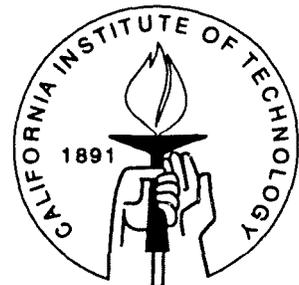


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ARE LEGISLATORS AFRAID OF INITIATIVES?  
ANTICIPATION AND REACTION IN THE POLICY PROCESS

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# **ARE LEGISLATORS AFRAID OF INITIATIVES? ANTICIPATION AND REACTION IN THE POLICY PROCESS**

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## **Abstract**

This research considers how and when the popular initiative constrains legislative behavior and policy. I develop a spatial model of the policy process in which legislators anticipate the possibility that an initiative may be proposed in response to laws they pass. I use the model to identify conditions under which the initiative forces legislators to respond to citizen preferences. I conclude that features of the initiative process, especially electoral laws that affect the costs of proposing initiatives, as well as the preferences of political actors, largely determine whether legislators will be constrained.

# ARE LEGISLATORS AFRAID OF INITIATIVES? ANTICIPATION AND REACTION IN THE POLICY PROCESS \*

Elisabeth R. Gerber

## 1 Introduction

One of the basic problems in democratic government is how to design political institutions that facilitate the representation of citizen interests.<sup>1</sup> The framers of the United States Constitution debated this point, settling ultimately on a system of representation in which elected officials are tied to their constituencies through regular, periodic elections. The extent to which such a system allows citizens to influence policy, however, has been fundamentally challenged on several grounds. One set of arguments come from scholars of electoral politics, whose findings about low levels of citizen information<sup>2</sup> and pervasive incumbency advantages<sup>3</sup> raise serious questions about the ability of citizens to constrain the behavior of their government officials through elections. A second set of arguments come from scholars of legislative organization, who argue that by forcing legislators to provide particularistic goods to their districts, the system of representation, if anything,

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<sup>1</sup>What it means to “represent” citizen interests has been the subject of much debate in the normative political science literature. For summaries of these debates, see Pitkin 1967. In some treatments, elected officials “represent” their constituents when they promote policies that are the same as the constituents would themselves promote. In other treatments, elected officials represent their constituents by promoting policies that are perceived to be in the citizens’ “interests,” regardless of whether or not they would have pursued the same policies on their own. In the positive and empirical literatures on representation, ~~the first definition is typically employed, sometimes explicitly, sometimes implicitly.~~ In the current research, I employ a sufficiently general treatment of both citizen and legislator motivations to allow for either form of representation.

<sup>2</sup>An early example of work in this tradition is *The American Voter* (Campbell et. al., 1960). Page & Shapiro 1991 provide empirical evidence of low levels of voter information.

<sup>3</sup>Possible sources of incumbency advantages include case work and constituency service (Fiorina 1977; Cain, Ferejohn, and Fiorina 1987), the perks of office (Davidson & Oleszek 1981), preemptive spending (Epstein 1993), the ability to ensure safe districts (Cain 1984), or advantages in raising PAC money (Jacobson 1987).

ties legislators *too closely* to their districts (see Ferejohn 1974 or Shepsle & Weingast 1993 for a recent review). These two perspectives, together with anecdotal evidence that legislators are insulated from public opinion, raise the strong possibility that legislative policy may diverge substantially and systematically from citizen preferences.

In the current research, I evaluate how other political institutions, besides elections, can induce legislators to respond to their constituents' preferences. In particular, I consider how *the initiative process* may allow citizens to constrain the behavior of their elected representatives. The initiative process is the policy-making arrangement characterized by direct citizen voting on public policy measures that are themselves proposed by citizens. Twenty-three American states have provisions for the initiative at the statewide level, as do thousands of local governments.<sup>4</sup> By providing citizens with the ability to propose and pass laws directly, proponents of the initiative argue that citizen interests are better represented in at least two ways. First, the initiative provides voters with a means for *directly* enacting policies they prefer by proposing and voting on initiatives, independent of legislative action. Second, it may provide them with a means for *indirectly* influencing policy by affecting the behavior and policy choices of their elected representatives. Opponents, conversely, argue that the existence of the initiative leads to shirking on the part of elected representatives, who can avoid taking a firm stance on unpopular or controversial issues by "letting the voters decide."<sup>5</sup>

This research focuses on the indirect effects of the initiative on representation. I reconcile the competing claims of initiative supporters and opponents by identifying how and when the existence of the initiative constrains legislative behavior. My approach is to develop a spatial model of the policy process in which legislators anticipate possible future initiatives. I use the model to identify conditions under which the threat of initiative entry forces legislators to consider voter preferences when drafting new laws in ways they would not otherwise. The analysis produces predictions about the relative positions of the laws legislatures pass in the presence and in the absence of the initiative. The results of this research provide a better understanding of the relationship between legislative politics and the initiative, and allow me to evaluate the extent to which the initiative facilitates representation by constraining legislative behavior.

