstances and the state required abusers to be jailed but still allowed to work so they could support their family without being allowed to hurt their family. Other congressmen in the hearing referenced their states' domestic abuse policies and

their perception of the improvements that needed to be made to their states' laws, especially funding for domestic abuse shelters. Several members of the committee asked detailed questions of the witness from the Maryland legislature to understand the strengths of Maryland's law. One member asked the Maryland official for advice on what his state of Michigan could do to improve their state domestic abuse laws. The witness panel included members of non-profits as well as victims of domestic abuse but the witnesses that received the most questions from committee members were the state officials who discussed domestic violence laws in Maryland and New York.

This first goal of this hearing was political. The chair and some of the committee members felt that the hearing would have persuasive power to move the bill forward. Several witnesses, including the Maryland delegate and members of the committee, also mentioned the goal of public awareness of domestic violence issues. They felt that domestic abuse was like the issue of drunk driving which was addressed through public policy but also through public awareness. They agreed that the issue of domestic violence needed to be brought into the open and discussed so there would be fewer stigmas for victims and more support from government and law enforcement.

Both state officials who were invited to testify were themselves victims of domestic abuse. Though their prepared testimony included emotional discussions of their personal experiences and their professional policy experiences, the questions from members of the committee focused only on policy details in their states. As domestic abuse survivors, the two state officials could help the chair with his goal of

putting a face on the policy problem but what seemed more valuable to the members of the committee was their state policy experience. The intention of the hearing was not to learn about the innovative policies in Maryland and New York but the witnesses from these states did discuss their policies as well as their preference for a federal policy that would protect domestic violence victims across the country.

Conclusion

In asking what members of Congress want to learn from state government officials I found evidence that adds nuance to two theories of intergovernmental relations: the theory of states as interest groups and the theory of states as policy laboratories. As interest groups, the image of state governments seeking more federal money and more policy flexibility isn't inaccurate but it dramatically simplifies the information sought by members of Congress and communicated by state witnesses. As policy laboratories, there is further evidence that members of Congress are not seeking out the experiences of the most innovative state governments. However, this does not mean that members of Congress don't want to learn from the policy experiences of the state witnesses. Prior studies claiming that the federal government fails to learn from the laboratories of democracy may need to reconsider their definition of "learning". Scholars looking at vertical policy learning have often limited their sample of hearings to legislative hearings in authorizing committees, but policy learning takes place during the oversight process and state policy experiments are discussed during the appropriations process. The policy process is ongoing and feedback loops bring information from oversight and reauthorization hearings into

decisions about future legislation. Members of Congress do not limit their learning to the policy adoption stage of the policy process but some scholars assume that this is the only time for measuring intergovernmental learning.

The academic literature on lobbying and policy advocacy tends to focus on the bills that pass and the groups that influence the precise language in those bills.

However, most of the hearings in this sample reflected an earlier stage in the policy process where the primary purpose was to determine what policy was working and what needed to change. The committee was asking what the priorities of federal legislation should be. What role should the federal government take in trying to solve certain problems? What policies have been tried and what seems to be working in states and communities? Does there need to be federal legislation for this problem, federal funding for state programs, or both? Or are there some states implementing successful programs that just need a megaphone for their policy successes to gain attention and spread to other states? Some of these questions would be best answered by featuring witnesses from states with innovative policy but many of the hearing's goals had political motives that were not dependent on learning from innovative states. This is not to say that policy learning didn't take place when state witnesses testified, but there was limited evidence that members of Congress were trying to evaluate successful policies in the states and replicate the success at the federal level. The state witnesses in congressional hearings reflected the values, interests, and debates taking place in communities and statehouses around the country. To use a common metaphor for policymaking, the state government witness appeared before

Congress to tell their stories and contribute their policy experiences to the “garbage can” of policy solutions that inform the agenda-setting process (Kingdon 2003).

Many of the policy experiences that were discussed by state witnesses were used to justify their policy preferences. Some of these preferences fit within the traditional paradigm of intergovernmental relations where states sought more federal funds and fewer federal mandates but states also pursued other policy goals. In the hearing on domestic violence the state witnesses wanted federal law that expanded protections and services for domestic abuse victims. In the hearing on fair credit laws the state witnesses supported federal policy that provided protection for consumers and expressed their belief that the federal government had an important role to play in this policy area, as long as federal policy didn't preempt state laws. In the hearing on water rights, as well as several other hearings on public land, forest, and water management, the state witnesses sought more cooperative administrative relationships between state and federal agencies. Requests for increasing federal funding for state programs did come up in the hearing but this was far from the only goal of state witnesses. In some hearings the need for federal money was never discussed and some state witnesses were willing to forgo federal dollars in order to retain the ability to administer a program without adhering to mandates attached to financial strings.

The desire to build or strengthen cooperative relationships between state and federal agencies was a dominant theme in the testimony of state officials. The administration of successful programs takes a tremendous level of coordination across federal, state, and local governments. Many state government witnesses came to Congress to ask for more cooperation from agencies that were ignoring the state as

one of the stakeholders in the process of developing rules for policy implementation. The state governments wanted to be recognized as experts on the management of policy in their region and expected agencies to treat them as partners in program administration. This was the subject of negative and positive testimony from state witnesses. When an agency was doing a good job of coordinating with state governments then the witnesses would give them credit and acknowledge their cooperative relationships. But when those cooperative relationships did not exist or needed improvement the witnesses would use the hearing as a forum to address the problem with members of Congress and usually the representatives of federal agencies who were also testifying in the hearing.

Observations from congressional hearings that featured testimony by state officials led to five generalizations about state government advocacy. The first is that policy is complex and members of Congress have much to learn about the cooperative intergovernmental relationships and management that is necessary to achieve federal policy goals. The second is that the members of Congress view the state officials as policy experts and they want to learn about the political feasibility and potential outcomes of policy. The third is that members of Congress can represent their constituents while learning about state policy experiences. Due to the potential for the policy priorities of the state to serve as a heuristic for the priorities of the citizens, members of Congress may find great value in learning from state officials in order to better represent their constituents. The fourth is that even if hearings are serving a symbolic role by bringing media attention to an issue or providing a soapbox for a member or party to take a stand, it doesn't preclude the

members from learning about state policy. Members of Congress have limited time and an enormous workload so their time spent in committee hearings can be maximized to meet multiple goals. Finally, many sources were able to speak about state policy experiments. Examples of state innovations were given by members of Congress, local officials, activists, and industry representatives. The greatest detail about state legislation, policy implementation, reforms, and intergovernmental cooperation was provided by state government witnesses.

