

SAMUEL TRACHTMAN   
*University of California*

## *State Policy and National Representation: Marijuana Politics in American Federalism*

Members of Congress represent geographically demarcated districts embedded in subnational policy environments. Drawing on policy feedback literature and literature on congressional representation, I argue that, because of this institutional configuration, subnational policy adoption can affect national representation. More specifically, policy reforms in the states they represent can increase pressures members face from organized groups and individuals in their constituencies to promote aligned federal policies. Empirically, I examine the effects of state marijuana legalization. The inferential design leverages differences across the states in statewide citizen initiative institutions, which provides exogenous variation in legalization. Instrumental variables analysis indicates legalization influenced pro-marijuana bill sponsorship and roll calls in the 116th Congress. The evidence points to growing influence of industry in legalizing states—including the ability to mobilize employees and customers—as the key mechanism, thus underscoring the importance of a political economy perspective for studying interdependencies in American federalism.

During his tenure in the Senate (2015–21), Cory Gardner (R-CO) became a central figure in federal marijuana policy. In 2018, Gardner vowed to block judicial nominees in the Senate until he received a commitment that the federal government would not prosecute the marijuana industry. In the 116th Congress, Gardner sponsored core marijuana-related legislation including the SAFE Banking Act and the STATES Act.

Gardner was not always so pro-marijuana. He opposed Colorado's landmark 2012 ballot initiative legalizing marijuana for adult use, and there is little in his record prior to 2012 that would indicate he would become an important marijuana proponent. At a basic level, Gardner's pro-marijuana turn appears to be driven by a policy shift in the state he represented. The adoption of adult-use legalization in 2012 led to rapid marijuana industry

growth in Colorado, which, as of 2018, took in the most industry revenue per capita of any state. The industry, according to journalistic accounts, has gained leverage in Colorado politics, compelling even conservative politicians like Gardner to support industry demands (Fertig 2020).

The case of Cory Gardner is inconsistent with existing perspectives in the literature on the relationship between policymaking at the state and federal levels. Much research suggests that state policies have little influence on the national policy agenda and policy decisions (Boeckelman 1992; Esterling 2009; Lowery, Gray, and Baumgartner 2011; Weissert and Scheller 2008). More recent scholarship finds state policies have just a minor effect on members of Congress, which recedes over the course of the legislative process (Karch and Rosenthal 2016). But the key proposed mechanism linking state policy to national lawmaking in this work is policy learning—that is, members learn about policy innovations adopted in the states they represent, and as a result are more likely to sponsor and vote for similar policies nationally. Cory Gardner’s transformation on marijuana policy clearly did not stem solely from learning about the effects of legalization. Rather, he was also responding to a political-economic shift in the state he represented that was wrought by a change in state policy. Marijuana legalization allowed for the growth of a new industry that, once developed, could sway Gardner’s re-election bid.

This article develops a new perspective on how state policy decisions can affect lawmaking in the US Congress. While existing perspectives focus on dynamics of learning, I argue that state policies can affect national representation also through separate mechanisms broadly associated with the concept of policy feedback (Pierson 1993; Skocpol 1992). State policies, I argue, can alter the political pressures faced by members of Congress, who represent geographically demarcated districts that are embedded in state policy landscapes. First, the policies states adopt structure their economies, and in so doing can affect the ability of organized economic interests to engage in politics and make demands on representatives in Congress. Second, state policies can affect the mobilization and preferences of individual voters, and thereby shape the pressures faced by re-election-seeking members. Put together, these mechanisms suggest the adoption of a policy at the state level can increase the pressure on members of Congress to promote aligned federal policies.

Empirically, I examine marijuana policy reform, a case that provides critical analytical leverage for testing the argument. The wave of state-level legalization over the past two decades has produced great variation in policy landscapes across the states. Unlike other policies studied in the literature on vertical policy diffusion, marijuana legalization, by allowing a new industry to grow, has generated meaningful political-economic shifts in the states where it was adopted. Moreover, the importance of the statewide citizen initiative—only available in 24 of the states—for passing legalization (Hannah and Mallinson 2018) provides exogenous variation that allows for causal estimation of the effect of state policy shifts on representation in Congress.

Does marijuana legalization in the states they represent affect members' behavior in Congress? Studying the 116th Congress, I find evidence that it does. Using whether states permit citizen initiatives as an instrument, I find that members of Congress representing legalizing states were more likely to sponsor or co-sponsor key pro-marijuana pieces of legislation, and also more likely to cast certain pro-marijuana roll-call votes. An important potential alternative mechanism to the proposed feedback mechanisms is that initiative votes generated a signal that allowed members of Congress to learn about levels of constituent support (Huder, Ragusa, and Smith 2011). I draw on a mix of quantitative evidence and elite interviews to show that, in this case, growing marijuana industry influence wrought by legalization was likely the stronger mechanism. On the other hand, in this case, I find little support for the view that effects were driven by positive shifts to public favorability caused by state legalization.

This article contributes, first, to the literature on bottom-up diffusion in American federalism. It suggests that certain state policies, in addition to potentially initiating a learning process, can shift the interest group pressures faced by national policy makers. This dynamic might lead to the upward diffusion of state policies—but could also lead to the adoption of federal policies that align with or complement previously adopted state policies. These effects are most likely to manifest in policy areas like energy and labor in which both state and federal governments are active policy makers, and in which state policy decisions have significant implications for state political economies and interest group landscapes.

This article also has theoretical and methodological implications for the policy feedback literature. By applying policy feedback concepts to the study of policy interdependence and diffusion

in American federalism, it builds on recent scholarship illuminating how state policies can “feed into” the interest group politics in other states (Finger and Hartney 2021; Stokes 2020; Trachtman 2021). I show how similar dynamics can also shape policymaking in Congress, thus contributing to our understanding of how federalism structures policy and political change over time in American government.

Finally, this study is, to my knowledge, the first to leverage a quantitative causal inference design to estimate the effect of prior policy decisions not just on voter behavior or interest group mobilization, but also on the actions of lawmakers in Congress. Establishing causation using quantitative designs in policy feedback research is notoriously difficult (Campbell 2012). The policy feedback studies that investigate lawmaking as an outcome tend to rely on broad historical institutional analysis of qualitative data (e.g., Patashnik 2008; Pierson 1993)—not micro-level, quantifiable examinations of lawmaker behavior. While, more recently, the policy feedback literature has taken a micro-level turn, research in this vein has focused on the effects of policies on *individual-level* behavioral outcomes like turnout and attitudes (see Campbell 2012 for a review), not the behavior of lawmakers. As a result, we have accumulated much quantitative evidence on how policies affect voters, and to a lesser extent, interest groups, but little on how it matters for lawmaking and public policy decisions. By estimating the causal effect of policy decisions on lawmaking, this study has the potential to serve as a bridge between work in policy feedback and legislative studies.