The remainder of this paper is organized as follows. In the next section, I present a stylized description of the policy process in states that have provisions for the initiative. This discussion forms the basis of the spatial model, which is described intuitively in the text. A formal description of the model and statements of equilibrium behavior are in Appendix A. I then describe the results of the model, focusing on how the threat of initiative entry affects legislative behavior and policy. Finally, I place this analysis into the context of a broader set of problems concerning anticipation and reaction in the

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<sup>4</sup>Magleby (1984) provides an extensive description of the provisions for direct legislation in the US, while Butler & Ranney (1978) review the use of direct legislation in other democratic nations.

<sup>5</sup>These arguments are not new, and in fact date back to at least the early 1900s when Progressive reformers pushed for the adoption of direct legislation in many US states. See Cronin (1989) for a summary of historical and contemporary arguments for and against direct legislation.

policy process, and describe the implications of my research for thinking about the role of the initiative in the representation process.

## 2 A Model of the Policy Process

Consider the problem legislators face when they draft laws in states that allow the direct initiative. Legislators know that policy advocates (typically established interest groups) may propose initiatives in response to the legislation they pass.<sup>6</sup> If a majority of voters prefers the initiative and votes in favor in a subsequent election, the initiative replaces the existing legislation and becomes law. This raises the possibility that the resulting policy outcomes may be contrary to the legislators' policy preferences. To reduce the risk that such unfavorable initiatives are proposed and passed, legislators may want to anticipate the behavior of potential initiative proposers and draft laws to preempt their initiatives.

To provide intuition into how this anticipation affects legislative behavior, I model the policy process as a sequential game involving three types of players: legislators, potential initiative proposers, and voters. The object of the game is to select one policy that determines the payoff to all players. Legislators in the model move first and pass a law, recognizing that some laws may provoke a challenging initiative to be proposed in response. Initiative proposers move next and decide whether or not to propose an initiative. If no initiative is proposed, the game ends and the status quo policy (that is, the law the legislature has passed) remains. If an initiative is proposed, voters choose between the initiative and the legislature's law in a subsequent election. The policy (the law or the initiative) preferred by a majority of voters prevails.<sup>7</sup> The extensive form representation of this game is presented in Figure 1. Details are considered below.

[Figure 1 About Here]

The sequential nature of the policy process implies that legislators must commit to a policy (that is, they must pass their law) before the proposer acts. Similarly, both legislators and initiative proposers must commit to their policies before the election. Therefore, a critical component of the model is how to capture the way legislators and initiative proposers anticipate the future behavior of other players. I begin by assuming that all players have policy preferences, defined by an ideal point and a utility function.<sup>8</sup>

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<sup>6</sup>Most states have few, if any, restrictions on the content of initiatives, and we often observe similar policies considered as both legislative measures and initiatives. See Gerber 1992.

<sup>7</sup>This sequence is justified by the observation that most initiatives are proposed after policy advocates exhaust other (legislative) strategies. The game can be extended to allow the legislature an *ex post* opportunity to influence policy by allowing it to pass a new law after it observes the content of the initiative.

<sup>8</sup>I place minimal conditions on player utility functions, specifically that they are monotonically decreasing from their ideal point.

For simplicity, I further assume that these preferences, as well as any player costs, the play of the game, and the content of any policies (once proposed) are known by all players. The complete information assumption means that when an initiative proposer considers proposing an initiative, it knows *for certain* whether voters will prefer the legislature's law or the initiative. Similarly, when the legislature passes a law, it knows for certain whether the initiative proposer will find it in its interest to propose an initiative, and if the proposer does enter, whether the initiative will be majority preferred to its law. Clearly, the complete information assumption is often violated in practice. A great deal of uncertainty surrounds the actual policy process, and actors may be uncertain about the future consequences of their actions. However, since there is no strategic transmission of information in the model, assuming complete information allows us to understand the basic intuition of the model without the complications introduced by uncertainty.<sup>9</sup>

I impose several additional simplifying assumptions that allow me to focus explicitly on the strategic interaction between the several players. First, I treat the legislature as a unitary actor. This simplification allows me to "hold constant" the individual interactions between legislators and focus directly on how the results of those interactions vary in anticipation of future initiative proposals.<sup>10</sup> I also treat the initiative proposer as a unitary actor and assume that only one proposer can enter and propose an initiative. Further, I assume that the proposer's preferences are given exogenously. In the actual policy process, we sometimes observe a more complicated interaction between interest groups. Early in the policy process, there are often several interest groups with conflicting policy preferences competing for an opportunity to affect the policy agenda and/or propose an initiative. Over time, these groups may form coalitions among themselves, or they may each propose their own competing initiatives.

