

A New Elections Federalism: Dual Election Administration Systems

by

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Abstract

Dual election administration systems have a substantial history in the United States with differing characteristics over time and place. A dual election administration system creates categories of voters who are only allowed to vote in particular political races, as compared to a fully qualified voter, who would be able to vote in all the federal, state, and local political races in his or her political district. This research project explores possible explanatory mechanisms for state action to initiate a dual election administration system drawing on theories of policy diffusion and decision making in the policy process. Case studies are generated using qualitative data gathered through primary source interviews and collected secondary source materials from the five states – Arizona, Illinois, Kansas, Mississippi, and Oregon – that adopted this policy between 1995 and 2014 to determine characteristics of states likely to adopt a dual election administration system. This study finds states are likely to adopt a dual election administration system in order to preserve their states' rules of voter registration when those rules are threatened by federal mandate or court order, especially if the states' registration policies are seen as beneficial to partisan state officials' political party. Additionally, decision makers are likely to use limited analysis of the alternatives and the possible effects of a policy change when adopting a dual election administration system at the state level. The study also contributes a decision-making continuum that recognizes normative views in five common decision processes for choosing a policy.

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It is trite to say it takes a village to raise a child. It might ring truer to say it takes a village to complete a Ph.D., especially when it is I feeling my way along the path of academia. If I may steal a line from The Beatles, I got by with a little help from my friends. I can think of dozens of ways my immediate and extended family, faculty, staff, friends, employers, and complete strangers have helped me along the way, and I remain in your debt.

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List of Abbreviations

ACORN	Association of Community Organizations for Reform Now
CEO	Chief Election Official
EAC	Election Assistance Commission
FEC	Federal Election Commission
HAVA	Help America Vote Act
ITCA	Inter Tribal Council of Arizona
LEO	Local Election Official
NVRA	National Voter Registration Act
OCVRA	Overseas Citizens Voting Rights Act
Operation PUSH	People United to Serve Humanity
UOCAVA	Uniformed and Overseas Citizens Absentee Voting Act
VRA	Voting Rights Act

List of Court Cases and Judicial Decisions

Arizona v. Inter Tribal Council of Arizona, Inc. 2013. U.S. Supreme Court.

Breedlove v. Suttles. 1937. U.S. Supreme Court.

Brown, Brown and Stricker v. Kobach. 2016. Shawnee County, Kansas, District Court.

Crawford v. Marion County Election Bd. 2008. U.S. Supreme Court.

Harper v. Virginia Board of Elections. 1966. U.S. Supreme Court.

Haskins v. Davis. 1966. U.S. District Court, Eastern District of Virginia.

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Mississippi State Chapter, Operation PUSH v. Allain. 1987. U.S. District Court, Northern District of Mississippi.

Mississippi State Chapter, Operation PUSH v. Mabus. 1989. U.S. District Court, Northern District of Mississippi.

Orr v. Edgar. 1996. Appellate Court of Illinois, First District.

Purcell v. Gonzalez. 2006. U.S. Supreme Court.

Republican Party of Pennsylvania v. Degraffenreid. 2021. U.S. Supreme Court.

Shelby County, Ala. v. Holder. 2013. U.S. Supreme Court.

Young v. Fordice. 1997. U.S. Supreme Court.

Chapter 1

Introduction

A great deal of recent publicity surrounds state election policies – including voter identification at polling sites (Conover and Miller 2018; Hale and McNeal 2010; Kane 2017; Wilson and Brewer 2013), absentee voting (Bryant 2020; Owens 2021), and auditing and adapting election processes to accommodate new technology (Antenangeli and Cantú 2019; Chondros et al. 2019; Moynihan 2004; Xenakis and Macintosh 2008) – that have been introduced and debated across the country. These policies have come to the forefront of public administration due, in large part, to a United States president openly casting doubt about the veracity of the country’s election system before, during, and after his term in office (Smith 2020). Barely any publicity in academia or the mass media is directed toward dual election administration systems (Kalt 2015; Morley 2017; Santos and Eligon 2013; Underhill 2013), but it is a phenomenon of election administration that has a long history in the United States and has the potential to be a critical issue moving forward as both state governments and the national government look to assert authority over the elections process. The dual election administration system can be used as a tool for both expanding the electorate and for enforcing election integrity.

What is a dual election administration system? It is an election system in which two forms of eligibility requirements exist. This method has also been called a tiered election system, a bifurcated voting system, or a dual voting system.

[Table 1.1 about here]

Table 1.1 shows the differences among a unified election administration system – the system used by most state and local political districts in the United States where registered voters are eligible to vote in all federal, state, and local political races in their political district – and restrictive and inclusive dual election administration systems. A dual election administration system is defined as restrictive when a subset of voters is not eligible to vote in all federal, state, and local races because a state or locality adopts additional registration requirements to be considered fully registered than was previously required or rejects regulations from a higher level of government that would relax registration requirements. A dual election administration system is defined as inclusive when a subset of voters is not eligible to vote in all federal, state, and local races because a state or locality adopts more lenient laws or rules to allow limited voting for voters who do not meet other requirements to be considered fully registered.

In other words, a dual election administration system can expand the number of political races in which people can vote to include people who do not meet requirements to be eligible to vote under federal or state laws, or it can restrict the number of political races in which people can vote by having additional requirements under state or local laws which voters must satisfy. Both versions of the system create voters who are only allowed to vote in particular political races, as compared to a fully qualified voter, able to vote in all the federal, state, and local political races in his or her political district.

Research Question and Academic Importance

The research question for this project asks what are some causal mechanisms for a state to adopt a dual election administration system? Multiple theoretical constructs can possibly provide explanatory power in answering this question. The research question is important for

multiple reasons. First, there is a lack of systematic research on the subject. There could be several causes for this. Much recent attention in election administration has followed the adoption or consideration of the policies previously mentioned. These hot issues in election administration may not have left any spotlight for dual election administration systems. Additionally, the policy does not appear to have been implemented in more than a handful of states at any one time in more than a century. Its lack of widespread growth may cause some to view dual election administration systems as a footnote to the administration of elections not worthy of close study. Finally, the policy can be short-lived, at least in recent years. In three of the five states that implemented dual election administration systems since 1995, the dual systems lasted only one to two election cycles.