The tensions of the federal system are on display in congressional hearings featuring state witnesses. Members of Congress face decisions between centralization and devolution. They debate the competing values of equality and diversity in policy across the nation. They see the benefits of uniformity but also the need for policy experimentation. Some of these values are defined by ideology and political party but often they vary with the policy under discussion. The state government witnesses provided detail and evidence to inform these discussions. Their discussion of cooperative policy development and implementation involving state, local, federal, and private interests supported the description of the states as the “linchpin of the federal system”(Grady 1987).

This does not mean that state expertise is utilized fully in federal policymaking. Prior studies have indicated that intergovernmental learning was limited and the ideal of using the federal structure to try out policy experiments in the states was unfulfilled. I do not refute these findings but I do recommend that scholars consider closely what they mean by “policy learning”. In a political system where geographic representation is the dominant institutional structure, it would be

unrealistic to expect members of Congress to consistently seek out the testimony of the most innovative state governments. Their electoral incentive is to represent their own constituents. This will understandably constrain the extent to which they seek out examples of innovative policy in other jurisdictions. They are interested in learning about state policy experiences but they are unlikely to engage in an exhaustive search for the most novel policy solutions in all of the states. Some committee chairs did demonstrate an interest in hearing from many state government officials during the process of crafting federal policy but they were often interested in the officials' policy preferences, not in replicating the states' policy experiments. This chapter provides evidence that the role played by state governments in congressional policymaking is that of policy advocates, much like other interest groups and stakeholders, but not necessarily as innovative policy laboratories.

Chapter 5: Conclusions

“As you might perceive from the title [Tennessee Advisory Council on Intergovernmental Relations], we are concerned about basically policy issues dealing with intergovernmental issues. And one of the exercises that we at the staff go through periodically is trying to determine if there are any issues in the public sector that are not intergovernmental. We do not often identify any. So we have perspectives of Federal, State, and local on almost every issue.”

(Testimony before the Senate Committee on Governmental Affairs, Dr. Harry Green, President of the Tennessee Advisory Council on Intergovernmental Relations p. 76)

The above quotation reminds us that policymaking in the American federal system is complex and the levels of government are interdependent when crafting, implementing, and evaluating public policy. This study has explored the roles that state government officials play in congressional policymaking. One of these roles is that the states can act as interest groups, individually or in coalitions through public official associations. This behavior is intended to express the policy preferences of state governments and safeguard the power of the states in the system of federalism. The other is that states may act as policy laboratories, educating members of Congress about their policy innovations. This information is intended to help members of congress make informed decisions about federal policy based on the experiences in the state governments. The relationships between the states and the federal government play out in congressional committee hearings when state officials are invited to testify before members of Congress. The topics of these hearings and the interactions between witnesses and members provide a resource for understanding how intergovernmental relations in the American system influences public policy.

Public Official Associations

Prior research on the intergovernmental lobby has focused on the behavior and policy positions of the public official associations representing state governments. These organizations are important actors in intergovernmental relations but the scholarly tradition of studying these interest groups, without considering the behavior of individual state governments, distorts our perception of intergovernmental influence in federal policymaking. There are times when the states will be in agreement on desired policy outcomes and in these cases the public official associations can speak for the states with a legitimate, unified voice. Often the states are agreed on issues of federalism in public policy. The associations were active in hearings categorized as dealing with government operations and intergovernmental relations. The associations expressed the position that the federal government should avoid preempting state laws or imposing unfunded mandates on the state governments. They represented the states as important stakeholders in federal policy and advocated for strong cooperative relationships between state and federal agencies. However, the individual state governments were motivated by regional interests and particularistic policy positions to participate as individual entities in the federal policy process apart from the associations.

Some of the motivations for individual state participation were related to differences in policy goals, driven by partisanship or geography. Sometimes agreements on the principles of federalism were not enough to prevent policy dissent from individual states. In a case discussed in chapter 2, the National Conference of

State Legislatures testified in opposition to new air quality standards that were established by the Environmental Protection Agency. They argued that the standards would be costly for the states and would not provide enough flexibility to individual states with varying air conditions. A witness from New Hampshire disagreed with this position primarily because the Northeastern states felt that strict air quality standards on all of the states were necessary to prevent their states from suffering the effects of pollution drifting from other areas.

In addition to particularistic concerns that divided the interests of the states, the state governments were also likely to participate in federal policymaking because they could develop policy positions more quickly than the associations. As consensus-oriented organizations with a committee system for adopting policy positions, the associations were slow-moving organizations. They were capable of speaking for the states on policies where they had long been active and had established consensus among their members but they were unable to respond quickly to new policy debates. In 2003, when the George W. Bush administration announced a new proposal for Medicaid reform, the state governors were able to quickly craft responses while the National Governors Association was still planning to meet and vote on their position. In another example, a hearing on improving the enforcement of Tenth Amendment protections in congressional policymaking illustrated that even when associations agree on the principle of the policy they might still be unprepared to take a position on the policy. During this hearing the committee members asked South Carolina Attorney General Charles Condon if the National Association of Attorneys General would work with the committee to improve the legislation.

Condon expressed his hope that the association would do so but said that the organization had just begun to discuss the legislation and had not yet decided to vote on an official position.

State governments relate to their public official associations in a way that is quite similar to business interest groups that work together through trade associations (Lowery and Gray 1998) and they exhibit many of the same patterns in their behavior within the intergovernmental lobby. Scholars of federalism should be attentive to these behaviors when studying intergovernmental interests and avoid using the policy positions of public official associations as a representation of the unified interests of the states.