I also simplify the treatment of voter preferences. Several works have considered how voter preferences towards initiatives might change over the course of an initiative campaign (see Lowenstein 1982, Gerber & Lupia 1993). In the current model, I am interested in voter behavior only insofar as it constrains the behavior of the legislature and the initiative proposer. Therefore, I assume that voter preferences are fixed and focus on the median voter's preference, since it is that voter's preference that determines whether the initiative will pass (on a binary vote between the initiative and the status quo).

Finally, I make several assumptions about player costs. First, I assume that legislative behavior is costless. I recognize that with a limited policy agenda, there are opportunity

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<sup>9</sup>The primary effect of incomplete information is to introduce noise into the decision calculus of the actors. This means that, under incomplete information, a legislature that is maximizing *ex ante* expected utility may pass a law that fails to prevent the initiative entry because the legislature, uncertain about the proposer's preferences, is unable to perfectly anticipate the proposer's future behavior.

<sup>10</sup>To operationalize this assumption, I assume that the many individual legislators have preferences over policy, and that the "legislature's preferences" emerge through the process of aggregation implied by the legislature's rules. For example, the legislature's preferences may represent the preferences of the median legislator or the median legislator of the majority party, or some weighted average of individual legislator preferences.

costs associated with considering a law in one issue area rather than another. I take the agenda setting process as exogenous and assume that the legislature has already committed, in a previous game, to consider a law in the current policy area. In other words, the legislature has already chosen to pay to the opportunity costs associated with taking action on the current bill and is now concerned only with the bill's specific content. For simplicity, I also assume that voter behavior is costless.

By contrast, I assume that proposer behavior is costly. In particular, policy advocates generally have limited resources to expend on their policy agenda, and proposing an initiative is one of several possible strategies they may pursue. In the actual policy process, we observe that qualifying and campaigning for initiatives is often very costly indeed, and that groups seem to be aware of this cost when they propose initiatives. For the purposes of the current model, I assume that proposer entry costs are known and fixed.<sup>11</sup>

A fundamental feature of the model is the potential divergence – and resulting tension – between legislator and voter preferences. This tension underlies the basic problem of representation – if legislators and voters held identical policy preferences, for example, if there was consensus on an issue among all citizens and elites, the problem of representation would be trivial. Each legislator would simply vote for her most preferred policy, which would be the same as the most preferred policy of the citizens in her district, and the policy outcome would be identical to the outcome citizens would themselves pass. For several reasons, however, both empirical and theoretical, we expect this trivial solution to be the exception and not the rule, and for legislator and constituent preferences to often diverge.<sup>12</sup>

The basic structure of the game resembles Romer & Rosenthal's (1978) setter model, except that in the current application, both a legislature and an initiative proposer share agenda setting power. Features of the model resemble aspects of other sequential models found in the literature as well. For example, voters in this model have an effective veto over the legislature's and proposer's policies. In this way the model resembles the legislative-executive veto models of Matthews (1989) and Ingberman & Yao (1991). The proposer responds to the legislature's policy by offering an alternative policy, similar to a floor amendment in Gilligan & Krehbiel's (1989) open rule committee-floor game. The legislature attempts to avert subsequent proposer entry as it drafts its law, and in this way the model shares some features of the predatory pricing (Kreps & Wilson 1982) and sequential entry models (Palfrey 1984).

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<sup>11</sup>A comparable cost assumption is that legislature and voter costs are normalized to zero.

<sup>12</sup>Empirically, there exists strong evidence that while constituency preferences may be related to legislative behavior, actual legislative policy outcomes often diverge from estimates of voter preferences, both at the district level (see Gerber 1992) and in the aggregate (see Miller & Stokes 1963, Jackson 1974, Weissberg 1978). In addition, empirical evidence about legislator motivations that emphasizes factors other than simply re-election suggests that these divergences may indeed be intentional (for example, Fenno 1973). Theoretically, the structure of political institutions may mean that the median legislator does not represent the median voter, either because of gerrymandered districts (see Cain 1984) or because electoral competition leads legislators to represent preferences other than those of their district median voters.

### 3 Equilibrium Behavior

I solve the game using backwards induction. The relevant players are denoted as the “Median Voter” or simply “Voter,” the “Proposer,” and the “Legislature.” The formal statement of equilibrium behavior is contained in Appendix A. An intuitive explanation follows.