Second, the study of dual election administration systems provides an opportunity to identify if diffusion patterns emerge through policy learning, or if states are more myopic in adopting this policy with little to no learning from other states (Volden, Ting, and Carpenter 2008). At the surface, the spread of this policy does not appear to follow one of the traditional patterns of diffusion, such as geographic proximity to states that have adopted a similar strategy or implementing a controversial policy when there is a long time before the next election (Berry and Berry 1992). States and localities that tend to lean more conservative or more liberal have both used the policy while more moderate states and localities generally have refrained. Moreover, do states utilize information networks (Hale 2011) built around the election administration environment to engage in learning about dual election administration systems?

Third, dual election administration systems present another rich vein to mine in the study of tensions among levels of government, one of the longtime areas of study in public administration and public policy. When state election laws come into conflict with federal

election laws, both levels of government usually try to claim the power to enact election policy through the Elections Clause¹, and the court system often determines which interpretation prevails. Numerous states have flexed their leverage in election administration after major legal rulings. In *Crawford v. Marion County Election Board*, the U.S. Supreme Court upheld the right of the state of Indiana to require voters to produce photographic identification at the polling site in order to receive a ballot. Multiple states have installed photographic identification requirements since this ruling. In *Shelby County v. Holder*, the Supreme Court ruled the coverage formula established in the 1965 VRA was outdated and would not be enforced until the formula was updated. The formula was used to decide which states or localities are subject to prior review by the U.S. Justice Department when they make nearly any change in how their elections are administered. This ruling freed many states and localities from what they saw as burdensome federal government oversight to enact election policies as they saw fit. While various legal actions have been filed concerning dual election administration systems, most decisions made have left open the option to adopt a dual election administration system, continuing the federal versus state friction.

Fourth, study of the adoption of dual election administration systems offers the chance to analyze policy adoption decision making at the state level. The decisions to adopt dual election administration systems in recent times have been made by administrators at the state level, rather than through the traditional legislative process. Several policy adoption models exist that could be impactful on these officials' decision-making process.

¹ The Elections Clause of the United States Constitution states, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing [sic] Senators."

Historical and International Background

The following is a comprehensive look at how dual election systems have been adopted in the United States. Since the 1990s dual election administration systems have been adopted either at the state level in Arizona, Illinois, Kansas, Mississippi, and Oregon or at the local level in one or more municipalities in the states of California, Maryland, New York, and Vermont. The practice affected various populations in many other states before the 1990s, as well.

Early History

Women were a focus of dual election administration systems for over 80 years of the country's history beginning in 1838 when Kentucky allowed women who were unmarried or widowed but owned property subject to taxation for school purposes to vote in school-related elections (Anastas n.d.). Later decades saw many state legislatures expand women's voting rights into areas such as municipal elections, presidential elections, primary elections, and certain referenda (Anastas n.d.). Eventually, many states, especially in the western United States, did away with their dual election administration systems by giving women full voting rights. The 19th Amendment was ratified in 1920 removing all limitations to the franchise based on sex and making all dual election administration systems based on sex invalid.

Mississippi's experience with dual election systems dates back to its 1892 state legislative session where, in an effort to disenfranchise Black voters as much as possible by adding layers to the registration process, the state required voters to register both with the county registrar for federal, state, and county elections as well as with a municipal clerk to vote in municipal elections (Parker 1990). The Mississippi State Legislature passed a law in 1984 to end this dual registration system but did not retroactively grant full registration to voters who had

registered with only one election official. This led to the 1987 court case of *Mississippi State Chapter, Operation PUSH v. Allain* where the United States District Court for the Northern District of Mississippi found this arrangement to be in violation of section 2 of the VRA because it had a discriminatory effect on voter registration. The court ordered the Mississippi State Legislature to amend the law, which it did in 1988, fully ending this version of a restrictive dual election administration in Mississippi. The Northern District Court ruled the state's amendments² were sufficient to prevent discriminatory voter registration practices when the law was challenged again in the 1989 case of *Mississippi State Chapter, Operation PUSH v. Mabus*.

Modern History

In the mid-20th century, only two states attempted to adopt a dual election administration system, and one was successful. The successful attempt came from Oregon's inclusive system in 1961. Oregon allowed people who met the deadline to register 30 days before the election but had not established residency in the state for six months, as required by state law, to register to vote for president, vice president, or their presidential electors if the applicant swore he or she had not voted in any presidential race in another state over the preceding six months (State of Oregon 1961). As residency and registration deadlines changed in the proceeding decades, current Oregon voter applicants can register to vote for president, vice president, or their presidential electors if they do not meet the present-day requirement to register 20 days before an election, again, by swearing he or she had not voted in any presidential race in another state over

² Quoting the *Mississippi State Chapter, Operation PUSH v. Mabus* opinion, "The remedial legislation, 1988 Miss. Laws, ch. 350 ("Chapter 350"), made the following changes to Mississippi's voter registration procedures: (1) the 1984 changes were made retroactive, Chapter 350, Section 1; (2) all municipal clerks were deputized as county voter registrars, Chapter 350, Section 4; (3) satellite registration is required to be conducted in at least three voting precincts in each supervisory district in the county, or in every precinct in the event that a supervisory district has fewer than three precincts, Chapter 350, Section 2; (4) provision was made for registration of disabled voters in their homes, Chapter 350, Section 2; and (5) the county registrar is required to keep extended office hours for the five days preceding the 30th day prior to any regularly scheduled primary or general election, Chapter 350, Section 2."

the preceding six months (State of Oregon 1999). These voters receive a special “federal-only” ballot (State of Oregon 2017).