Innovation and Representation

There is quite a bit of variation in the advocacy activity of the individual state governments. Some states are frequently represented in congressional hearings by their government officials while others are rarely heard. Chapter 3 investigated two theories that explain some of this variation. One explanation is that state officials will appear more frequently before committees on which a member of their congressional delegation serves. The other is that the states with the greatest capacity to craft innovative public policy will most often testify in congressional hearings. The results suggest that that at least in some of the committees, primarily those in the House of Representatives, more innovative states are invited to testify more often than less innovative states. However, the stronger and more consistent finding supported the

link between the committee assignments of a state's congressional delegation and that state's frequency of testimony.

These results are consistent with prior studies that have found limited evidence that the federal government is learning from the laboratories of democracy. Studies of health policy have been especially critical of the failure to adopt innovations from the states (C. S. Weissert and Scheller 2008; Thompson and Burke 2007). Even so, it would be valuable for scholars to reconsider the variables that are used to measure state policy innovation. A recent attempt to move beyond measures of state *capacity* for policy innovation, such as legislative professionalism and urbanization, resulted in a new measure of *actual* policy innovation (Boehmke and Skinner 2012). The new measure follows in the footsteps of prior scholars measuring state innovation as the “adoption-proneness” of the state legislature (Savage 1978, 212). This measure captures the relative policy activity in each state but it is calculated by observing policy adoptions across many issue areas and does not indicate whether a state might have been a leader on one particular issue. The results from this chapter do not support the theory that members of Congress are consistently inviting officials from the most innovative state governments to testify in committee hearings. However, scholars should also reflect on what is really measured using the current constructs for state policy innovation. Further research is needed to develop policy-specific measures of state innovation.

Learning from the States?

The results of the models in chapter 3 called for further investigation of the relationship between members of Congress and the state witnesses testifying in hearings. If members of Congress are motivated to invite witnesses from their own state governments rather than seeking out witnesses from states with the most innovative public policies then is the testimony of these witnesses primarily political or does policy learning occur in these interactions? What purpose do state government witnesses serve in congressional hearings? Chapter 4 considers the text of congressional hearings in which testimony was heard from state government officials. The message of the testimony and the interaction between witnesses and the committee members support a conclusion that policy learning does occur, though the members of Congress are interested in political goals as well.

Some hearings demonstrated that policy innovation was an important factor in the invitation of state witnesses. The example that opened chapter 1, in which witnesses from eight states offered testimony about their implementation of child support enforcement programs, was an example of state innovations on display. Each of the eight state witnesses was distinguished for their development of a successful program meeting the federal legislative goals. The committee members indicated that they wanted to learn from the successful state policies in order to inform future federal policymaking. Other hearings seemed to be an extension of Congress member's constituent service, such as the hearing in which Senator Ron Wyden of Oregon heard the testimony of Oregon state and local officials in a field hearing in his home state. Other senators from the committee sent members of their staff to the

hearing but Wyden was the only member present and his interaction focused only on Oregon's experience balancing environmental goals and agricultural needs. He expressed a great deal of interest in learning from the witnesses but all of the witnesses in the hearing were government officials and constituents from his own state. Most hearings with state government witnesses represented a mix of policymaker's goals. They frequently featured interactions between state witnesses and members of the state's congressional delegation but they also involved thoughtful questions from committee members about the state's policy successes and the state witness' suggestions for federal policy.

In the complex policy environment of Washington D.C. the state government witnesses help members of Congress to meet multiple goals simultaneously. Interactions in the hearings indicated that members of Congress were seeking to advance their preferred policy outcomes, demonstrate public activity on issues of importance to their constituents, evaluate the success of federal programs being implemented by the states, learn about problems in the states and whether these problems need federal policy solutions, and learn about what state governments are doing to solve societal problems. When state government officials testified in a hearing it was nearly certain that one of the points of discussion would be the role that the state and federal governments should play on that issue.

Members of Congress inquired about different information from members of state governments than they did from the constituents of their states or districts who testified in the hearings. All witnesses could talk about problems that needed policy solutions, but the state government witnesses provided a level of detail about the

functional aspects of the policy solutions that few other witnesses provided. Two of the most common recurring themes of state witness testimony were related to the structures of federalism: the policy roles that should be played by federal, state, and local officials and the cooperative relationships that were needed between state and federal agencies for program implementation. States often gave examples of their policy innovations but these were frequently offered as evidence to support their desired design of federal legislation and less frequently as examples of innovations that the federal government should itself adopt.

Concluding Thoughts

If we begin with the premise that the testimony of state government officials should primarily educate federal lawmakers about state innovations to support the goal of crafting good federal policy then these results may prove disappointing. In this scenario we would expect that members of Congress would learn about policy experiments from the state governments with the resources and inclination to craft creative solutions to societal problems. This would allow members of Congress to consider the way that problems are perceived in the states, how solutions are crafted, and whether these solutions are effective. But members of Congress have other goals besides crafting good policy. They are also representatives of a geographic constituency tied to one state, or a part of one state. They have an electoral connection that incentivizes knowledge of the problems and needs of their own state more so than the other states in the federal system. Members of Congress may see the value in learning from experiences in the states but they are also likely to look at

the policy experiences in their own states before seeking out innovations from around the country.

These constraints on members of Congress reflect the common limitations of public policymaking in an environment where time and resources are at a premium. Members of Congress cannot consider every option that is possible when deciding which policy to adopt in order to solve a problem. They choose from the options that are already familiar to them and make incremental changes to policies that are already in place (Lindblom 1959; 1979). Lindblom calls this process “muddling through” and it is a realistic picture of policymaking in a system where policy options are constrained by politics and by the cognitive and resource limitations of lawmakers. A system that incentivizes attention to one state will inherently limit the range of state policy experiments that federal lawmakers consider. It is unrealistic to expect that any aspect of policymaking in a representative legislative body is conducted outside of the political environment. In this way, learning from the laboratories of democracy, just like all policy learning, is constrained by the dual pressures of representation and good governance. Members of Congress may want to learn about innovative state policy experiments but they also need to represent their own geographic constituency. We can expect that they will first look for policy examples from their home state.