First consider the Voter’s choice problem. By the time the Voter moves, the Legislature has already passed its law and the Proposer has already proposed its initiative. Since I assume that the Voter can observe both of these alternatives without error, and also that she can evaluate how much utility she will receive from any possible policy (that is, she knows her own ideal point and her utility function), her choice problem is trivial. She simply votes for the initiative if it provides higher utility to her than the law, and votes against the initiative if the law provides higher utility. The exact level of utility the Voter receives from each policy depends on the spatial relationship between her ideal point and the policy position, and the shape of her utility function.

The Proposer’s choice problem is more difficult. The Proposer must make two decisions. First, he must determine whether there exist any potential initiatives that are worth proposing. To do so, he considers two factors. One is that the potential initiative must increase the Proposer’s utility enough over the Legislature’s policy to justify the cost of entry. Thus, for example, if the cost of entry is \$1 million, the Proposer will only consider proposing initiatives that provide him with at least the equivalent of \$1 million in utility *over and above* the utility he would receive from the Legislature’s policy. The second factor is that the Voter must also prefer the initiative to the Legislature’s policy. Under complete information, the Proposer knows which initiatives the Voter will prefer to the Legislature’s (already existing) law. Since proposing losing initiatives provides the Proposer with no benefit, and costs him some positive amount, he will only propose winning initiatives. The Proposer therefore enters if there is some initiative which the Voter prefers to the law that also makes him better off, net of his entry costs.

If the Proposer chooses not to enter, the Legislature’s law remains intact. If there exist initiatives that lead the Proposer to enter, he must then make his second decision, which is to select the specific content (spatial location) of his proposal. From the set of “winning” initiatives, he selects that policy which provides him with the highest utility. As with the Voter, the actual level of utility the Proposer receives from any given policy alternative depends on the precise shape of his utility function.

Finally, consider the Legislature’s choice problem. In response to any law it might pass, the Legislature can anticipate whether the Proposer will enter and the initiative he will propose, as well as which alternative the Voter will prefer. Since legislative action is costless, the Legislature always prefers to pass a law and avert Proposer entry, than risk an initiative that may provide less utility. It can do this two ways. One way is to pass a law that the Voter prefers to the Proposer’s best response. A second way is to pass a law that the Proposer prefers to any winning initiative. In both cases, Proposer entry is averted and the Legislature passes the law that provides it with the highest utility.

## 4 Results

I now use the model to generate predictions about when the Legislature will be constrained by the threat of initiative entry. The Legislature is “unconstrained” when it passes laws at its ideal point. The Legislature is “constrained” when it passes laws different from its ideal point. The model allows me to demonstrate that this constraint depends on the relative preferences of the players and the costs faced by the Proposer, which in turn determine whether or not there exist winning initiatives that the Proposer can threaten to propose. The following examples illustrate the results. To facilitate illustration, the examples describe the case where player utility functions are linear, symmetric, and single-peaked at their ideal point.

Consider the unidimensional policy space as depicted in Figure 2. For the purposes of the examples, we can think of the space as representing a set policies, say level of defense spending, ranging from very low to very high. Other applications could take the unidimensional space as representing some other dimension, for example less to more liberal policies. In Figure 2, the Legislature’s preferences are moderate relative to the Proposer’s and the Voter’s such that  $P < L < V$ , where  $P$  is the Proposer’s ideal point,  $L$  is the Legislature’s ideal point, and  $V$  is the Voter’s ideal point.<sup>13</sup> In terms of our example, this means that the Proposer most prefers a relatively low level of defense spending, the Legislature most prefers a moderate level, and the Voter most prefers a high level of spending. When the players hold these preferences, there exists no initiative that the Proposer and the Voter both prefer to the Legislature’s ideal policy. The Legislature is therefore unconstrained by the threat of initiative entry.

[Figure 2 About Here]

To illustrate, suppose that under this preference configuration, the Legislature passes a law that entails a level of spending equal to its ideal level  $L$ . In response to this law, the Proposer is tempted to propose an initiative that entails less spending (that is, to the left of  $L$ ). Indeed, the Proposer prefers all policies with lower levels of spending than the law, down to its ideal level  $P$ . The Voter, however, prefers all policies with higher levels of spending than the law up to its own ideal level  $V$ . If the Proposer proposes its most preferred initiative at  $P$ , the Voter will choose between the moderate law and the low-spending initiative and will prefer the law. Indeed, if the Proposer proposes any initiative that represents less spending than the law, the Voter will prefer the law and the initiative will lose. Therefore, there exists no policy that the Proposer prefers to the Legislature’s policy that the Voter also prefers, and so no initiative is proposed.