## **State Policy and Lawmaking in the US Congress**

### *Policy Learning and State-National Policy Diffusion*

While there is much literature demonstrating dynamics of horizontal policy diffusion across the states (Haider-Markel 2001; Mintrom 1997; Walker 1969) and top-down vertical diffusion from the national level to the states (Baumgartner, Gray, and Lowery 2009; Karch 2006, 2012), less scholarship examines bottom-up vertical diffusion from the states to the national level.<sup>1</sup> Interestingly, much of this work suggests that state policy decisions have a limited or nonexistent effect on policymaking at the

national level (Boeckelman 1992; Esterling 2009; Lowery, Gray, and Baumgartner 2011; Weissert and Scheller 2008). Even Karch and Rosenthal (2016), whose study is the closest in empirical approach to this one, find that state policy decisions in the area of electronic commerce have only minor effects on national representation in Congress that diminish over the course of the legislative process.

The core mechanism explored in these studies is one of policy learning. Put simply, policy makers often prefer to enact policies that have been shown to be effective in other contexts (see Gilardi and Wasserfallen 2019 for a review). In considering bottom-up diffusion, members of Congress might be more likely to support new federal policies after witnessing similar policies perform well at the state level. And they might be particularly likely to learn from policies adopted in the states that they represent (Karch and Rosenthal 2016). This type of “snowball effect,” where prior policy adoption at lower levels of government increases the likelihood of adoption at higher levels, tends to dominate a potential “pressure valve” effect—whereby lower-level adoption relieves pressure for policy adoption at the higher level (Shipan and Volden 2006).

In addition to triggering a learning process, prior policy experimentation can provide lawmakers with an opportunity to learn about policies’ *political* implications—in particular, whether they generated political gains for the politicians sponsoring them (Gilardi 2010). Re-election-motivated lawmakers are likely to consider policies’ political effects at least as much as their demonstrated efficacy, although in many cases these will align due to retrospective voting (Healy and Malhotra 2013). The adoption of new policies at the subnational level through citizen initiatives can provide members of Congress with a rare opportunity to learn directly about the preferences of their constituents. Studying campaign finance reform, minimum wage laws, and same-sex marriage bans, Huder, Ragusa, and Smith (2011) indeed find that signals of voter preferences expressed through initiatives influenced members’ roll-call votes in the House (they do not find similar results in the Senate).

### *Vertical Policy Feedback and Congressional Representation*

The literature on the “California effect” explores an alternative mechanism that can generate bottom-up pressures in American

federalism (Vogel 1995). Instead of focusing on learning, this literature examines how the adoption of regulations at the state level can shift the preferences of regulated firms for national policy. In particular, new state policies might lead firms operating in multiple states to advocate for national policies that replace state patchworks with consistent national standards, and potentially preempt further state regulation (Elliott, Ackerman, and Millian 1985). State policies can also compel firms to absorb costs or shift their investment strategies in ways that reduce the potential new costs (or enhance the benefits) of similar federal regulations (Meckling and Trachtman 2021). In this way, the advocacy of regulated firms can lead to the upward diffusion of state policies.

The theoretical framework proposed in this article, like literature on the “California effect,” is attentive to how state policy decisions—beyond providing policy makers with the opportunity to learn—can also reshape the political terrain in ways that shift the pressures that policy makers face. But, by drawing on the policy feedback literature (Pierson 1993; Skocpol 1992), I identify a broader set of mechanisms than are explored in existing work, and also focus particularly on how these mechanisms might affect the behavior of members of Congress.

In considering how state policies might affect the behavior of members of Congress, I draw on existing literature showing that members are at least somewhat responsive to the preferences of the citizens (Canes-Wrone, Brady, and Cogan 2002) and organized groups (Hall and Wayman 1990) that make up their constituencies. While individual- and group-level inputs into congressional behavior are often taken as exogenous, these factors are also shaped by previously established policy—including policy adopted at the state level. In this section, I suggest two broad mechanisms by which state policy decisions might influence lawmaking in Congress: a political economy mechanism and a behavioral mechanism.

In terms of political economy, state policy decisions can influence what sorts of economic activities are profitable, and as a result, which types of firms establish and grow—as well as which fail. The same is true of another set of powerful organized economic interests: labor unions. The ability of unions to develop and maintain organizational strength is heavily influenced by state policies like collective bargaining rules and “right-to-work” laws (Anzia and Moe 2016). The organized interests that develop and grow their economic presence will also have greater political sway (and the opposite for interests that are economically weakened)—and

will therefore be in a stronger position to influence national politics. What's more, the groups that benefit from, and are strengthened by, state-level policy decisions are also likely to benefit from the adoption of aligned policies at the national level—so might leverage their newfound strength to push for those policies.

This dynamic can generate political pressure for members of Congress to support policies that align with those that have previously been adopted in the states they represent. Members of Congress generally aim to enhance their re-election prospects (Mayhew 1974), and firms and unions have demonstrated an ability to transform their economic presence into political power by engaging in elections. Firms mobilizing employees to support their political interests is widespread in contemporary American politics (Hertel-Fernandez 2016). Similarly, mobilizing members in elections is a key source of union political strength (Moe 2011). Journalistic accounts have highlighted the importance of mobilizing employees (and customers) in the growing political sway of the marijuana industry, especially in states that have adopted adult-use (versus just medical-use) legalization (Herndon 2018).

State policies that affect the growth or decline of industry in a state can also affect representation in Congress due to the logic of structural power (Lindblom 1977). Because their re-election prospects depend in part on economic performance (Healy and Malhotra 2013), members of Congress have an incentive to support policies that benefit business interests central to economies in the places they represent—even in the absence of active corporate political activity. Governors also, for the same reason, might use their sway with members of Congress to advocate for federal laws that align with state policies and programs (Karch and Rose 2019). The marijuana industry's economic contribution remains small relative to major industries like healthcare and energy, but it is highly labor intensive and, in many states, growing rapidly (Yakowicz 2021). High taxes on marijuana are often used to fund state programs in areas like education and criminal justice, and also to bolster general fund revenues. The importance of industry tax revenue for budgets and programs in the states they represent thus gives members of Congress representing legalizing states another reason to support pro-marijuana federal laws.

In addition to conferring structural power and enhancing groups' ability to mobilize employees or members, state policies that benefit particular organized interests also might provide those interests with a greater capacity to deploy financial resources to

achieve policy goals at the federal level. Though money is generally ineffective at buying roll-call votes in Congress, it can influence how members allocate their time and attention (Hall and Wayman 1990; Kalla and Broockman 2016). Of course, firms and unions can also contribute to the campaigns of members representing districts where they do not have an economic presence. In the marijuana case, as I will show, the industry has mostly targeted members representing legalizing states, but also contributed to campaigns elsewhere. The focus on members representing legalizing states may reflect a strategy of seeking to increase the time and attention that members already inclined to support marijuana reform—perhaps because of other mechanisms associated with industry growth in their districts—spend on the issue.

The discussion above focuses on political economy and organized interests, but public policies also affect individual-level mobilization and attitudes. Policies, first, condition the *resources* that individuals can devote to politics (Pierson 1993). For instance, Campbell (2003) documents how the passage of Social Security mobilized senior citizens by, among other mechanisms, increasing their access to financial resources. Public policies can also shape the way citizens view government, and through these *interpretive* effects (Pierson 1993) shift political behavior.