Scholars of intergovernmental relations have established different definitions for what it means for the federal government to learn from state policy. Some research has surveyed federal lawmakers to see how many were aware of state experiments during federal consideration of similar issues (Mossberger 1999). Others

have looked at aggregate state legislative agendas to see if the policy priorities of the states were reflected in the federal policy agenda (Lowery, Gray, and Baumgartner 2011). And still others have looked for evidence that the federal government is replicating state policy when crafting federal law (C. S. Weissert and Scheller 2008; Boeckelman 1992). The basis of all of these studies is that the policy experiences of the states should be informative to federal lawmakers. But not all scholars have focused on learning about state policy innovations as the normative purpose of intergovernmental relations. Many believe that the interaction of state and federal officials is an important aspect of maintaining the balance of power in the federal system (Nugent 2009; Bednar 2009; T. Smith 2008).

If we accept that state government participation in federal lawmaking should provide an opportunity to educate federal officials about the policy needs in the states, the proper role of the various governments, and the cooperative relationships that are needed for successful policy implementation, then the results of this study are more optimistic. These chapters demonstrate support for the theory that state participation in congressional hearings is a safeguard of the balance of power in the system of federalism. The presence of state officials in a hearing virtually ensures that the values of federalism are discussed by witnesses and committee members. Sometimes this takes a philosophical turn, where the size and scope of federal authority is debated, and sometimes the conversation is more practical by considering the administrative details and relationships necessary at each level of government to meet the policy goals. In this way, the testimony of state officials reminded federal lawmakers that the state governments are important stakeholders in federal policy.

Their financial and administrative needs for the successful implementation of federal law should not be forgotten. Many non-governmental witnesses, and even the members of Congress on the committee, could provide examples of policy experiences in the states, but none spoke with the precision of the state officials themselves. Representatives of the public official associations discussed the general principles of federalism. They encouraged the central government to avoid unfunded mandates on the states or preemption of state laws, but the individual state governments provided persuasive examples from their policy experiences to justify federal attention to their interests.

This study does not attempt to measure the influence of the state governments on federal policy but it does indicate that the testimony of state officials in congressional hearings serves the purpose of safeguarding the balance of state-federal power. The tensions of the federal system, the struggle between the values of uniformity and experimentation and between equality and diversity, are represented when state officials testify on Capitol Hill. If we expect that congressional policymaking should be a deliberative process that considers the role and purpose of federal policy and the needs of the states, then the hearings with state government witnesses filled that role. Whether the state governments are sufficiently represented in federal policymaking is a question that warrants future study. This project has established that the individual states play a more prominent role in federal policymaking than the public official associations. It demonstrated that there is a relationship between the state witnesses invited to testify and their state congressional delegations. This relationship occurs at the expense of representing the most

innovative state policy in congressional hearings but it does not preclude federal lawmakers from learning about state policy experiences. These hearings represent a forum for state governments to discuss the important work they do to solve problems in their own jurisdictions and educate federal lawmakers about the role played by the states in the complex environment of policymaking in the federal system.

Appendix: Hearings Referenced

Date	Committee and Intergovernmental Witnesses	Hearing Title
July-93	Subcommittee on Environment and Natural Resources, House Committee on Merchant Marine and Fisheries Rick Perry, Commissioner Texas Department of Agriculture Larry McKinney, Director Texas Department of Park and Wildlife	Endangered Species Act Reauthorization: San Antonio
October-93 State Witness:	Subcommittee on Consumer Credit and Insurance, House Banking, Finance, and Urban Affairs Committee Roland Burris, Attorney General, Illinois Joseph Curran, Jr. Attorney General, Maryland	H.R. 1015; the Consumer Reporting Reform Act of 1993
June-94	Subcommittee on Crime and Criminal Justice, House Committee on the Judiciary Karla Digirolamo, Executive Director, New York State Office for the Prevention of Domestic Violence Connie DeJuliis, State Representative, Maryland	Domestic Violence: Not Just a Family Matter
July-94 State Witness:	Subcommittee on Oversight and Investigations, House Committee on Natural Resources Reed Marbut, Administrator, Oregon Department of Water Resources	Water Use Practices on Bureau of Reclamation Projects
August-94	Subcommittee on Financial Institutions Supervision, Regulation, and Deposit Insurance and the Subcommittee on Consumer Credit and Insurance, House Committee on Banking, Finance, and Urban Affairs Elizabeth Randall, Commissioner New Jersey Department of Banking Dale Brown, Project Director, Maryland Department of Human Resources	Ways of Increasing Access of Low-and Moderate-Income Americans to Financial Services
February-95	House Committee on the Judiciary William Waren, Federal Affairs Counsel, National Conference of State Legislatures	Product Liability and Legal Reform
May-95	Subcommittee on Disability Policy, Senate Committee on Labor and Human Resources Joseph Fisher, Executive Director of Special Education, Tennessee Department of Education	Reauthorization Hearings of the IDEA
February-96	Subcommittee on Youth Violence, Senate Judiciary Committee Don Sundquist, Governor of Tennessee George Hattaway, Commissioner Tennessee Department of Health Beth Harwell, State Representative Tennessee Douglas Henry, State Senator Tennessee Page Walley, State Senator Tennessee	Youth Violence: Developing Local and State Solutions
March-96	Senate Committee on Governmental Affairs Michael Box, State Representative Alabama Eldon Mulder, Alaska State Legislature James Gilmore III, Attorney General Virginia	S. 1629: The Tenth Amendment Enforcement Act of 1996