Virginia was unsuccessful in its attempt to create its own restrictive dual election administration system. As the 24th Amendment to the U.S. Constitution – outlawing poll taxes in federal elections – neared ratification, Virginia created a system in late 1963 where voters who paid a poll tax would be allowed to vote in federal, state, and local elections while those who did not pay a poll tax would be allowed to vote in federal elections only (Morley 2017; Douglass 1966). The U.S. Supreme Court overruled its own precedent of allowing states to institute a poll tax set in the 1937 case of *Breedlove v. Suttles* with the 1966 *Harper v. Virginia Board of Elections* decision. The decision established any poll tax as a violation of the equal protection clause of the 14th Amendment. Days later a Virginia federal district court would rule in the *Haskins v. Davis* decision there was no rational basis for having two lists after the Harper decision (Morley 2017).

Maryland is another state with significant history concerning dual election administration systems, though their systems are created on the local level and not by the state itself. Maryland provides its municipalities the latitude to create a dual voter registration system to vote in local races but not in state or federal races. Maryland municipalities that adopt a dual election administration system allow more people to register to vote than would be allowed under state laws, creating an inclusive system.

According to Maryland’s election code, a municipality has the option to register voters who do not meet state requirements to register or who do not wish to register with the county election registrar (Best 2001; Hayduk 2006). This creates a classification of voters who can vote in federal, state, county, and municipal races and a classification of voters who only register with

the municipal election official and can vote in municipal elections only (Best 2001; Hayduk 2006). Unlike the old Mississippi law, people who registered with the Maryland county election officials were automatically registered to vote in the municipality in which the voter lived. Only a handful of towns and villages in Maryland take advantage of using a dual election administration system. As of 2022, these were the municipalities of Barnesville, Cheverly, the town of Chevy Chase, Chevy Chase Section Three, Garrett Park, Glen Echo, Hyattsville, Martin's Additions, Mount Rainier, Riverdale Park, Somerset, and Takoma Park (Ballotpedia n.d.; Hayduk 2006; Hernandez 2016; Keyes 2017; Peetz 2018; Raskin 1993). Most of these municipalities use dual election administration systems in order to allow their noncitizen residents to vote in races for town officials and on town referenda (Hayduk 2006). These small municipalities are in proximity to Washington, D.C., and have considerable foreign national populations who work in foreign embassies and international agencies such as the World Bank (Raskin 1993).

Cities in other states have begun to follow the Maryland municipalities' lead. New York City and the Vermont cities of Montpelier and Winooski have passed laws in the past two years allowing residents who are not United States citizens to vote in local elections (Durkin 2022; Vasilogambros 2021), though the New York statute was later struck down by a state supreme court justice (Mays 2022). San Francisco, California, voters passed a proposition in November 2016 authorizing noncitizen San Francisco city/county residents to cast votes in elections for members of the Board of Education as long as the resident is "the parent, legal guardian or legally-recognized caregiver of a child living in the School District and is of legal voting age and not in prison or on parole for a felony conviction" (City/County of San Francisco 2016; Shafer 2017). Noncitizen voters have been able to register and receive a ballot with only the school

board election races since the November 2018 elections (San Francisco Department of Elections 2018). New York City allowed noncitizens to vote in public school board elections from 1986 until 2002 when the mayor was placed in charge of public schools, and local school boards were discontinued (Durkin 2022).

Outside of state and local election policies and legislation, there is some evidence federal legislation itself causes a restrictive form of dual election administration systems. The OCRVA of 1975 allowed U.S. citizens who had not maintained a domestic residence to vote in federal elections even if their “intent to return to such State or district may be uncertain” (Kalt 2015; OCRVA 1976). This provision continued when the OCRVA was later superseded by the UOCAVA (Kalt 2015; UOCAVA 1986). This has led to some states specifically excluding expatriates from voting in state and local elections while still having to follow the UOCAVA requirement to allow those expatriates to vote in federal races in which they would be eligible at their former domestic residences (Kalt 2015). Additionally, most states allow citizens who were born outside of the United States, thereby, having no previous domestic address, to be eligible to vote in the same elections as their parents can, but a few states restrict this particular group of voters to vote in federal races only (Kalt 2015).

NVRA Backlash in the 1990s

The creation of dual election administration systems has been heavily impacted by the NVRA, particularly in the states of Illinois and Mississippi in the 1990s. The NVRA passed Congress in 1993 in an effort to make voter registration more accessible. The goals for the NVRA are listed as:

“(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this subchapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained” (U.S. Department of Justice. "Subchapter I-H – National Voter Registration”).

NVRA created several nationwide standards in voter registration, including requiring numerous federal, state, and local government offices that often had contact with the general public to offer voter registration materials and assistance; requiring states to offer voter registration by mail; and implementing new requirements about how states should maintain voter rolls (Ewald 2009). The NVRA was nicknamed the “Motor Voter Act” because driver’s license offices were perhaps the most well-known among the government offices required to offer customers the opportunity to register to vote (Hale, Montjoy, and Brown 2015). It also created a standardized voter registration form, designed to register a voter in any state in the nation (Hale, Montjoy, and Brown 2015). This federal registration form only requires voter registrants to sign and date the registration form next to text stating the applicant swears he or she is a citizen of the United States, meets his or her state’s eligibility requirements, and recognizes he or she could face perjury charges if the applicant knowingly provides false information on the form (Election Assistance Commission 2006). No further proof of citizenship is required.