Marijuana legalization is less likely than policies like Social Security to generate resource effects, but it is plausible that it might generate attitudinal shifts. Citizens living in legalizing states, after experiencing legalization “on the ground,” may be more comfortable with pro-marijuana national policies. In addition, marijuana consumers who see themselves as benefitting from government policy shifts may be more likely to mobilize politically and make demands on representatives—especially when organized by the firms that sell to them.

In considering member responsiveness to shifts in individual-level political behavior, there is ample evidence that members’ roll-call votes are correlated with the preferences of constituents in their districts (Bartels 1991), and that policy is broadly dynamically responsive to shifts in public attitudes (Erikson, Mackuen, and Stimson 2002). At the same time, more recent findings suggest that member responsiveness might be decreasing. As the major parties have polarized, a greater share of variation in member behavior is explained by partisanship, so a competitive district might be represented very differently depending on the outcome of a close election (Bafumi and Herron 2010).



To summarize, while existing literature on bottom-up vertical diffusion in American federalism focuses on learning, I draw on the policy feedback literature to outline two other mechanisms by which state policies might affect lawmaking in Congress. Both of these mechanisms—shifts in interest group influence and shifts in individual-level behaviors—are likely to produce positive feedback from state policy to congressional representation. I would therefore expect members, on average, to respond to the adoption of policies in the states they represent by supporting aligned policies at the federal level.

### **State Marijuana Legalization and Representative Behavior**

The case of marijuana policy has features that mitigate (but do not eliminate) the difficult empirical problems associated with studying the effect of state policy on national representation. As I discuss below, the key role of the ballot initiative in state legalization of marijuana provides exogenous variation in likelihood of legalization that can be leveraged for causal inference. This case also presents some empirical opportunities for parsing potential mechanisms, though a precise decomposition is not possible. Finally, the profound effects of legalization on the growth of a new industry distinguishes marijuana policy from other policy areas that have been studied in the literature on bottom-up diffusion—which tend to be technical in nature and without highly visible political-economic effects (e.g. Karch and Rosenthal 2016).

Beyond being a suitable empirical case to examine policy feedback dynamics in Congress, the politics of marijuana is important to understand because of the policy implications. Marijuana prohibition has direct and sizeable consequences for people's lives. In 2018, with marijuana already having been legalized for adult use in 10 states, 40% of total drug arrests in the US were for marijuana-related offenses—with a full 92% of those arrests just for possession (Gramlich 2020). Convictions for marijuana possession can produce life-altering costs, affecting eligibility for public housing and student financial aid, employment opportunities, child custody determinations, and immigration status among other things (American Civil Liberties Union 2013). Marijuana policy also has important economic implications. As legalization has advanced, industry revenue has grown steadily from a total of \$3.5 billion in legal sales in 2014 to over \$13.5 billion in legal sales in 2019 (*New*

*Frontier* 2019) and the marijuana industry is now one of the fastest areas of job growth in the US (Murphy 2019).

While scholarship on marijuana politics has explored the drivers of legalization decisions (Hannah and Mallinson 2018), dynamics of learning across the states in medical marijuana laws (Mallinson and Hannah 2020), and state–federal relations (Ferraiolo 2008; Mallinson, Hannah, and Cunningham 2020), prior studies have not examined the effect of legalization on law-making in Congress.

### *Marijuana Politics and Policy in the US*

Though marijuana remains a Schedule 1 drug at the federal level, in the past 25 years state actions have spearheaded a steady liberalization of marijuana policy. California’s Proposition 215 of 1996, which permitted the use of marijuana for medical purposes, initiated a wave of state medical marijuana laws. By the end of 2020, the use of marijuana for medical purposes was legal in 33 states, with another 14 states permitting marijuana with limited THC content for medical use. More recent years have seen the expansion of adult-use marijuana legalization at the state level; between 2012 and the end of 2020, 15 states legalized marijuana for adult use.

The state-level liberalization of marijuana laws has been driven by a combination of increasing public favorability and well-funded advocacy organizations working across the country. Support for marijuana legalization increased from 31% of the public in 2000 to 68% in 2020 (Brenan 2020). Advocates have taken advantage of favorable public opinion by relying heavily on citizen initiatives, and organizations like the Marijuana Policy Project have developed expertise in running initiative campaigns.

Even as the legal landscape of marijuana has shifted dramatically at the state level, federal law has remained largely stagnant. Lack of progress at the federal level has led to growing conflict between state and federal laws, leaving the burgeoning industry in a highly fragmented legal environment. Most notable is uncertainty over enforcement of federal laws prohibiting marijuana (Higdon 2019). In addition, federal prohibition limits industry access to banking and other financial services and restricts small businesses’ access to tax deductions.

Warming public attitudes, industry growth, and growing costs from state–federal policy conflicts have produced momentum for reform in Congress. Several pro-marijuana bills were introduced in the 115th Congress, but Republican majorities kept them from being brought to floor votes. With various forms of legalization continuing to spread across the states, and Democrats taking control of the House in 2018 elections, advocates and industry interests saw the 116th Congress (January 2019–January 2021) as a crucial opportunity to advance reform at the federal level. As one journalist wrote: “This is the first Congress in history where, going into it, it seems that broad marijuana reforms are actually achievable” (Higdon 2019).

Efforts from advocates and industry coalesced around three broad goals—each with a related proposed bill—in the 116th Congress. First, and narrowest in scope of the three, was providing the marijuana industry with greater access to banking services. The proposed SAFE Banking Act would “create protections for depository institutions that provide financial services to cannabis-related legitimate businesses and service providers for such businesses” (US House of Representatives 2019). The second major goal was broadly protecting industry and consumers in states that have legalized marijuana from federal interference or prosecution. The STATES Act would exempt individuals and corporations operating legally according to state law from federal enforcement. The third and broadest goal was amending the Controlled Substances Act to end federal prohibition on marijuana. The MORE Act would both end federal prohibition as well as expunge prior convictions. Notably, support for the MORE Act came to a greater extent from advocates than from industry interests, which focused on narrower bills.<sup>2</sup>

### *Instrumental Variables Design*

Even using state policy variation for leverage, causally estimating the feedback effects of prior policies on the actions of lawmakers poses inferential problems. Since policy adoption is nonrandom, any observed relationship between subnational policy and member behavior might be driven by a correlation in the preferences of subnational policy makers and members of Congress—not by the theoretical mechanisms discussed above. In this case, the types of states that legalize marijuana are also likely to be the

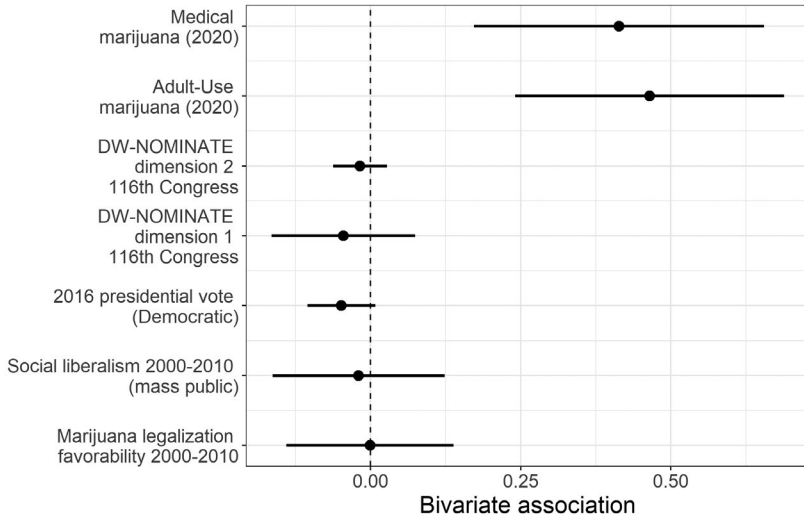
types of states that elect representatives that are more progressive on marijuana policy, making it difficult to estimate the effect of legalization on representation in Congress.