	<p>Charles Condon, Attorney General South Carolina Timothy Tymkovich, Solicitor General Colorado Patrick Sweeney, State Representative Ohio Douglas Henry, State Senator Tennessee Harry Green, President of Tennessee Advisory Council of Intergovernmental Relations Robert Foster Jr., Deputy Director, Tennessee Department of Environment and Conservation</p>	
April-96	<p>Subcommittee on Human Resources and Intergovernmental Relations, House Committee on Government Reform and Oversight Kathleen Townsend, Lieutenant Governor Maryland</p>	Preventing Teen Pregnancy: Coordinating Community Efforts
July-96	<p>Subcommittee on Youth Violence, Senate Judiciary Committee Heather Wilson, Secretary New Mexico Department of Children, Youth, and Families</p>	Images, Reality, and Solutions to the Violent Juvenile Crime Problem
April-97	<p>Subcommittee on Human Resources, House Committee on Government Reform and Oversight Carolyn Melory, Director Medicaid Fraud Control Unit, Maryland Steven Wiggs, Director Medicaid Fraud Control Unit, Arizona Stephen Spahr, Deputy Attorney General, New York State Richard Allen, Medicaid Director, Colorado Department of Human Services</p>	Health Care Fraud in Nursing Homes
May-97	<p>Subcommittee on Health and Environment, House Committee on Commerce Craig Peterson, Majority Leader Utah Senate Tom Alley, Michigan House of Representatives Richard Russman, New Hampshire State Senate Richard Brodsky, New York State Representative Alan Kujovich, Pennsylvania State Senator</p>	Review of EPA's Proposed Ozone and Particulate Matter NAAQS Revisions, Part 2
November-97	<p>Subcommittee on National Parks, Historic Preservation, and Recreation, Senate Committee on Energy and Natural Resources James Geringer, Governor Wyoming Donald Murphy, Director of Parks and Recreation, California Resources Agency</p>	National Parks Restoration Plan
July-98	<p>Subcommittee on the Constitution, House Committee on the Judiciary John Kitzhaer, Governor Oregon</p>	Lethal Drug Abuse Prevention Act of 1998
February-99	<p>Subcommittee on Transportation Appropriations, House Committee on Appropriations Harry Eubanks, Motor Carrier Safety Enforcement, Oregon Department of Transportation</p>	Department of Transportation and Related Agencies Appropriations for 2000, Part 4
March-99	<p>Senate Committee on Indian Affairs Raymond Scheppach, Executive Director, National Governors Association</p>	Gaming Regulatory Improvement Act of 1999, part 1

September-99	<p>Subcommittee on Human Resources, House Committee on Ways and Means</p> <p>Laura Kadwell, Director Minnesota Department of Human Services</p> <p>Nick Young, Director Virginia Department of Social Services</p> <p>Marilyn Smith, Associate Deputy Commissioner, Massachusetts Department of Revenue</p> <p>Barbara Saunders, Assistant Deputy Director Ohio Department of Human Services</p> <p>Teresa Kaiser, Executive Director Maryland Department of Human Resources</p> <p>Alisha Griffin, Assistant Director New Jersey Department of Human Services</p> <p>Robert Leuba, Chief Court Administrator Connecticut Supreme Court</p> <p>Robert Doar, Deputy Commissioner New York Department of Family Assistance</p>	Oversight of the Child Support Enforcement Program
March-00	<p>Subcommittee on VA, HUD, and Independent Agencies Appropriations, Senate Appropriations</p> <p>Carolyn Krysiak, State Representative Maryland</p> <p>Maggie Mintosh, State Representative, Maryland</p> <p>Samuel Rosenberg, State Representative, Maryland</p>	Form of Real Estate Fraud Known As Flipping, Special Hearing
March-00	<p>Subcommittee on Oversight and Investigations, House Committee on Education and the Workforce</p> <p>Tom Gallagher, Commissioner of Education Florida</p>	Putting Performance First: Academic Accountability and School Choice in Florida
July-01	<p>House Committee on Resources</p> <p>Jack Caldwell, Secretary Louisiana Department of Natural Resources</p> <p>Philip McNelly, Director North Carolina Division of Parks and Recreation</p> <p>David Waller, Georgia Wildlife Resources Division</p> <p>Edward Sanderson, Director Rhode Island Historic Preservation and Heritage Commission</p>	H.R. 701, the Conservation and Reinvestment Act; and H.R. 1592, the Constitutional Land Acquisition Act
May-02	<p>Subcommittee on Public Lands and Forests, Senate Committee on Energy and Natural Resources</p> <p>Ted Ferrioli, State Senator Oregon</p> <p>Tom Brumm, Manager of Intergovernmental Relations, Oregon Department of Economic and Community Development</p>	Steen Mountain Act
May-02	<p>Subcommittee on National Parks, Recreation, and Public Lands, House Committee on Resources</p> <p>Todd Davidson, Executive Director Oregon Tourism Commission</p>	H.R. 3786, H.R. 3942 and H.R. 4622
March-03	<p>Subcommittee on Health, House Committee on Energy and Commerce</p> <p>Jeb Bush, Governor, Florida</p> <p>John Rowland, Governor, Connecticut</p> <p>Bill Richardson, Governor, New Mexico</p>	Medicaid Today: The States' Perspective

References

- Arnold, David, and Jeremy F. Plant. 1994. *Public Official Associations and State and Local Government* : a Bridge Across One Hundred Years Fairfax Va.: George Mason University Press.
- Baumgartner, Frank. 2005. "The Growth and Diversity of U.S. Associations 1956-2004: Analyzing Trends Using the Encyclopedia of Associations". Working Paper.
- Baumgartner, Frank, Jeffrey R. Berry, Marie Hojnacki, David C. Kimball, and Beth L. Leech. 2009. *Lobbying and Policy Change* : Who Wins, Who Loses, and Why. Chicago ; London: University of Chicago Press.
- Baumgartner, Frank R., and Beth L. Leech. 2001. "Interest Niches and Policy Bandwagons: Patterns of Interest Group Involvement in National Politics." *The Journal of Politics* 63 (04): 1191–1213. doi:10.1111/0022-3816.00106.
- Bednar, Jenna. 2009. *The Robust Federation: Principles of Design*. New York: Cambridge University Press.
- Beer, Samuel. 1978. "Federalism, Nationalism, and Democracy in America." *The American Political Science Review* 72 (1): 9.
- Berkman, Michael B. 1993. "Former State Legislators in the U. S. House of Representatives: Institutional and Policy Mastery." *Legislative Studies Quarterly* 18 (1) (February 1): 77–104. doi:10.2307/440027.
- . 1994. *The State Roots of National Politics: Congress and the Tax Agenda, 1978–1986*. University of Pittsburgh Pre.
- Berry, Jeffrey, and Clyde Wilcox. 2009. *The Interest Group Society*. 5th ed. New York: Pearson/Longman.
- Binder, Sarah A. 1997. *Minority Rights Majority Rule: Partisanship and the Development of Congress*. New York: Cambridge University Press.
- Boeckelman, Keith. 1992. "The Influence Of States On Federal Policy Adoptions." *Policy Studies Journal* 20 (3): 365–375. doi:10.1111/j.1541-0072.1992.tb00164.x.
- Boehmke, Frederick J., and Paul Skinner. 2012. "State Policy Innovativeness Revisited." *State Politics & Policy Quarterly* (May 30). doi:10.1177/1532440012438890. <http://spa.sagepub.com/content/early/2012/05/24/1532440012438890>.