Again, Mississippi looked to a dual election administration system as its answer to what was considered by some state officials as an unwarranted intrusion by the federal government

upon its sovereignty to conduct elections. Before NVRA, the states had designed and used their own voter registration forms, and Mississippi wanted to continue to use its own registration form. It interpreted the NVRA as a policy requiring the states to accept a federal voter registration form in addition to a state's own voter registration form for a voter to be fully eligible. When the NVRA went into effect in 1995, Mississippi allowed people who registered to vote with the federal form only – even if they received assistance in filling out the form from a state or federal agency designated by the NVRA – to cast votes only in the federal races, such as the U.S. House of Representatives, the U.S. Senate, and the U.S. president (Sack 1998). People who registered with the state form could vote in all federal, state, and local races in their political district (Sack 1998). Importantly, at this time Mississippi was subject to preclearance under sections four and five of the VRA which requires states under the coverage formula to receive approval from the U.S. Justice Department or a federal court before making any changes in election or voting policy. The U.S. Supreme Court ruled in *Young v. Fordice* in 1997 the state's dual election administration system policy was subject to preclearance. The U.S. Justice Department did not give its approval for the policy forcing Mississippi to become the last state to accept the requirements of the NVRA in 1998 (Sack 1998).

Like Mississippi, Illinois state government leaders believed the NVRA to be a federal overreach. The state was sued in federal district court by ACORN and other groups for failing to implement the requirements of the NVRA by the January 1, 1995, deadline. The federal Northern District Court of Illinois and the Seventh Circuit Court of Appeals both ruled the NVRA to be constitutional (Reagan 2014). In response, Illinois created a system like Mississippi's where people who register to vote with the federal form could only vote in federal races while people who register with the state form would be able to vote in political races at all

three levels of government. The dual election administration system was put in place during the 1996 primary elections in Illinois. Cook County Clerk David Orr and several other individuals and organizations sued in state court saying the dual system was in violation of multiple state laws. The Orr plaintiffs won at both the state district court and state appeals court levels in the 1996 *Orr v. Edgar* case. The state of Illinois did not appeal to the Illinois Supreme Court to avoid causing confusion before the approaching November elections and accepted federal-form registrants as fully qualified voters from that point forward (Parsons 1996).

Dual Election Administration in the 21st Century

After all states came into compliance with the NVRA³, two more states successfully implemented a restrictive dual election administration system. The states of Arizona and Kansas carried out their dual systems during the 2014 election cycle. The Kansas system did not continue into the 2016 election cycle while the Arizona system continues to the present day. These systems were put in place due to the voter registration laws enacted in both states (Arizona Secretary of State's Office 2004; *Kansas House Bill 2067* 2011; Kansas Secretary of State's Office 2011b). Arizona voters passed Proposition 200 in 2004. This ballot initiative declared the state of Arizona offered undocumented immigrants "safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship" (Arizona Secretary of State's Office 2004). Kansas Secretary of State Kris Kobach drafted the Secure and Fair Elections [SAFE] Act, which was approved by the Kansas

³ Six states are exempt from NVRA requirements. North Dakota does not require voters to register, and Idaho, Minnesota, New Hampshire, Wisconsin and Wyoming allowed voters to register on the day of elections at polling places when the bill passed in 1993 (U.S. Department of Justice 2017).

legislature in 2011, and was designed “to make Kansas elections the most secure in the country” (Kansas Secretary of State’s Office 2011c).

Both Arizona’s and Kansas’s registration laws required potential voters to provide documentary proof of citizenship when registering to vote for the first time or when moving their registration to another county (Hale, Montjoy, and Brown 2015). This proof could be provided through birth certificates, naturalization papers, state driver’s licenses that note the card holder has proved citizenship, passports, Bureau of Indian Affairs identification cards and a few other ways (Kansas Secretary of State’s Office 2011a). Initially, both states planned to deny the franchise to those who did not provide additional documentary proof of citizenship after filling out the registration paperwork and who either ignored or were unable to comply when local election officials contacted them to request they complete their registration with the additional proof. The June 2013 U.S. Supreme Court decision in *Arizona v. Inter Tribal Council of Arizona, Inc.* forced a change in plans.

The ITCA sued the state of Arizona seeking to remove the requirement of proof of citizenship to register to vote in the state arguing it had a detrimental effect on voter registration and went against the intent of the National Voter Registration Act⁴. Arizona believed the ITCA’s interpretation of the NVRA preempted state law in voter registration and would be an overreach by the federal government in an area the U.S. Constitution provides authority to the states. Much of the controversy in *Arizona v. ITCA* case involved what is meant by the phrase “accept and use” in the following clause of the NVRA,

⁴ The ITCA’s original 2006 lawsuit of *Inter Tribal Council of Arizona, Inc., et al. v. Brewer* also challenged Proposition 200’s provision requiring registered voters to produce one form of photographic identification or two forms of identification without a photograph at the polling place. The lawsuit argued the costs to voters to provide documentary proof of citizenship and an acceptable form of identification amounts to a poll tax and would disparately impact Native Americans and Latinos. It was later consolidated with two other similar lawsuits with the focus moving primarily to the proof of citizenship requirement.

“Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission [this form is now prescribed by the EAC] pursuant to section 1973gg-7(a)(2) of this title for the registration of voters in elections for Federal office” (U.S. Department of Justice. "Subchapter I-H – National Voter Registration." 2016).

Arizona’s legal position was the state understood this to mean the information gathered through the federal registration form created after the NVRA was passed could be used to assist in registering a voter, but completion of the federal form without proving citizenship, as required by the state, would not be enough information to register a voter. The federal government and interest groups in support of populations traditionally underrepresented in the political process argued the federal registration form was meant to be enough to register voters in all states when it became a federal law.

The U.S. Supreme Court sided with the ITCA in 2013 by a 7-2 margin with Justice Antonin Scalia writing the majority opinion. Scalia and the majority leaned on the Elections Clause of the Constitution providing the right to the federal government to require states to use the NVRA application without additional information. The clause allows Congress to preempt state election laws when it sees a need to do so, Scalia held. The majority opinion also points out that Arizona’s interpretation allows the state to reject a completed federal registration form, and it is unlikely Congress intended the mail-in form to be anything less than valid in registering citizens to vote. Additionally, Scalia writes that states are provided authority by the Constitution in deciding their own electorate through Article I, §2, cl. 1; the 17th Amendment; and Art. II, §1, cl. 2. The two states interpreted this last point to mean they still were in control of which voters could be registered to vote in state and local races, which would allow them to create a dual

election administration system. At least one legal scholar wrote an unsigned editorial in *The Harvard Law Review* (2013) and was critical of the decision because it did little to resolve the tension between the powers of Congress and the states in federal election regulation.