This article relies primarily on an instrumental variables (IV) design for causal inference. The IV design draws on the fact that citizen initiatives have been a fundamental tool for legalization advocates. The first eight states to legalize marijuana for adult use did so via citizen initiative. For organizations working to advance legalization, whether states allowed initiatives has been a major factor in determining where to allocate time and resources. The importance of the initiative, according to one advocate, stems from the fact that the public generally holds more liberal views on marijuana than representatives in state legislatures.<sup>3</sup> As of the end of 2020, whether a state allowed citizen initiatives was highly correlated with whether it permitted marijuana for adult use ( $\rho = .51$ ) and whether it allowed medical marijuana ( $\rho = .44$ )—the first requirement for a valid instrument.

By contrast, as indicated by Figure 1, whether a state allows citizen initiatives is unrelated to factors generally associated with congressional behavior. This makes sense, given that initiative processes were generally put into place around the turn of the 20th century in response to pressure from elements of the Progressive movement—long before marijuana policy was a salient issue. (Appendix A.1 provides each state’s initiative rules.) Initiative status is uncorrelated with measures of congressional ideology in the 116th Congress. In addition, it is slightly *negatively* correlated with 2016 Democratic presidential vote share, which should bias results downwards to the degree it is not accounted for in analysis. Finally, it is neither correlated with state-level measures of attitudes towards marijuana legalization nor state-level measures of social liberalism in the mass public from 2000 to 2010 (Caughey and Warshaw 2016, 2018).<sup>4</sup> This suggests that initiatives are at least conditionally exogenous to congressional behavior on marijuana issues.

To serve as a valid instrument, initiative status (whether states are allowed to enact statutes or constitutional amendments) must also only be associated with member behavior through the mechanism of legalization (the “exclusion restriction”). A potential threat to the exclusion restriction in this case is that members might respond to the presence of pro-marijuana advocacy groups attracted by the ballot initiative campaigns—not to shifts wrought by legalization itself. However, this appears unlikely. By the start of

**FIGURE 1**  
**Whether States Allow Citizen Initiatives is Correlated with Marijuana Legalization and Uncorrelated with Factors Generally Associated with Congressional Behavior**



*Note:* Points represent bivariate association between whether a state allows citizen initiatives and each outcome. Outcome are standardized to a 0–1 scale. 95% confidence intervals are calculated using standard errors clustered at the state level.

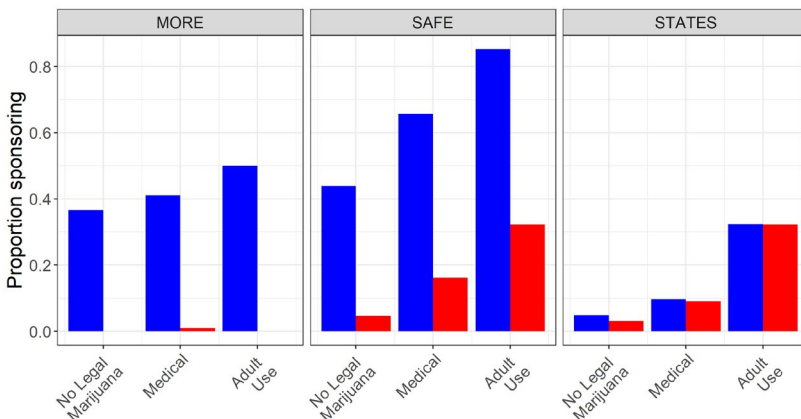
the 116th Congress in 2019, nine states had legalized marijuana for recreational use via citizen initiative. Eight of those nine states, all except Michigan, legalized marijuana before 2017. Similarly, most ballot initiatives legalizing marijuana for medical use took place long before the 116th Congress. Activity on marijuana policy reform in Congress in the 2010s was very limited before Democrats took control of the House in 2018. And groups like the Marijuana Policy Project heavily involved in passing legalization initiatives at the state level were largely uninvolved in the congressional politics until recently. Broadly speaking, marijuana advocacy groups and interests have taken a sequential approach, aiming to spread legalization to more states in part to shift the politics in Congress in future years.<sup>5</sup> The timing of initiatives legalizing marijuana, combined with legalization advocates’ prior heavy focus on shifting state policy, mitigates concerns of a violation of the exclusion restriction.

*The Effect of State Marijuana Legalization on Bill Sponsorship and Roll Calls*

My analysis focuses on the 116th Congress. I start by analyzing bill sponsorships and will subsequently turn to roll calls (sponsorship provides richer data, as many more bills have been introduced than have been voted on). I focus on the three bills discussed above at the core of the industry and advocacy groups' agenda: the SAFE Banking act, the STATES Act, and the MORE Act. Figure 2 demonstrates that members of Congress representing states with more liberal marijuana laws were indeed more likely to sponsor liberal marijuana legislation, but this association does not provide evidence of a causal effect.

Analysis using citizen initiative rules as an instrument can provide causal leverage. The treatment variable is a measure of state marijuana legalization status at the end of the 116th Congress.<sup>6</sup> In the main analysis, I code the treatment variable as 0 for states with neither medical nor adult use, 1 for states with medical marijuana, and 2 for states with adult-use legalization.<sup>7</sup> Treatment is instrumented by whether a state allows citizen initiatives as discussed above. In terms of outcome variables, I first record binary measures of whether members sponsored or co-sponsored each of

FIGURE 2  
Bill Sponsorship by State Legalization Status, 116th Congress



Note: Blue bars represent Democrats, and red bars represent Republicans.

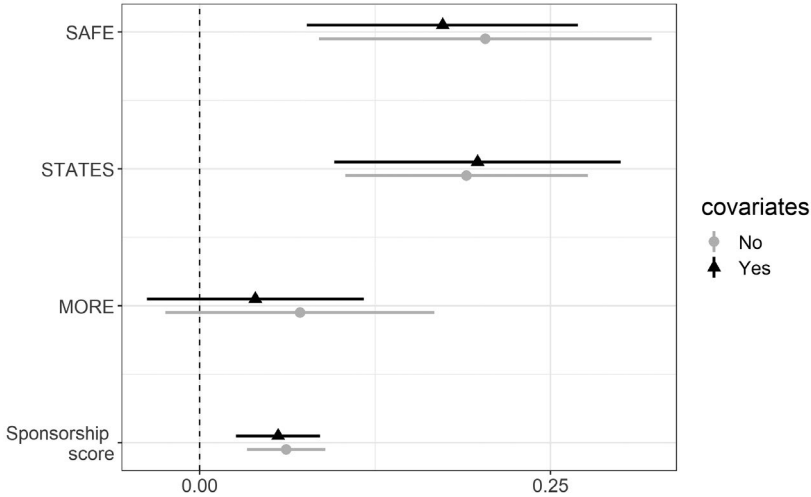
the SAFE Banking Act, STATES Act, and MORE Act. I also estimate a broader marijuana *bill sponsorship score* by computing the proportion of the 14 priority pieces of legislation promoted by the industry group National Cannabis Industry Association (NCIA) sponsored or co-sponsored by each member. (The distribution of the *bill sponsorship score* by party and legalization status is provided in the Appendix A.1.)