Anticipating this behavior, the Legislature knows that it can always pass a law for its ideal spending level without invoking Proposer entry. Therefore, the Legislature has no incentive to offer any law other than its ideal policy  $L$ , and legislative behavior is unconstrained by the threat of initiative entry.

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<sup>13</sup>The same results hold for the reverse case where  $V < L < P$ .

Now consider Proposer behavior under the preference configuration depicted in Figure 3. In this example, with  $L < P < V$  (or  $V < P < L$ ), the Legislature prefers low spending, the Proposer prefers moderate spending, and the Voter prefers high spending. If the Legislature and Proposer were to each propose their ideal policies, the initiative would win because the Voter would prefer the Proposer's moderate spending policy to the Legislature's low spending policy. Whether this translates into a credible entry threat by the Proposer, and thus whether the Proposer's threat constrains the Legislature, depends on the level of the Proposer's costs. In general, when the increase in utility the Proposer expects to receive from proposing an initiative compared with the utility from the law is greater than the cost of entry, the Proposer is tempted to enter. When the utility differential is less than the cost of entry, the Proposer can not justify the cost and does not enter.

[Figure 3 About Here]

Again, suppose the Legislature passes a law at its ideal point  $L$ . Two cases are relevant in terms of the Proposer's strategy.

- *Case 3a: Proposer Costs  $\geq$  Utility Gain From Entry*

where the Proposer's "Utility Gain From Entry" is the difference in utility the Proposer receives from its most preferred initiative,  $P$ , compared to what he receives from the Legislature's most preferred policy,  $L$ . Case 3a describes the scenario where the Proposer's costs are large relative to the increase in utility he expects to receive from proposing an initiative. The gain in utility the Proposer receives from proposing even its most preferred initiative, relative to what he receives from the law, does not justify the cost of entry. Therefore, he keeps what he would have spent to propose an initiative, does not enter, and accepts the utility he receives from the law.<sup>14</sup> This decision is independent of the Voter's preferences. Knowing that the Proposer will not enter, the Legislature is unconstrained in its choice of policy and offers its law at  $L$ .

- *Case 3b: Proposer Costs  $<$  Utility Gain*

When costs are small relative to the differential value of the alternative policies, the gain in the Proposer's utility from proposing an initiative justifies the cost of entry, and so the Proposer is tempted to enter. The Proposer knows that the Voter will prefer any initiative that entails greater spending than the law, including an initiative proposing spending at exactly  $P$ . At  $P$ , the Proposer receives the highest utility from any possible winning initiative, and so prefers to propose the initiative at this point. The Legislature,

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<sup>14</sup>I assume that the Proposer does not enter when he is indifferent.

however, will prefer to give up a little utility in order to prevent the Proposer from entering. The Legislature knows that if its law is sufficiently close to the Proposer's ideal point, the cost condition defining Case 3b will no longer hold – that is, the utility differential between the law and the Proposer's best response will no longer justify the cost of entry. Therefore, the Legislature will attempt to preempt the initiative by offering a law at a point other than its ideal policy and a little closer to the Proposer's ideal policy. It will do so, in fact, until the Proposer is just indifferent between accepting the law and entering. This will be the case when the value to the Proposer of the initiative minus the value of the law is just less than the Proposer's entry cost. Therefore, the Legislature passes its law to satisfy this condition.

Finally, consider Legislature and Proposer behavior when the Voter prefers the moderate policy ( $L < V < P$  or  $P < V < L$ ). As under the previous preference configuration, whether or not the Legislature is constrained by the threat of initiative entry depends on the existence of an initiative whose value to the Proposer justifies the Proposer's costs, and that the Voter prefers to the Legislature's unconstrained policy choice.

[Figure 4 About Here]

Again, suppose the Legislature offers its ideal policy.

- *Case 4a: Proposer Costs  $\geq$  Utility Gain*

In this case, the gain in utility the Proposer receives from proposing his most preferred policy, relative to that which he receives from the law does not justify the cost of entry. Therefore, he does not enter. Absent the threat of initiative entry, the Legislature passes its law at its ideal point.

- *Case 4b: Proposer Costs  $<$  Utility Gain and Voter Prefers Proposer's Ideal Policy to Legislature's Ideal Policy*

Legislature and Proposer behavior in this case are dictated by two conditions, a cost condition and a preference condition. The cost condition says that the Proposer's costs are low, relative to the gain in utility from proposing his most preferred policy. On this basis, the Proposer is tempted to enter. Now, however, suppose the Legislature passes its ideal policy. The second condition says that if it does so, the Proposer can propose its own ideal policy as an initiative and the initiative will win. The Legislature can anticipate this winning initiative, and gives up a little in terms of policy content in order to avert Proposer entry. The Legislature moves its policy away from its own ideal policy and closer to the Voter's ideal policy. It does so until the policy is close enough to the Voter's ideal point that the Proposer would have to counter with an initiative that is so far from his ideal point that it is no longer cost-justified. At that point, the Proposer will no longer enter and the Legislature's preemptive policy prevails.