After the Supreme Court's decision, both Arizona and Kansas enacted a dual election administration system before the 2014 election allowing federal form registrants who did not prove citizenship to register as voters in federal races only before the 2014 election (Christie 2014; Cooper 2014; Katz 2014). In the 2016 *Brown, Brown, and Stricker v. Kobach* case, a Kansas state court judge blocked the use of a dual election administration system in Kansas for the entire 2016 election cycle ruling Kobach lacked the authority to implement it, and the state legislature would have to pass a law to create one (Woodall 2016). Kobach told media he planned to appeal this ruling and litigation involving these policies will be ongoing (Woodall 2016), but no further legal action was reported. Kobach also stated he planned to ask Kansas state lawmakers to pass legislation to grant him authority to install a dual election administration system (Koranda 2017), but there was no legislation introduced in 2017 to provide him that power (Kansas Legislative Information Systems and Services 2017). Arizona continues to use its dual election administration system after making some minor changes to the proof-of-citizenship requirements as part of a lawsuit settlement in 2018 (Fischer 2018; Giles 2022).

Oregon created a different kind of 21st century dual election administration system than those of Arizona and Kansas. It is an inclusive system rather than the restrictive systems of the other two states. Since 2000 Oregon has conducted all of its elections by mail (Oregon Secretary of State's Office 2006). Local election officials send ballots to registered voters through the mail, and voters return their ballots either by mail or by delivering their ballots to official ballot drop boxes (Oregon Secretary of State's Office 2017). The HAVA requires first-time voters in a

state using a vote-by-mail system to include “a copy of a current and valid photo identification; or ... a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter” (U.S. Department of Justice 2002). Oregon voters who have registered but have not included a copy of the proper identification required by the HAVA are allowed to vote in state and local races but not federal races (Underhill 2013). In 2013, then-acting state elections director Gina Zejdlik estimated up to 11,000 Oregon registered voters had not provided the required identification documentation to vote in federal races (Underhill 2013). Those who voted from this group of registrants were still provided the full ballot, and it is unknown how many knew their votes for federal races would not be counted, though county clerks are tasked by the state with conducting outreach to these voters to complete the requirements for federal voting eligibility (Underhill 2013). Former Oregon State House and current Oregon State Senate member Kim Thatcher made multiple attempts at passing legislation to make Oregon’s voter registration standards the same as the federal government’s but was unsuccessful in getting the bill out of committee several times in the House and once in the Senate (Oregon Legislative Information System 2017; Thatcher 2012; Underhill 2013).

The Current Climate for U.S. Dual Election Administration Systems

Federal courts above the district level have not ruled on the right of states to create a dual election administration system. The only rulings in state courts on dual election administration systems are the 1996 Illinois state district and state appellate court injunctions to stop the use of its restrictive dual system and a 2016 injunction by a Kansas state district judge placed on the Kansas secretary of state’s restrictive dual system. This leaves plenty of legal room for states to

continue to try to implement dual election administration systems. Oregon's inclusive dual election administration system and Arizona's restrictive dual election administration system are still operational. Elected officials essentially have carte blanche from a legal standpoint to create these systems in their own states which could be the next trend in the evolution of election administration in the United States. Many other countries even use dual election administration systems as a normal operation in administering elections.⁵

Summary of This Research Project

This dissertation proceeds in five chapters. The remaining four chapters relay the possible theoretical underpinnings of how states come to implement a dual election administration system, a description of how this project and its research instrument were designed, an explanation of the data collected along with an interpretation of the data's meaning, and a discussion of how these findings fit into the current state of academic literature and how they could affect the future of public policy.

Chapter 2 is a discussion of the relevant literature in two main areas of focus for this project: the diffusion of public policy and policy decision making. The research project uses these two areas to build a framework for locating causes for states to adopt dual election administration systems. This framework considers both diffusion – the ways that ideas and policies spread among states and localities – and several approaches of decision making in the policy process. Beginning with the policy diffusion aspect, three areas of policy diffusion are considered: factors pertaining to American federalism (Ewald 2009; Hasen 2013), particularly

⁵ Administering dual elections is not a phenomenon specific to the United States. Countries in the European Union, Belize, Venezuela, Argentina, Israel, Norway, Australia, Canada, and the Philippines all have some form of a dual election administration system. Though this study examines the diffusion of dual election administration systems in the context of American federalism, dual systems are a part of other types of governing arrangements. This will be discussed more fully in Appendix 1.

mandates from higher levels of governments and court orders; policy determinants (Gray 1973; Walker 1969) in the forms of political context, pressures for change, resources, and proximity; and information networks (Hale 2011; Mossberger 2000) that could classify organizations in the election administration landscape that might offer support for or opposition to a state's decision on a dual election administration system. There are also five areas of consideration for the decision-making aspect of this project. The first is the theory of rational-comprehensive decision making which Charles Lindblom (1959) describes as an empirical process with completely fleshed out goals, values, and alternatives considered. The second is limited rationality decision making where aspects of Herbert Simon's (1946; 1961) view of bounded rationality and Lindblom's (1959) theory of incrementalism are introduced. The third is a discussion of the decision to adopt a dual election administration system possibly aligning with John Kingdon's (2011) theory of policy windows which theorizes policies are usually adopted when a problem is recognized, a policy proposal is available, and the political climate allows it. The fourth focuses on the theory of maintaining a policy monopoly on a policy already in place which is a major element of Baumgartner's and Jones's (1993) theory of punctuated equilibrium. The final consideration is Cohen et al.'s (1972) garbage can model of decision making where solutions may precede problems or may have to be cobbled together quickly to respond to an urgent situation.