- Boehmke, Frederick J., and Richard Witmer. 2004. "Disentangling Diffusion: The Effects of Social Learning and Economic Competition on State Policy Innovation and Expansion." *Political Research Quarterly* 57 (1) (March 1): 39–51. doi:10.2307/3219833.
- Bowman, Ann O'M, and Richard C. Kearney. 2010. *State and Local Government*. 8th ed. Wadsworth Publishing.
- Breton, Albert. 1991. "The Existence and Stability of Interjurisdictional Competition." In *Competition Among States and Local Governments*, edited by Daphne Kenyon and John Kincaid, 37–56. Washington D.C.: The Urban Institute Press.
- Buchanan, James M. 1997. "Albert Breton, Competitive Governments: An Economic Theory of Politics and Public Finance." *Public Choice* 93 (3-4) (December 1): 523–524. doi:10.1023/A:1004935119366.
- Burnett, Edmund C. 1964. *Continental Congress*. New York: Norton.
- Burstein, Paul, and Elizabeth Hirsh. 2007. "Interest Organizations, Information, and Policy Innovation in the U.S. Congress." *Sociological Forum* 22 (2) (June): 174–174–199. doi:10.1111/j.1573-7861.2007.00012.x.
- Cammisa, Anne. 1995. *Governments as Interest Groups* □ : *Intergovernmental Lobbying and the Federal System*. Westport Conn.: Praeger.
- Cox, Gary W, and Mathew D. McCubbins. 2005. *Setting the Agenda: Responsible Party Government in the U.S. House of Representatives*. New York: Cambridge University Press.
- Davidson, Roger H., Walter J. Oleszek, and Frances E. Lee. 2011. *Congress and Its Members*. 13th ed. CQ Press College.
- Deering, Christopher J., and Steven S. Smith. 1997. *Committees in Congress*. 3 Sub. CQ Press.
- Derthick, Martha. 2001. *Keeping the Compound Republic* □ : *Essays on American Federalism*. Washington D.C.: Brookings Institution Press.
- Dinan, John. 1997. "State Government Influence in the National Policy Process: Lessons from the 104th Congress." *Publius: The Journal of Federalism* 27 (2) (March 20): 129 –142.
- . 2011. "Shaping Health Reform: State Government Influence in the Patient Protection and Affordable Care Act." *Publius: The Journal of Federalism* 41 (3) (July 1): 395 –420. doi:10.1093/publius/pjr005.

- Elazar, Daniel. 1962. *The American Partnership Intergovernmental Co-operation in the Nineteenth-century United States*. [Chicago]: University of Chicago Press.
- . 1991. “Cooperative Federalism.” In *Competition Among States and Local Governments*, edited by Daphne Kenyon and John Kincaid, 65–86. Washington D.C.: The Urban Institute Press.
- Erikson, Robert S., Gerald C. Wright, and John P. McIver. 1994. *Statehouse Democracy: Public Opinion and Policy in the American States*. Cambridge University Press.
- Esterling, Kevin M. 2009. “Does the Federal Government Learn from the States? Medicaid and the Limits of Expertise in the Intergovernmental Lobby.” *Publius: The Journal of Federalism* 39 (1) (January 1): 1–21. doi:10.1093/publius/pjn025.
- Fenno, Richard. 1978. *Home Style: House Members in Their Districts*. HarperCollins.
- Fenno, Richard F. 1973. *Congressmen in Committees*. Little, Brown.
- Grady, Dennis O. 1987. “Gubernatorial Behavior in State-Federal Relations.” *The Western Political Quarterly* 40 (2) (June): 305–318.
- . 2004. “U.S. State Agencies as a Lobbying Force.” In *Research Guide to U.S. and International Interest Groups*, edited by Clive S. Thomas, 225–226. Westport, CT: Praeger.
- Gray, Virginia. 1973. “Innovation in the States: A Diffusion Study.” *The American Political Science Review* 67 (4) (December): 1174. doi:10.2307/1956539.
- Grodzins, Morton. 1966. *The American System a New View of Government in the United States*. Chicago: Rand McNally.
- Grumm, John G. 1971. “The Effects of Legislative Structure on Legislative Performance.” In *State and Urban Politics*, edited by Richard Hofferbert and Ira Sharkansky. Boston, MA: Little, Brown.
- Haider, Donald. 1974. *When Governments Come to Washington: Governors, Mayors, and Intergovernmental Lobbying*. New York: Free Press.
- Hall, Richard L., and Alan Deardorff. 2006. “Lobbying as Legislative Subsidy.” *American Political Science Review* 100 (1) (February 1): 69–84.
- Hanmer, Michael J., and Kerem Ozan Kalkan. 2013. “Behind the Curve: Clarifying the Best Approach to Calculating Predicted Probabilities and Marginal Effects from Limited Dependent Variable Models.” *American Journal of Political Science* 57 (1): 263–277.