- *Case 4c: Proposer Costs < Utility Gain and Voter Prefers Legislature's Ideal Policy*

In this case, as in the one previous, the Proposer finds it worth the cost of entry to propose an initiative in response to the Legislature's ideal policy. However, if it proposes its ideal initiative, the Voter will prefer the law. The Proposer is therefore tempted to propose an initiative that the Voter would prefer. This will be a policy that is just a bit closer to the Voter's ideal point than is the Legislature's policy, in absolute value. At that point, the Proposer can expect the highest utility while beating the law. Again, however, in an attempt to avert Proposer entry, the Legislature will move its law closer to  $V$  until the Voter just prefers the law to the Proposer's best response, cost-justified initiative.

Table 1 summarizes the complete information results. As illustrated in Case 3b, the Legislature's behavior is constrained when the Proposer's preferences are relatively moderate and the difference in the Proposer's utility between the Legislature's ideal law and the Proposer's best response justifies the cost of entry. When preferences and costs satisfy these conditions, the Proposer can be expected to enter and propose an initiative that beats the Legislature's ideal policy. The Legislature responds by moving its law closer to the Proposer's ideal point to just avert Proposer entry. In a sense, the Legislature is able to "buy off" the Proposer. Notice that by doing so, the median voter is made better off since moving the law closer to  $P$  also moves it closer to  $V$ .

[Table 1 About Here]

The Legislature is also constrained when the Voter's preferences are relatively moderate and the difference between the Legislature's ideal law and the Proposer's best response justifies the Proposer's cost of entry. This scenario is illustrated in Cases 4b and 4c. The Legislature responds to a credible initiative threat by moving its law closer to the Proposer's and Voter's ideal points. In this case, however, the key to the Legislature's strategy is not to make the Proposer indifferent towards entry – rather, it is to provide a law that the Voter prefers to the Proposer's best response. In other words, the Legislature averts initiative entry by buying off the Voter, not the Proposer.

Notice that under complete information, in equilibrium, an initiative will never actually be proposed. Since the Legislature knows both the Proposer's and the Voter's preferences, it can (and does) always perfectly anticipate the Proposer's future behavior and responds to avert Proposer entry. Similarly, even if an initiative is proposed, it will never lose. Relaxing the complete information assumptions provides richness and substantive plausibility to the model, but does not affect the general results about how a legislature anticipates possible future initiatives.

## 5 Discussion

We can now use the results of the model to evaluate the effects of the initiative on policy. The results show that under certain circumstances, a Legislature may be able to anticipate future initiatives and adapt its policy to avert initiative entry. A Proposer can induce the Legislature to consider its policy preferences when it can realistically threaten to propose an initiative that can be expected to garner strong popular support. The analysis allows us to identify when this will be the case. Proposers can threaten initiative entry when:

- Proposer is moderate and Proposer costs are low.
- Voter is moderate and Proposer costs are low.

When the Proposer holds a moderate position, the laws it favors may represent a compromise between the Legislature's and the Voter's preferences. When the Proposer represents an extreme position (with a moderate Voter), it may be able to force the Legislature to respond to voter preferences and therefore facilitate policies that are more desirable (but not necessarily ideal) to the extreme Proposer. Notice that in both cases, however, the ultimate policy outcomes diverge from the Proposer's ideal point, but that by saving the costs of entry, the Proposer may still be better off. Similarly, the Legislature's adapted policy may also diverge from the Voter's ideal point but may represent an improvement over the Legislature's initial position.

The finding that some types of proposers (interest groups) may use the initiative process more effectively than others has important implications for how we evaluate the representational consequences of the initiative process. We observe that the types of interest groups that are active in the policy process varies widely across states. This variation may partially explain why the initiative is used quite frequently in some states and almost never in others. In addition, since the effects we describe here are fundamentally unobservable, some leverage on evaluating these effects might be gained by recognizing that the probability that an interest group can constrain legislative behavior and policy is related to the group's type or preference. As we observe the types of groups varying across states, we might expect the *probability* of constraint to vary as well.