Chapter 3 serves as a description of the design of the research project. It begins with a description of the overall design of the research including a discussion of how using qualitative case studies is most appropriate for this project, the approach for case selection, and how the data are linked to the project's propositions through pattern matching of collected representative statements and representative characteristics of the states' governments and populations. The

chapter continues with a discussion about the collection of primary data through interviews of people who were closely involved with the decision to implement a dual election administration system and/or the people who were actively involved in supporting or attempting to block its implementation in their respective states. Next, the sources of secondary data used in this project are listed and then followed by a discussion of their importance to confirming or disproving the primary data collected. The subsequent section explains how the collected primary and secondary data are analyzed and interpreted through classification of representative statements under the appropriate constructs of diffusion and decision making. Finally, Chapter 3 ends with a deliberation about the limitations of qualitative research – particularly construct validity, internal validity, external validity, and reliability – and the steps taken in this project to mitigate those limitations to the greatest extent possible.

Chapter 4 of the dissertation analyzes the data gathered and interprets the meaning of the data. It begins with an analysis of the data collected in relation to the three diffusion constructs used in this study, including each of the determinant possibilities, to establish which diffusion approach or approaches may be impactful for dual election administration system adoption. This is followed by an explanation of this study's development of a decision-making continuum – a modification from Mossberger's (2000) original conception. The remainder of the chapter analyzes the data collected in relation to the five decision-making constructs used in the continuum and attempts to classify each state's decision process under one of the continuum's constructs.

Chapter 5 concludes the dissertation beginning with a summary of the findings discovered in Chapter 4. The general findings of the study include 1) diffusion of a dual election administration system is enhanced when state election officials feel strongly about the

effectiveness of their state's voter registration rules and processes already in place, 2) the political context in four out of five states was influential in a dual election administration system diffusing to the state, 3) diffusion of a dual election administration system to a state did not involve state election officials utilizing an information network, and 4) the decision-making process in adopting a dual election administration system likely involves limited analysis of alternatives or possible effects. The chapter proceeds to explain the implications of these findings in the context of American election administration and public policy, particularly focusing on what conditions could make a state likely to adopt a dual election administration system. The ensuing section is a recognition of the study's limitations along with suggestions for future research that could possibly address these limitations. Chapter 5 concludes with a discussion about the future of dual election administration systems and the policy's place in the realm of social science.

Table 1.1 – Types of Dual Election Administration Systems

<p>Unified election administration system</p>	<p>All registered voters can vote in all federal, state, and local races in their political district.</p>
<p>Restrictive dual election administration system</p>	<p>A subset of voters is not eligible to vote in all federal, state, and local races because a state or locality adopts additional registration requirements to be considered fully registered than was previously required or rejects regulations from a higher level of government that would relax registration requirements.</p>
<p>Inclusive dual election administration system</p>	<p>A subset of voters is not eligible to vote in all federal, state, and local races because a state or locality adopts more lenient laws or rules to allow limited voting for voters who do not meet other requirements to be considered fully registered.</p>

Chapter 2

Theoretical Framework and Literature Review

The research question asks what are some causal mechanisms that would explain a state adopting a dual election administration system? This is a policy adding complexity to the election system as well as requiring the use of additional resources in setting up and maintaining more than one voter classification. The simpler and more cost-efficient path would seem to be a single, unified system of registered voters.

This project examines dual election administration system policy diffusion possibilities among five states that have adopted this policy since the 1990s and the decision process used in each of those states. Politics and party control of state government, a struggle for control of election administration among the three levels of government, and the prevention of noncitizens from voting have been conjectured as factors for states to instigate this type of policy (Fincher and Hale 2015). However, there has been no serious academic study on this topic despite its potential to alter how elections are conducted throughout the United States. This chapter will examine the theoretical background of policy diffusion through the models of beliefs about the proper application of federalism, determinants, and information networks. The chapter will also explore several theories of policy decision making, specifically, the rational-comprehensive model; the limited rationality model; the policy window model; the policy monopoly model, as explained through the punctuated equilibrium construct; and the garbage can model. These models of competing perspectives can offer explanations for the causal dynamics in play when these five states adopted a dual election administration system.

Policy Diffusion Literature

State Response to Mandates or Court Orders

One possible explanation for why a state creates a dual election administration system involves a struggle for control of a state's election process. The U.S. Constitution's Elections Clause provides a large amount of power to the states in deciding how elections should be carried out but also gives Congress the power to pass laws to supersede the states' policies. States have had election processes embedded in their own constitutions leading to widely varying regulations since the country's founding (Hale, Montjoy, and Brown 2015). Alexander Hamilton recognized the importance of all three levels of government in election administration in Federalist paper number 59. Hamilton said it would be impractical to include election law in any great detail in the Constitution due to the United States being a large and diverse country with idiosyncratic voting procedures in different areas. He believed the framers of the Constitution were correct by placing primary control of elections in state and local hands while leaving the option of federal influence open. Hamilton states in Federalist paper number 59:

“[The framers] have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the National authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety” (Hamilton 1788).

Alec C. Ewald (2009, 108) makes a case undergirded by four points as to why local control of elections is preferable. First, Ewald states "local administration offers voters a greater sense of engagement and ownership in the political process and can provide a more meaningful voting experience." Ewald says local administration increases the number of local citizens doing

the work of running elections and deepens the sense of self-government. Also, the use of local structures – such as schools, firehouses, and churches – as places to cast ballots and gather with fellow community members builds a sense of civic awareness in a community, according to Ewald. Second, Ewald states decentralized election administration "fosters experimentation and innovation." Local election authorities can best "propose and test novel ways of inducing voters to register and turn out to vote, disseminate election information, train poll workers, keep records, and collaborate with other officials [in their own state and elsewhere] in the interest of avoiding fraud, and, of course, trying new voting technology." Third, Ewald states local administration "places obstacles in the path of systematic corruption, whether accidental or purposeful." Ewald cites political and judicial actors from James Madison to the modern day who warn about the danger of incompetence or corruption a centralized body totally controlling the instruments of election and the tabulation of the vote can present. Fourth and finally, Ewald states local administration "has the strong potential to increase voter turnout." Local officials have more contact with citizens than officials at any other level of government, and if these officials foster a greater connection with citizens and encourage them to vote, this may lead to increased voter turnout, Ewald says. One can see local election involvement with the multiple municipalities that installed a dual election administration system.