Two-stage least squares regression is used to estimate the effect of liberalization of state-level marijuana law on these outcomes. The first stage predicts adult-use marijuana legalization from the ballot initiatives variable. First-stage results presented in the Appendix A.2 demonstrate that citizen initiative rules are a strong instrument for legalization. The second stage estimates the relationship between predicted legalization and bill sponsorship.<sup>8</sup> I estimate models both with and without state- and member-level covariates: party-identification (PID), ideology (DW-NOMINATE); and state-level covariates: 2016 Democratic presidential vote share; and social liberalism of the mass public.<sup>9</sup>

Estimates are presented in Figure 3. For the SAFE Banking Act and the STATES Act, I estimate that state-level marijuana legalization increased the likelihood that members (representing those states) sponsored liberal marijuana bills. The noncovariate adjusted coefficient of .20 for the SAFE Banking Act, for instance, indicates a 1-point shift in legalization status (from prohibition to medical, or medical to adult use) is associated with an increase of 20 percentage points (s.d. = .50) in likelihood that members sponsored the Act. I estimate effects of similar magnitude for the STATES Act. I do not estimate a statistically significant effect for the MORE Act, which may be driven by the fact that sponsorship of this bill was more partisan than the others (see Figure 2). Turning to members' broader *bill sponsorship scores*, I find evidence of a causal relationship. The estimated coefficient suggests that a 1-point shift in legalization status is associated with an increase of .06 in the *bill sponsorship score* (s.d. = .11), which corresponds to .84 additional NCIA-supported bills sponsored on average.

Of course, the validity of these results depends on states' initiative rules being exogenous to underlying political variables that predict their representatives' behavior on marijuana issues in Congress. One concern is that ballot initiative processes are somewhat more common in the western part of the country, an area that is also potentially ideologically more pro-marijuana. But, as

FIGURE 3  
Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress



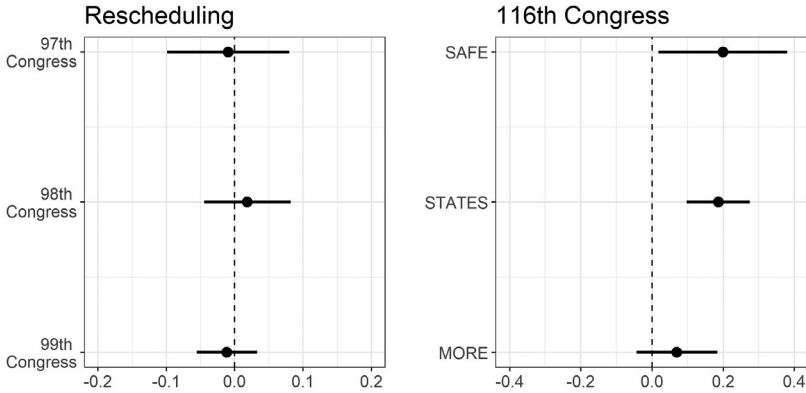
*Note:* Estimates are derived from two-stage least squares regression. State legalization status is instrumented by citizen initiatives rules. 95% confidence intervals are calculated using standard errors clustered at the state level.

I demonstrate in the Appendix A.2, results are generally consistent (though with reduced precision) when excluding western states from the analysis. A falsification test examining congressional behavior *prior* to the current era of legalization can also help to rule out confounding. If the association between ballot initiative rules and marijuana bill sponsorship were driven by mechanisms unrelated to state-level legalization, we would expect an association between initiative rules and congressional behavior on marijuana before the legalization wave.

To examine this, I track which members sponsored a series of bills introduced in the 1980s that would have rescheduled marijuana to Schedule II, thereby allowing doctors to prescribe the drug to patients in need (subsequently referred to as “rescheduling bills”). The first in the series of rescheduling bills, HR 4498, was introduced in the 97th Congress (in 1981) and co-sponsored by a bipartisan group of 84 members. Similar pieces of legislation were introduced in the 98th and 99th Congresses (HR 2292 and



FIGURE 4  
Reduced Form Relationship between Citizen Initiatives and Bill Sponsorship Pre- and Post-Legalization Wave



*Note:* Left panel presents reduced-form relationship between citizen initiatives and sponsorship of rescheduling bills prior to legalization wave. Right panel presents reduced-form relationship for the 116th Congress. 95% confidence intervals calculated using standard errors clustered at the state level.

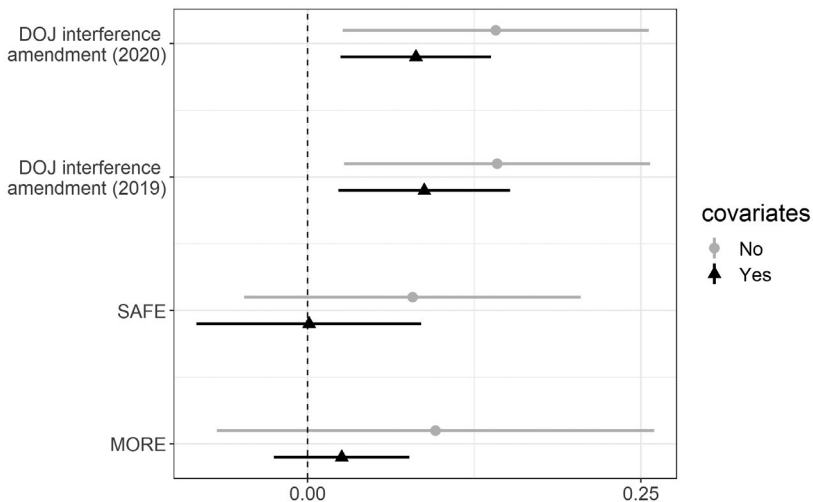
HR 2232 respectively). Figure 4 demonstrates no correlation between initiative rules and bill sponsorship in the 97th through 99th Congresses. On the other hand, the right panel of Figure 4 presents a positive reduced-form relationship between initiative rules and sponsorship of the SAFE Banking Act and the STATES Act in the 116th Congress. This test therefore provides support for the exogeneity assumption necessary for a causal interpretation of the IV analysis.<sup>10</sup>

I now turn to an investigation of the effect of the liberalization of state marijuana laws on members' roll-call votes on marijuana issues. This analysis is necessarily more restricted than the analysis of bill sponsorship since few roll calls have been taken. In June 2019 and July 2020, the House passed amendments (267-165 and 254-163 respectively) that would prevent the Department of Justice (DOJ) from using funds to prosecute marijuana offenses in jurisdictions where it is legal;<sup>11</sup> in September 2019 the House passed the SAFE Banking Act 321-103; and in December 2020 the House passed the MORE Act 228-164.<sup>12</sup>

The analysis of roll calls has a similar structure as the bill sponsorship analysis, except the main outcome is a binary indicator for whether members voted for the legislation (versus sponsored). Results, presented in Figure 5, indicate that legalization did affect whether members voted for budget amendments to restrict the DOJ. The covariate-adjusted coefficient estimates of .09 for the 2020 version and .07 in 2019 indicate that a 1-point shift in legalization status (from prohibition to medical, or medical to adult use) is associated with an increase of 7 and 9 percentage points, respectively, in likelihood of votes in favor. Interestingly, though results presented above indicate that legalization affected whether members sponsored the SAFE Banking Act, I do not find that legalization had a statistically significant effect on roll-call voting for this bill. I also estimate a null result for the MORE Act, which was for the most part a party-line vote (only six Democrats voted against, and only five Republicans in favor).