Our findings about costs are instructive as well. In particular, we recognize that the costs of proposing an initiative are a result of the electoral laws regarding the use of the initiative. Our findings illustrate institutional conditions under which interest groups can use the initiative more or less effectively. Electoral laws that affect the costs of proposing initiatives include campaign spending limitations, either restrictive (leading to lower costs) or permissive (leading to higher costs). Other types of laws that affect the costs of proposing initiatives include signature requirements and whether or not the signatures can be collected by volunteers.

These types of laws vary across states and are often the subject of debates over political reform. If the goal of reform is to allow greater access to the initiative process, reforming electoral laws to lower costs may further this goal. If the goal of reform is to make the initiative a more effective tool for constraining the behavior of legislators, recognizing the relationship between costs and the distribution of preferences is critical.

## 6 Conclusions

Two primary conclusions emerge from the analysis. The first is that interest groups can affect policy through the initiative process even when no initiatives are actually proposed. The fact that interest groups have the ability to challenge legislative policy *ex post* means that legislators in states that have initiatives must always be aware of the possibility of future initiatives. The importance of this conclusion takes on new meaning when we observe that in many states that have the initiative, very few initiatives are actually proposed. Our results suggest that before concluding that the initiative is not important in those low-use states, it is important to recognize the indirect effects the initiative may have on policy.

The second conclusion is that the ability of interest groups to use the initiative in this way is likely to vary significantly across states. The results indicate that the extent to which legislators are constrained by the initiative depends on the interaction between features of the initiative process *and* the underlying distribution of preferences. This raises the very real possibility that interest groups in two states with nearly identical provisions for the initiative may be differently able to constrain legislative policy due to differences in relative preferences in their state. Similarly, interest groups in two states with very similar preference configurations but different initiative features may find different levels of success in influencing legislative policy.

## 7 Implications

Beyond the immediate importance of understanding the effects of direct legislation, the results of this analysis have broader implications for how we think about the design of political institutions. One of the fundamental problems in democratic government is how to design institutions that constrain the behavior of elected officials. We can think of direct legislation as one of a class of provisions, typically found in state constitutions, intended to restrict the behavior of representatives once they are in office. Other such provisions include balanced budget agreements, limits on state bonded indebtedness (Kiewiet & Szakaly 1993), limits on the ability of elected representatives to tax and spend (Sears & Citrin 1982), and limits on the number of terms representatives can serve. Each of these provisions have the intended effect of inducing elected representatives to behave in ways they would not otherwise.

Our analysis provides a framework for evaluating the role of this broader class of non-electoral constraints. By emphasizing the importance of variables like costs, the results illustrate how specific design features that affect costs in turn affect whether or not elected representatives are effectively constrained. In other words, it is not sufficient to have or not have provisions for these constraints. What is important is how the incentives that elected officials face are structured, and whether or not they are structured in such a way that influences their behavior as intended.

This research also has implications for how we think about the representation of citizen interests. We can think about the initiative process and the legislative process as two alternative mechanisms for aggregating citizen preferences in democratic government, each of which benefits different sorts of constituents. When laws are made by initiative, given the at-large counting procedures and the nature of majority rule, the resulting policies reflect the preferences of the majority of voters in the population. When laws are made by legislatures, the resulting policies reflect some aggregation of district preferences, mediated by the behavior of individual legislators and the features of the legislative institution. The results of this analysis suggest that to the extent that the threat of initiative entry moves legislative outcomes away from their initial positions, different groups may benefit. Specifically, when the threat of initiative entry induces the legislature to move its policy closer to the median voter's ideal point, voters with preferences similar to those of the median voter may be better represented than in the absence of the initiative. Similarly, voters whose preferences are well represented in the legislative process, especially members of minority groups who gain representation through the redistricting process, may find their interests less well represented under the threat of initiative entry.

# Appendix A

## Equilibrium Behavior

Define:

- $v(INIT, LAW) =$  Voter's binary choice
- $E(LAW, v(INIT, LAW)) =$  Proposer's binary entry decision
- $U_i(j) =$  utility to player  $i$  from policy  $j$
- $C =$  Proposer's costs
- $INIT^* =$  Proposer's best response to  $LAW$
- $LAW^* =$  Legislature's best policy