In contrast, the threat of state and local election officials gaining an upper hand in control of the election process may concern federal election bureaucrats and elected officials. The EAC does not have compulsory power over state and local officials. It only has the power to request data from the states, perform research, and suggest best practices. In recent decades the U.S. Supreme Court has shown a willingness to provide leeway to the states to decide their own election policies. The Court upheld the right of states to create voter identification laws in

Crawford v. Marion County Election Bd. and required Congress to update the criteria for placing a state under preclearance through sections four and five of the Voting Rights Act in *Shelby County, Ala. v. Holder*. Furthermore, in recent years the Court has shown an unwillingness to enjoin state election policies when time is a major factor, as exemplified in cases such as *Merrill v. Milligan* in 2022, *Purcell v. Gonzalez* in 2006, and *Republican Party of Pennsylvania v. DeGraffenreid* in 2021. Vazquez (2021) argues the hands-off principle established in *Purcell v. Gonzalez* could lead to states abusing their election powers. However, it can also be argued Supreme Court decisions empowering states on elections rules are more of a mixed bag. One only has to look to the decisions of *Arizona v. ITCA* and *Young v. Fordice* to see states losing their claims of sovereignty over the election process.

Some elections scholars, such as Richard Hasen (2013), believe greater federal control of the election process would be fairer and simpler because uniform election laws could be created. Hasen advocates for a national and nonpartisan election board, federal control of voter rolls to prevent duplication and confusion over where voters are registered, and the creation of a no-cost national voter identification card. The uniformity would eliminate much of the complexity and confusion caused by election processes varying among states and local districts (Hasen 2013).

State and local election offices are not always in accord with how election administration responsibilities should be divided either. Localities sometimes accuse states of being overbearing and unconcerned about local voting preferences, similar to the accusations states make against the federal government. On the other hand, there can be a huge amount of complexity among local jurisdictions in a single state in administering elections. In 2001, the U.S. General Accounting Office [now known as the Government Accountability Office]

identified five reasons why local elections, not only across the states but also within a state, can vary so much.

1. There is much variation in the amount of control given to localities by states in election administration.
2. The voting technology in use by a local jurisdiction presents different challenges and opportunities in how local election officials carry out an election.
3. Voting jurisdictions differ in size of territory and size of population.
4. Some voting jurisdictions can have a homogenous electorate while others can be heterogenous in culture, ethnicities, languages, and history.
5. Voting jurisdictions may develop their own unique norms and customs down through the years (Ewald 2009; U. S. Government Accountability Office 2001).

Furthermore, there is a high degree of divergence in how state and local election officials come into their positions ranging from an individual standing for election or being appointed by a government body to a board of elections with members standing for election or being appointed by a government body (Hale, Montjoy, and Brown 2015; Kimball and Kropf 2006).

The requirements of the HAVA necessitated states and localities work together closely in maintaining voter lists and implementing new voting technology (Hale, Montjoy, and Brown 2015). Alvarez and Hall (2005) studied the differences in how HAVA was implemented in two states, California and Georgia. They found Georgia's rational approach to be superior. Georgia focused on analysis of problems associated with various voting technologies and evaluated how well new technologies performed when piloted in local elections in 2001 before choosing one electronic voting system to be used statewide. Georgia also had the highest amount of local election official representation on the statewide implementation committee. Alvarez and Hall

found California's pluralistic approach – with more representation from interest groups and the smallest number of local election officials than any other state in the country on its implementation committee – led to conflict through lawsuits and political pressure on the implementation committee and local officials, resulting in slower implementation of reforms. Moreover, local election officials might be able to improve their efficiency and effectiveness in administering elections by offering options such as vote-by-mail, early voting, vote centers and Internet voting (Alvarez and Hall 2006).

Hale and Brown (2013, 447), through a study of states' compliance with the EAC's voluntary voting system guidelines, found that states that fully adopted or partially adapted the EAC guidelines generally had "clearer administrative structure" among state chief election official and local-level election officers while states that chose not to comply with the guidelines provided more freedom to officials in how to administer their elections. Additionally, a state's or locality's technological capacity and level of election administration professionalism may be a larger factor than the prevailing political ideology of a state or locality when it comes to updating technology to reflect federal recommendations (Hale and Brown 2013).

Determinants: Political Context, Resources, Pressures for Change, and Proximity in State

Government

Another possibility involves influences, labeled determinants, which scholars have developed over time to assist them in pinpointing the factors that best explain why certain policy innovations spread to some states but not to others (Gray 1973; Walker 1969). Determinants can be internal to a state – such as a state's unique political, social, and economic characteristics – or external – such as neighboring states adopting a policy innovation (Berry and Berry 1990).

Determinants are often grouped into categories of factors associated with political context, resources, and pressures for change (Berry and Berry 1990; Gray 1973; Walker 1969; also see Mooney and Lee 1995). These three categories of determinants, in addition to proximity to other states, are used in this study.

Political Context

Decision makers are all too familiar with the pressures that seemingly come from all angles over policies that could or do disrupt a policy system. These pressures can come from formal institutions such as the three branches of government and the bureaucracy as well as informal institutions such as the media, interest groups, professional and nonprofit organizations, and political parties. Political party cues can be especially important in policymaking as an organized and active political party can leverage partisan and nonpartisan policy makers through both formal and informal channels.