Overall, the evidence on roll-call voting is mixed. That said, the stronger estimated effects of state legalization on bill sponsorship

FIGURE 5  
Effects of State Marijuana Legalization on Roll Calls in 116th Congress



Note: Estimates are derived from two-stage least squares regression. State legalization status is instrumented by citizen initiatives rules. 95% confidence intervals are calculated using standard errors clustered at the state level.

compared to roll-call voting is consistent with the mechanism of industry influence. Interest groups are generally more adept at shaping members' attention than their highly visible roll-call votes (Hall and Wayman 1990). Indeed, statistically significant findings on roll calls were observed only for the DOJ amendments, which were somewhat lower-profile votes. The finding that state policy affects bill sponsorship more than roll-call voting is also consistent with prior work on bottom-up diffusion pressures in Congress (Karch and Rosenthal 2016).

### **Investigating Mechanisms**

The prior section presents evidence that members of Congress representing states that previously legalized marijuana were more likely to sponsor and vote for pro-marijuana bills. In the article's theory development, I suggested two policy feedback mechanisms: a political-economic one focused on marijuana industry growth and a behavioral one focused on public opinion shifts. Other potential mechanisms discussed in existing literature include policy and political learning. Members might be more likely to support pro-marijuana federal policies after witnessing successful legalization in their states (policy learning), and members might also be more likely to support pro-marijuana federal policies after receiving a signal of constituent support from a successful citizen legalization initiative (political learning). While providing a precise decomposition of these mechanisms is not possible with the available data, in this section I bring together quantitative and qualitative evidence to provide some insight into their various contributions.

As part of gathering qualitative data, I conducted nine semi-structured elite interviews with the following individuals working in marijuana politics and policy.

- Senior official at the National Organization for the Reform of Marijuana Laws (NORML)
- Senior official and state-level staffer at the Marijuana Policy Project
- Former Colorado state legislator closely involved with legalization effort and development of marijuana industry
- Senior official at the Cannabis Voter Project
- Director-level employee of large cannabis firm with over ten years of experience in the industry
- Member of Congress representing a state with adult-use legalization
- Two journalists covering marijuana politics and policy in Colorado

While interviews were not meant to provide an exhaustive portrait of the mechanisms at play, they provide an important complement to the quantitative evidence I will bring to bear. Overall, five interviewees mentioned industry influence as an important mechanism linking state policy and lawmaking in Congress, while three mentioned political learning, and one mentioned policy learning (several mentioned more than one of these mechanisms, and several did not weigh in on mechanisms).

Taking a closer look at how the effect of state legalization on national lawmaking varied across different bills can provide some initial insight into the force of different mechanisms. If effects were driven by learning, we might expect that state legalization of marijuana would have the strongest effects on support for similar federal legalization bills. Yet this is not the case. I estimate that state marijuana legalization has a stronger effect on support for the SAFE Banking Act and STATES Act than for the MORE Act. (The SAFE Banking Act and the STATES Act were designed to protect and facilitate the development of marijuana industry in states that adopt legalization—whereas the MORE Act, if enacted, would diffuse adult-use legalization nationwide.) Similarly, inspecting Figure 5, state legalization had a stronger effect on roll-call votes on DOJ interference (which only would affect legalizing states) than on roll-call votes for the MORE Act. That legalization appears to have a stronger effect on support for aligned federal bills supported by the marijuana industry than on federal bills that would spread legalization suggests the importance of mechanisms outside of learning.

Comparing the effects of state legalization on lawmaker behavior in the House and the Senate can also provide some insight on mechanisms. If effects were driven primarily by political learning (in this case, signaling of constituent support via initiative voting), I would expect somewhat stronger effects in the House. House members, who face re-election every two years, are generally more attentive to their constituents' preferences than counterparts in the Senate (Riker 1992). Indeed, Huder, Ragusa and Smith (2011) find that signals of policy support generated by citizen initiatives affected House members' roll calls, but not Senators'. However, as demonstrated in the Appendix A.3, I find that state marijuana legalization had similar effects on members' bill sponsorship in the House and the Senate, again suggesting the importance of mechanisms outside of political learning.

An additional test that provides some insight into the role of political learning is exploring the relationship between length of time since citizen initiative, margin of victory of citizen initiative, and representation. If effects were driven by signaling of constituent support, we would expect that members representing states with more recent (and thus more salient) legalization votes to adopt more pro-marijuana positions—and we would also expect pro-marijuana behavior in Congress to be positively associated with the score of the citizen initiative.<sup>13</sup> However, investigating states that have legalized marijuana for adult use via initiative, I find that neither time since the initiative nor score of the initiative vote is associated with pro-marijuana behavior in Congress (see Table A2 in Appendix A.3).

To be clear, these analyses cannot exclude learning—the mechanism highlighted in existing literature on bottom-up diffusion dynamics—and it is likely contributing partially to the observed effects. But the cross-bill, cross-chamber, and cross-state analyses, as well as the qualitative interviews, suggest the importance of the other mechanisms I have put forward related to political economy and political behavior. In the following, I dig deeper, first, into the potential role played by political-economic factors.

In evaluating this mechanism, it is worth considering, first, the extent to which legalization actually affected organized economic interests. The answer is: quite a lot, especially in states adopting adult-use legalization. According to NCIA, as of 2018, the average state with medical marijuana featured sales of \$21 per capita (an average of 100 million dollars in total revenue), while the average state with adult-use legalization featured sales of \$130 per capita (an average of over a billion dollars in revenue).<sup>14</sup> And Figure A9 (in Appendix A.3) demonstrates a positive association between industry size and congressional sponsorship of pro-marijuana bills.

Revenue growth in legalizing states increases the resources that industry interests have at their disposal to engage politically at the national level. To examine exercise of instrumental power, I draw on lobbying and campaign contributions data collected by the Center for Responsive Politics. The data reveal a sharp increase in lobbying from the marijuana industry coinciding with recent state adoption of adult-use legalization. Annual federal lobbying from the marijuana industry has grown from just \$45,000 in 2012—the year that Colorado and Washington voters legalized marijuana for recreational use by ballot initiative—to nearly \$6 million in 2019 (“Marijuana Lobbying Profile” n.d.). Indeed, one

interviewee pointed to much greater lobbying from the marijuana industry in Congress as an important data point supporting the political economy mechanism.<sup>15</sup> In particular, they discussed how trade associations and multistate industry operators have only in recent years—with the growth of the market precipitated by state legalization—developed a presence on Capitol Hill.