- Herian, Mitchel. 2011. *Governing the States and the Nation* : *the Intergovernmental Policy Influence of the National Governors Association*. Amherst N.Y.: Cambria Press.
- Herrnson, Paul S. 2007. *Congressional Elections: Campaigning at Home and in Washington*. 5th ed. CQ Press.
- Hunt, Valerie, Bryan Jones, Frank Baumgartner, and Michael Rosenstiehl. 2010. "Congressional Hearings Data Codebook." <http://www.policyagendas.org/page/datasets-codebooks>.
- Jensen, Jennifer M. 2010. "More Than Just the Money: Why Some (But Not All) States Have a Branch Office in Washington." In Chicago, IL.
- Jensen, Jennifer M., and Jenna Kelkres Emery. 2011. "The First State Lobbyists: State Offices in Washington During World War II." *Journal of Policy History* 23 (2): 117–149.
- Jones, Bryan D., and Frank R. Baumgartner. 2005. *The Politics of Attention: How Government Prioritizes Problems*. Chicago: University of Chicago Press.
- Ka, Sangjoon, and Paul Teske. 2002. "Ideology and Professionalism Electricity Regulation and Deregulation Over Time in the American States." *American Politics Research* 30 (3) (May 1): 323–343. doi:10.1177/1532673X02030003006.
- Karch, Andrew. 2007a. "Emerging Issues and Future Directions in State Policy Diffusion Research." *State Politics and Policy Quarterly* 7 (1): 54–80.
- . 2007b. *Democratic Laboratories: Policy Diffusion Among the American States*. Ann Arbor: University of Michigan Press.
- . 2010. "Vertical Diffusion and the Policy-Making Process: The Politics of Embryonic Stem Cell Research." *Political Research Quarterly* (October 27). doi:10.1177/1065912910385252. <http://prq.sagepub.com/content/early/2010/10/22/1065912910385252>.
- Key, V.O. 1956. *American State Politics: An Introduction*. [1st ed.]. New York: Knopf.
- Kincaid, John. 1991. "The Competitive Challenge to Federalism: A Theory of Federal Democracy." In *Competition Among States and Local Governments*, edited by Daphne Kenyon and John Kincaid, 87–114. Washington D.C.: The Urban Institute Press.
- Kingdon, John. 2003. *Agendas, Alternatives, and Public Policies*. 2. ed. New York, NY: Longman.

- Kousser, Thad. 2005. *Term Limits and the Dismantling of State Legislative Professionalism*. Cambridge: Cambridge University Press.
- Kramer, Larry D. 2000. "Putting the Politics Back into the Political Safeguards of Federalism." *Columbia Law Review* 100 (1) (January 1): 215–293. doi:10.2307/1123559.
- Ladewig, Jeffrey W., and Mathew P. Jasinski. 2008. "On the Causes and Consequences of and Remedies for Interstate Malapportionment of the U.S. House of Representatives." *Perspectives on Politics* 6 (01): 89–107. doi:10.1017/S1537592708080080.
- Leary, Mal. 2012. "LaPage Pulls Out of National Governors Association." *Bangor Daily News*, September 30. <http://bangordailynews.com/2012/09/30/politics/lepage-pulls-out-of-national-governors-association/?ref=mostReadBoxNews>.
- Leckrone, J. Wesley, and Justin Gollob. 2010. "Telegrams to Washington." *State and Local Government Review* 42 (3) (December 1): 235–245. doi:10.1177/0160323X10384747.
- Lee, Frances, and Bruce Oppenheimer. 1999. *Sizing up the Senate : the Unequal Consequences of Equal Representation*. Chicago: University of Chicago Press.
- Leyden, Kevin M. 1995. "Interest Group Resources and Testimony at Congressional Hearings." *Legislative Studies Quarterly* 20 (3) (August 1): 431–439. doi:10.2307/440230.
- Lindblom, Charles E. 1959. "The Science of 'Muddling Through'." *Public Administration Review* 19 (2): 79–88.
- . 1979. "Still Muddling, Not Yet Through." *Public Administration Review* 39 (6) (December): 517–526.
- Lowery, David, and Virginia Gray. 1998. "The Dominance of Institutions in Interest Representation: A Test of Seven Explanations." *American Journal of Political Science* 42 (1) (January 1): 231–255. doi:10.2307/2991754.
- Lowery, David, Virginia Gray, and Frank R. Baumgartner. 2011. "Policy Attention in State and Nation: Is Anyone Listening to the Laboratories of Democracy?" *Publius: The Journal of Federalism* 41 (2): 286–310. doi:10.1093/publius/pjq039.
- Mooney, Christopher Z. 1991. "Information Sources in State Legislative Decision Making." *Legislative Studies Quarterly* 16 (3): 445–455. doi:10.2307/440107.

- Morehouse, Sarah M., and Malcolm E. Jewell. 2004. "States as Laboratories: A Reprise." *Annual Review of Political Science*. 7: 177–204.
- Mossberger, Karen. 1999. "State-Federal Diffusion and Policy Learning: From Enterprise Zones to Empowerment Zones." *Publius: The Journal of Federalism* 29 (3) (June 20): 31–50.
- Nugent, John. 2009. *Safeguarding Federalism* : *How States Protect Their Interests in National Policymaking*. Norman: University of Oklahoma Press.
- O'Toole, Laurence. 2007. *American Intergovernmental Relations* : *Foundations, Perspectives, and Issues*. 4th ed. Washington D.C.: CQ Press.
- Ornstein, Norman J., Thomas Mann, and Michael Malbin. 2008. *Vital Statistics on Congress 2008*. Washington D.C.: Brookings Institution Press.
- Palazzolo, Daniel J., and James W. Ceaser. 2005. *Election Reform: Politics and Policy*. Lanham: Lexington Books.
- Pelissero, John P., and Robert E. England. 1987. "State and Local Governments' Washington 'Reps': Lobbying Strategies and President Reagan's New Federalism." *State & Local Government Review* 19 (2): 68–72.
- Peterson, Paul E. 1995. *The Price of Federalism*. Washington, D.C.: Brookings Institution Press.
- Posner, Paul. 1998. *The Politics of Unfunded Mandates* : *Whither Federalism?* Washington D.C.: Georgetown University Press.
- Rabinowitz, Aaron, and Miriam Laugesen. 2010. "Niche Players in Health Policy: Medical Specialty Societies in Congress 1969–2002." *Social Science & Medicine* 71 (7) (October): 1341–1348. doi:10.1016/j.socscimed.2010.06.035.
- Riker, William H. 1955. "The Senate and American Federalism." *The American Political Science Review* 49 (2) (June 1): 452–469. doi:10.2307/1951814.
- Sachs, Richard C. 2004. "Hearings in the U.S. Senate: A Guide for Preparation and Procedure". CRS Report for Congress RL30548. Washington D.C.: Congressional Research Service, The Library of Congress. <http://lieberman.senate.gov/assets/pdf/crs/senatehearings.pdf>.
- Sachs, Richard C., and Carol Hardy Vincent. 1999. "Hearings in the House of Representatives: A Guide for Preparation and Conduct". CRS Report for Congress 96-623 GOV. Washington D.C.: Congressional Research Service, The Library of Congress. <http://www.llsdc.org/attachments/wysiwyg/544/CRS-96-623.pdf>.