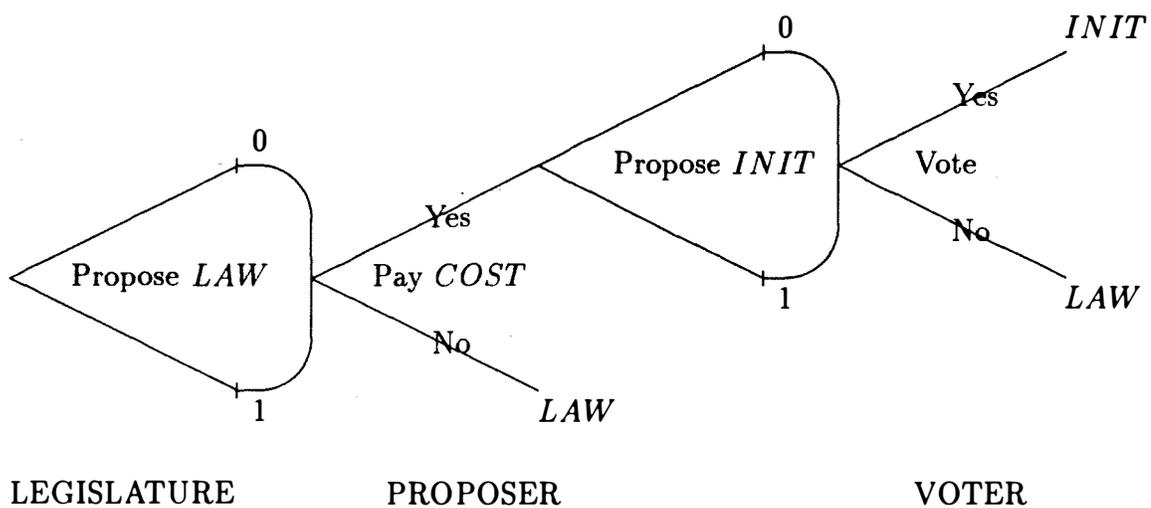
<p><b>Voter's electoral choice</b></p> $v(INIT, LAW) = 1 \quad \text{if } U_V(INIT) > U_V(LAW)$ $v(INIT, LAW) = 0 \quad \text{otherwise}$
<p><b>Proposer's entry decision</b></p> $E(LAW, v(INIT, LAW)) = 1 \quad \text{if } \exists INIT \text{ for which}$ $U_P(INIT) - C > U_P(LAW) \text{ and}$ $U_V(INIT) > U_V(LAW)$ $E(LAW, v(INIT, LAW)) = 0 \quad \text{otherwise}$
<p><b>Proposer's initiative proposal</b></p> $\max_{INIT^* \in [0,1]} U_P(INIT^*) - C \quad \text{s.t. : } U_V(INIT^*) > U_V(LAW)$
<p><b>Legislature's policy proposal</b></p> $\max_{LAW^* \in [0,1]} U_L(LAW^*) \quad \text{s.t. : } \exists INIT \in [0,1] \text{ for which}$ $U_P(INIT) - C > U_P(LAW^*) \text{ and}$ $U_V(INIT) > U_V(LAW^*)$

**Table 1: Summary of Complete Information Results**

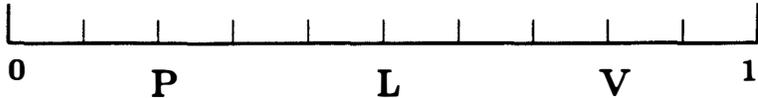
Preferences	Costs	Prefs	$LAW^*$	Constraint?
Moderate Legislature $P < L < V$	-	-	$L$	No
Moderate Proposer $L < P < V$	$C \geq \Delta U_P$	-	$L$	No
	$C < \Delta U_P$	-	$LAW_1$	Yes
Moderate Voter $L < V < P$	$C \geq \Delta U_P$	-	$L$	No
	$C < \Delta U_P$	$ V - P  <  V - L $	$LAW_2$	Yes
	$C < \Delta U_P$	$ V - P  \geq  V - L $	$LAW_2$	Yes

where  $\Delta U_P = U_P(INIT^*) - U_P(L)$   
 $LAW_1$  satisfies  $U_P(INIT^*) - U_P(LAW_1) = C - \epsilon$   
 $LAW_2$  satisfies  $U_V(INIT^*) = U_V(LAW_2) - \epsilon$

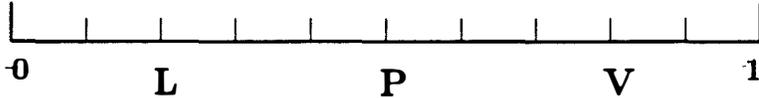
**Figure 1: Extensive Form Game**



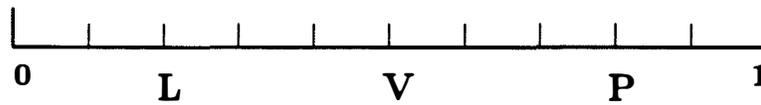
**Figure 2: Preference Configuration with Moderate Legislature.**



**Figure 3: Preference Configuration with Moderate Proposer.**



**Figure 4: Preference Configuration with Moderate Voter.**



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