Campaign contributions data also suggest that legalization has affected the political presence of the marijuana industry. Firms in the industry did not donate to congressional campaigns prior to the 2018 cycle. In the 2018 cycle, however, marijuana industry interests contributed in 19% of House races in states with adult-use marijuana, and just 2% of House races elsewhere. Discrepancies for the Senate were less stark, with contributions in 7% of races with adult-use marijuana, and 5% of races elsewhere. IV analysis again using citizen initiative rules to instrument for legalization suggests this relationship is causal (see Figure A11 in Appendix A.3).

In addition to using its growing resources for lobbying and campaign contributions, the marijuana industry has leveraged its economic growth to engage politically by mobilizing consumers and employees. For instance, in Colorado, Governor Jared Polis collaborated with industry interests to turn out marijuana consumers and industry employees in his 2018 re-election. As part of this effort, the campaign matched the state's database of marijuana employees to the voter file to identify potential supporters, and then sent them targeted text messages and mailers (Frank 2018). The sway of the marijuana industry and marijuana voters in Polis's 2018 bid was a major reason why former Senator Cory Gardner, who anticipated a tough re-election in 2020 (which he ultimately lost), made marijuana such a priority in the 116th Congress. Several interviewees suggested the importance of mobilizing employees and consumers. Dispensaries have organized text-messaging and in-store political campaigns, and some have even offered discounts to customers who join marijuana advocacy organizations.<sup>16</sup>

At times, industry actors have even incorporated interdependencies across the federal system into their broader political strategy. For instance, according to one interviewee, certain industry actors specifically targeted passing medical-use legalization in South Carolina because of Lindsey Graham's (R-SC) (former) position as Chairman of the Senate Judiciary Committee—an important committee for marijuana policy.<sup>17</sup> The idea was that passing legalization and developing marijuana industry in South

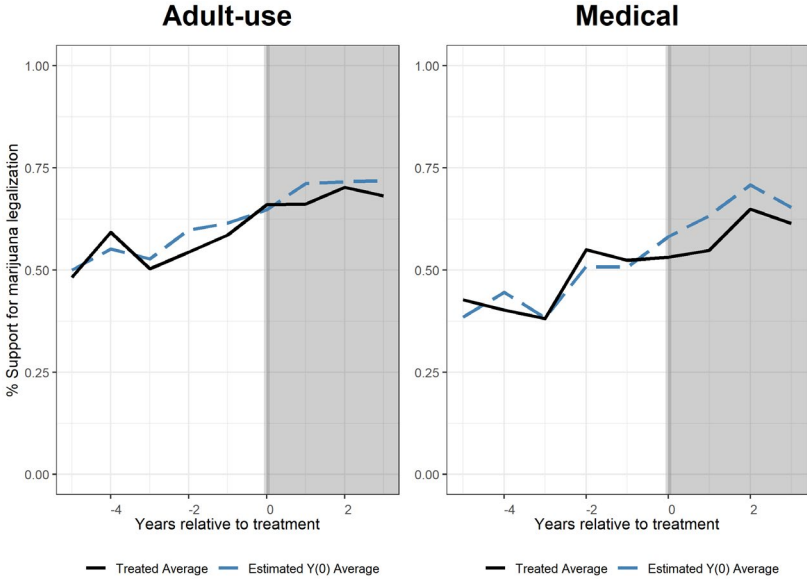
Carolina would make it more difficult for Graham to continue to block legislation liberalizing marijuana policy at the federal level.

A final potentially important mechanism is shifting public opinion. It could be the case that state legalization led the broader public in legalizing states to be more liberal on marijuana, which then drove members of Congress to support marijuana reform. One way to test this mechanism is to explore the association between marijuana legalization and attitudinal changes over time. To investigate this, I use state-level estimates of support for marijuana legalization collected by Caughey and Warshaw (2020).<sup>18</sup> Using a difference-in-differences design, I compare changes to public opinion in legalizing states to changes in public opinion over the same time period in a set of similar nonlegalizing states. I leverage a method recently developed by Xu (2017), which is particularly useful since it allows for implementation of synthetic controls in cases of multiple treated units and variable treatment periods. The method uses a linear interactive fixed effects model to impute counterfactuals for each treated unit (states legalizing marijuana). In addition to estimates of state-level support for legalization, the model also includes estimates of mass ideology (cultural and economic dimensions) (Caughey and Warshaw 2020). I consider legalization of marijuana for medical use and for adult use separately.

Figure 6 plots average support for marijuana legalization over time for both the treated states and the synthetic controls. If legalization led to greater public support for marijuana, we would expect the solid series representing legalizing states to jump above the dashed series at treatment (year 0 in Figure 6). The evidence, though, suggests no such effect. Indeed, public opinion, for both adult use and medical use, is slightly more favorable in the synthetic control group, though not statistically distinguishable from the treated group. This suggests that state-level legalization has not disproportionately improved public opinion in the states where it is adopted, thus suggesting that public opinion shifts are not driving observed effects.<sup>19</sup>

Overall, while the available data do not allow for a precise decomposition of the various potential mechanisms at play, integrating qualitative interviews with quantitative analysis provides some insights. First, while learning cannot be dismissed, various analyses suggest that learning is likely not the key mechanism driving the relationship between state policy and congressional representation in this case. In addition, analysis of public opinion data suggests that attitudinal shifts are not driving the relationship

FIGURE 6  
Marijuana Legalization is Not Associated with Changes to State-Level Public Opinion



Note: Solid lines represent average support for marijuana legalization in legalizing states. Dashed line represents average support in comparable nonlegalizing states.

between state legalization and national representation on marijuana reform. Finally, analysis of industry revenue and political engagement, put together with interviews, suggest the importance of political-economic factors—particularly the growing industry in legalizing states.

### Discussion

Broadly speaking, this study provides new insight into policy and political interdependencies across levels of government in American government. American political institutions provide state governments with much policy authority. And in many policy domains, American federalism is characterized as a “marble cake,” with shared authority across levels of government (Grodzins 1982).



As state governments become more active and more partisan policy makers (Franko and Witko 2018; Grumbach 2018), it is crucial that we develop a better understanding of the implications of state policies for the broader polity.

Using an instrumental variables design that leverages exogenous variation in marijuana legalization from longstanding differences in the availability of citizen initiatives, I have shown that the policy landscapes in the states they represent affect the behavior of members of Congress. I find that state-level marijuana legalization affected both bill sponsorship and certain lower-profile roll-call votes in the 116th Congress, though estimated effects on bill sponsorship were larger. The evidence suggests the strongest mechanism driving these effects was growing industry influence in legalizing states, though other mechanisms—particularly lawmakers learning about public favorability—cannot be ruled out.

This study has its limitations. First, the design likely generates under-estimates of the effects of state legalization on the politics in Congress. I compare lawmakers representing legalizing and nonlegalizing states, showing more pro-marijuana bill sponsorship and roll-call voting among the former. However, it is likely that legalization, by growing an industry that is developing a political presence in Congress, has also affected legislators representing nonlegalizing states—it is just that effects are more pronounced in states that have adopted legalization.