- Salisbury, Robert. 1984. "Interest Representation: The Dominance of Institutions." *The American Political Science Review* 78 (1): 64.
- Savage, Robert L. 1978. "Policy Innovativeness as a Trait of American States." *The Journal of Politics* 40 (01): 212–224. doi:10.2307/2129985.
- Sbragia, Alberta. 2006. "American Federalism and Intergovernmental Relations." In *The Oxford Handbook of Political Institutions*, 239–260. Oxford: Oxford University Press.
- Schattschneider, E. 1960. *The Semisovereign People* : a Realist's View of Democracy in America. New York: Holt Rinehart and Winston.
- Schiller, Wendy. 2000. *Partners and Rivals* : Representation in U.S. Senate Delegations. Princeton N.J.: Princeton University Press.
- Schlozman, Kay, and John Tierney. 1986. *Organized Interests and American Democracy*. New York: Harper & Row.
- Schneider, Edward V., and Beatram Gross. 1993. *Legislative Strategy: Shaping Public Policy*. New York: St. Martin's Press.
- Scott, Dylan. 2012. "Obama, Romney Spar on Medicaid in Frist Debate." *Nation*, October 4. <http://www.governing.com/news/politics/gov-obama-romney-spar-on-medicaid-in-first-debate.html>.
- Shipan, Charles R., and Craig Volden. 2006. "Bottom-up Federalism: The Diffusion of Antismoking Policies from U.S. Cities to States." *American Journal of Political Science* 50 (4) (October): 825–843.
- . 2008. "The Mechanisms of Policy Diffusion." *American Journal of Political Science* 52 (4): 840–857. doi:10.1111/j.1540-5907.2008.00346.x.
- Sinclair, Barbara. 2000. *Unorthodox Lawmaking: New Legislative Process in the U.S. Congress*. 2nd Edition. Washington, DC: CQ Press.
- Smith, Steven S., and Christopher J. Deering. 1983. "Changing Motives for Committee Preferences of New Members of the U. S. House." *Legislative Studies Quarterly* 8 (2) (May 1): 271–281. doi:10.2307/439433.
- Smith, Troy. 2008. "Intergovernmental Lobbying in the Twenty-First Century." In *Intergovernmental Management for the 21st Century*, edited by Timonhthy J. Conlan and Paul Posner, 310–337. Washington, D.C.: Brookings Institution Press.
- Squire, Peverill. 1992. "Legislative Professionalism and Membership Diversity in State Legislatures." *Legislative Studies Quarterly* 17 (1): 69–79.

- . 1998. “Membership Turnover and the Efficient Processing of Legislation.” *Legislative Studies Quarterly* 23 (1) (February 1): 23–32. doi:10.2307/440212.
- . 2007. “Measuring State Legislative Professionalism: The Squire Index Revisited.” *State Politics and Policy Quarterly* 7 (2): 211–227.
- Steuerle, C. Eugene, Edward Gramlich, Hugh Heclo, and Demetra Smith Nightingale. 1998. “Who Does What? The Change Shape of U.S. Federalism.” In *The Government We Deserve: Responsive Democracy and Changing Expectations*. Washington D.C.: The Urban Institute Press.
- Sulkin, Tracy. 2005. *Issue Politics in Congress*. New York: Cambridge University Press.
- Thompson, Frank J., and Courtney Burke. 2007. “Executive Federalism and Medicaid Demonstration Waivers: Implications for Policy and Democratic Process.” *Journal of Health Politics, Policy and Law* 32 (6) (December 1): 971–1004. doi:10.1215/03616878-2007-039.
- “Unfunded Mandates: Analysis of Reform Act Coverage.” 2004. Report to the Chairman, subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Governmental Affairs, U.S. Senate. Washington D.C.: United States General Accounting Office. <http://www.gao.gov/new.items/d04637.pdf>.
- Volden, Craig. 2006. “States as Policy Laboratories: Emulating Success in the Children’s Health Insurance Program.” *American Journal of Political Science* 50 (2) (April): 294–312. doi:10.1111/j.1540-5907.2006.00185.x.
- Volden, Craig, Michael M. Ting, and Daniel P. Carpenter. 2008. “A Formal Model of Learning and Policy Diffusion.” *American Political Science Review* 102 (3): 319–332.
- Walker, Jack L. 1969. “The Diffusion of Innovations Among the American States.” *The American Political Science Review* 63 (3): 880–899. doi:10.2307/1954434.
- Weissert, Carol S., and Daniel Scheller. 2008. “Learning from the States? Federalism and National Health Policy.” *Public Administration Review* 68 (s1) (October 21): S162–S174. doi:10.1111/j.1540-6210.2008.00986.x.
- Weissert, William G., and Carol S. Weissert. 2012. *Governing Health: The Politics of Health Policy*. JHU Press.
- Wisdom, John Minor. 1984. “Foreword: The Ever-Whirling Wheels of American Federalism.” *Notre Dame Law Review* 59: 1067.

Wright, Deil. 1978. *Understanding Intergovernmental Relations* : *Public Policy and Participants' Perspectives in Local, State, and National Governments*. North Scituate Mass.: Duxbury Press.