A second limitation is a short temporal window. Data are limited by the relative recency of the advent of adult-use legalization and the emergence of the marijuana industry. Marijuana reform has only been seriously considered in Congress in very recent years, so just a few roll-call votes related to marijuana legislation have been taken since the state legalization wave began. As more data become available, researchers will be able to extend the analyses performed here. This may help to clarify further the role of the different potential mechanisms explored in this study.

This study focuses on the implications of state-level policy decisions in Congress, but future work might pay more attention to the implications of substate decisions—and resulting potential intra-state variation. Many local governments have responded to state-level legalization by enacting their own prohibitions on marijuana cultivation and retail (Dilley et al. 2017). State legalization of marijuana could affect lawmakers differently according to the extent of local-level prohibitions in their districts. Even in a state that has legalized marijuana for adult use, industry influence

is likely to be much less relevant for House members representing areas with significant local-level barriers to industry growth. Relatedly, future work might pay greater attention to intra-state variation in ballot initiative support as it pertains to the signaling mechanism.

Another limitation of this study is that it is restricted to a single policy area. I would expect that, relative to other policy areas, the political economy mechanism is particularly pronounced here—with state-level marijuana legalization allowing for the rapid growth of a new industry that is developing greater political capacity. This mechanism is likely less pronounced in policy areas in which state-level decisions have more modest implications for the relative political capacities of different economic interests. This includes, perhaps most notably, issues of morality politics like same-sex marriage and abortion.

That said, the political economy mechanism proposed here is highly relevant to several highly significant and salient policy areas featuring (1) strong vested interests dependent on government policies for material benefits and (2) shared governance between federal and state governments. One such area is climate change. Industries reliant on the burning of fossil fuels are enormously powerful in American politics, spending vast amounts of money on lobbying and campaign contributions in federal (Brulle 2018) as well as state and local politics (Stokes 2020). Organized interests enriched by the extraction and burning of fossil fuels have also become a key organizing force within the Republican Party (Skocpol 2013). The power of these groups in our politics is built atop a set of policies in place across the federal system that not only fail to adequately price the negative externalities of burning fossil fuels (Metcalf 2019), but also subsidize the production of fossil fuels (Environmental and Energy Study Institute 2019). But as state governments continue to adopt and strengthen policies driving the transition to renewable energy (Rabe 2004), this is likely to alter the pressures faced by members of Congress, potentially opening new opportunities for federal policy.

Considering the case of climate change highlights how the policy interdependencies mediated by interest group strength discussed in this article can improve our understanding of policy *stability* over time as well as change. In the case of marijuana, policy shifts at the state level have changed the federal politics in Congress, generating positive feedback across levels of government. But in climate change, existing subnational policies—particularly in

conservative areas of the country—are contributing to the difficulty of achieving policy reform at the federal level. For advocates seeking to break the status quo, this suggests the importance of paying attention not only to the potential benefits of sequencing policy reforms over time (Meckling, Sterner, and Wagner 2017), but also across levels of government in federal systems like the U.S.

*Data Availability Statement.* The data that support the findings of this study are openly available at <https://doi.org/10.7910/DVN/YJXAGW>.

**Samuel Trachtman** ([sam.trachtman@berkeley.edu](mailto:sam.trachtman@berkeley.edu)) is a post-doctoral fellow in the Department of Political Science at University of California, Berkeley, working for the Consortium on the American Political Economy.

## NOTES

1. Other studies explore bottom-up diffusion from cities to states (e.g., Shipan and Volden 2006).
2. Interview with senior policy advocate at National Organization for the Reform of Marijuana Laws (NORML), May 13, 2020.
3. Interview with senior official at Marijuana Policy Project, April 17, 2019.
4. Measures are derived from aggregating policy questions across polls using a group-level item-response model.
5. Interview with former state legislator in Colorado closely involved with legalization effort and development of marijuana industry.
6. Status at the end of the Congress is used since a shift in legalization occurring in the middle of the Congress could plausibly affect member behavior for the remainder.
7. Since citizen initiatives predict both medical- and adult-use legalization, the IV analysis cannot parse their separate effects. In addition, there remains significant policy variation within the categories of medical use and adult use. For instance, states vary on the availability of licenses for cultivation and distribution. Measurement error in the treatment should attenuate estimates, making it more difficult to detect effects. Results are robust to coding only adult-use states as “treated” (see Appendix A.2).
8. Analysis uses the *ivreg* function in the *AER* package in *R*.
9. I report covariate adjusted and noncovariate adjusted estimates due to concerns about researchers leveraging control variables to inflate effect sizes or achieve statistical significance (Lenz and Sahn 2020).

10. As an additional check, presented in the Appendix A.2, I conduct the main analyses using regression adjustment for identification versus the instrumental variables method.

11. Since these amendments are part of the federal budget, they must be renewed every year.

12. The Senate has not voted on any of these bills.

13. It should be noted that Huder, Ragusa and Smith (2011) suggest that what matters is not the tally of the initiative, but whether it passes, so this analysis is somewhat limited in that respect.

14. Public data for other years are not yet available.

15. Interview with senior official at Cannabis Voter Project, January 26, 2021.

16. Interview with director-level employee at large cannabis firm, November 10, 2020.

17. Interview with former Colorado state legislator closely involved with industry, December 21, 2020.

18. Estimates are weighted based on raked state-level weights using race, education, gender, and age. I use weighted estimates instead of estimates from multilevel regression and poststratification (MRP) since smoothing from MRP might make it more difficult to detect treatment effects (Caughey and Warshaw 2020; Lewis and Linzer 2005).

19. State legalization may well have improved public opinion *across all states*, but if this were the case, it would not be expected to differentially affect members of Congress representing legalizing versus nonlegalizing states.

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### **Supporting Information**

Additional supporting information may be found in the online version of this article at the publisher's web site:

Appendix A1: Descriptive Information

Appendix A1: Robustness Checks and Additional Analyses

Appendix A1: Evidence on Mechanisms

Appendix A1: Ethics in Social Science Research

Figure A1. Citizen Initiative Rules

Figure A2. Bill Sponsorship Score Distributions by Legalization Status

Table A1. First Stage Regression Results

Figure A3. Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress, Excluding Western States

Figure A4. Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress, Alternative Legalization Status Coding

Figure A5. Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress, by Party

Figure A6. Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress, Covariate Adjustment Specification

Figure A7. Effects of State Marijuana Legalization on Roll-call Voting in the 116th Congress, Covariate Adjustment Specification

Figure A8. Effects of State Marijuana Legalization on Bill Sponsorship in the 116th Congress, by Chamber

Table A2. Relationship Between Initiative Score, Years Since Initiative, and Congressional Representation in Adult-Use States

Figure A9. Greater Industry Revenue is Associated with Sponsorship of Pro-marijuana Legislation

Figure A10. Proportion of 2018 Congressional Elections with Marijuana Industry Contributions by Legalization Status

Figure A11. Effect of Legalization on Receiving Campaign Donations from Marijuana Industry in 2018 Election Cycle