While it is obvious political parties influence governments at the state level, closer study shows the effect in state legislatures appears to be more pronounced when a legislator is in the majority party and there is unified control of government, known as a party cartel, which allows the majority party to set the policy agenda (Cox, Kousser, and McCubbins 2010; Jenkins 2008). Bureaucratic functions and outputs may also significantly change depending on the political party in charge of the legislative and executive branches, particularly when the two branches have appointment power over an agency head (Wood and Waterman 1991), though other research suggests the amount of control elected political officials have over the bureaucracy may be overstated (Meier and O'Toole 2006).

A major element of a state's political context is the social construction of the populations within the state. Schneider and Ingram's (1993) theory of social construction posits policy designs can reinforce the advantage powerful groups hold in the political arena and can help determine how certain groups are viewed by the public as well as those groups' participation in the democratic process. Powerful groups will attempt to cast groups they view as possible rivals in the political universe in a negative light to maintain their power. How the public and political parties view the voting rights, or lack thereof, of the minority populations in their state could influence whether the state decides to implement a dual election administration system.

Social construction and political power of a group can, and often does, vary from area to area. One study posited the level of funding provided to a program by legislatures at the state level, and the construction of the same group can vary across jurisdictions (Nicholson-Crotty and Nicholson-Crotty 2004). Hero and Tolbert (1996, 854) argue "racial/ethnic diversity takes on political meaning within social structures and constructions" and can be as important or more important than an individual's personal values or ideas. Their research finds that states with large white majority populations and with a sizeable Black and/or Latino minority population generally show worse policy outcomes for the minority populations. Research by Knowles, Tropp, and Mogami (2021, 784) finds evidence "to support the notion that politically conservative White people may have an elective affinity for right-wing rhetoric casting intergroup relations in binary, White versus non-White terms."

Race has a long history of being used as a social construct when it comes to voting, particularly in Southern states such as Mississippi. Mississippi was the first state after the end of Reconstruction to ratify a new state constitution to enact voter laws to disenfranchise Black voters with its 1890 constitution, although extralegal methods such as violence, intimidation, and

vote fraud had been occurring since 1875 (Parker 1990). The 1890 constitution sanctioned indirect measures to limit the Black population's ability to register to vote including approaches such as literacy-and-understanding rules, lengthy residency requirements, a four-month-before-the-election deadline to register, a laundry list of disenfranchising criminal offenses, and a poll tax (Parker 1990). While reforms from the federal level, such as the 1965 VRA, and some reforms from the state itself, such as Mississippi twice passing legislation to end its dual election administration systems after unfavorable federal court rulings, have been enacted, many say social construction with an eye toward racial disenfranchisement persists. Several studies point to states that have high levels of nonwhite prison populations also having lower levels of nonwhite voter participation while also being states more likely to enact laws to ban convicted felons from voting (Behrens, Uggen, and Manza 2003; B. A. King and Erickson 2016; Manza and Uggen 2004).

Americans possess varying views on the effect undocumented immigrants have in areas such as level of crime, economic conditions, national security, legal immigration, and other issues (ProCon.org 2017). Undocumented immigrants have been socially constructed by some groups as a tax burden and a drain on public resources, though far from all citizens think this way (Gallup 2008; Pew Research Center 2015). A growing population of undocumented immigrants can be perceived as a possible threat to the current social structure, so policies that limit their political participation might be supported by many people, and in turn, by many elected officials in states with high numbers of undocumented immigrants. Richman, Chattha and Earnest (2014) found that noncitizen voting reached a high enough level where outcomes could possibly be affected in a small number of federal-level races in 2008. The veracity of this study has been called into question after its publication (Ansolabehere, Luks, and Schaffner

2015), but the interest this study generated by both election integrity and anti-voter suppression advocates show what a controversial issue the possibility of undocumented immigrants voting in elections has become.

The possibility of undocumented immigrant voting, ostensibly, was the driving force in the creation of The Presidential Advisory Commission on Election Integrity by President Donald Trump in May 2017. The commission had a stated mission to discover vulnerabilities in U.S. voting systems that could lead to fraudulent voter registration and fraudulent voting (Trump 2017). Trump often made generally unsubstantiated claims, both on the presidential campaign trail and after taking office, stating there were large numbers of undocumented immigrants who voted in U.S. elections (Davis 2017). Critics of the commission said numerous studies already have been conducted to show voter fraud is a rare occurrence, and the true goal of the commission is to ferret out every instance of illegal voting to convince Americans stricter voter registration and voter identification laws are needed around the country (The New York Times Editorial Board 2017; The Washington Post Editorial Board 2017). Kansas Secretary of State Kris Kobach, who implemented the Kansas dual election administration system in 2014, served as the commission's vice chairman and de facto leader in the stead of Vice President Mike Pence. Kobach dismissed any criticisms and claimed the commission was only looking for information that is already publicly available, and the work of the commission was "an exercise in transparent government, enhancing the public debate by providing important statistical information" (Kobach 2017). Trump disbanded the Commission early in 2018 after it faced numerous lawsuits challenging its actions and a lack of cooperation from state election officials in providing voter records requested by the commission (Tackett and Wines 2018).

Resources

In nearly any context, an entity with more resources can afford more experimentation opportunities than entities with fewer resources. In the arena of public policy, some studies have shown this theory holds true as states with greater resources are more willing to attempt to implement policy innovations while states with fewer resources are more likely to stick with the status quo, especially when innovations are considered “high-cost” (Downs and Mohr 1976, 703; Walker 1969). States with more professionalized legislatures have also been linked to being more likely to adopt policy innovations, such as energy conservation policies (Perry 1981) and local-level antismoking policies becoming statewide policies (Shipan and Volden 2006).

Pressures for Change

State governments are influenced to act or not act on a policy based on the severity of a problem and/or the need for a solution (Hale 2011). Hale (2011, 89) says, “States in which a problem is particularly severe will be more likely to adopt policies to address that problem than will other states.” Often the presence of policy entrepreneurs will increase the likelihood of a policy at least reaching the policy agenda stage at the state level as they persistently point out what they perceive as a problem and their preferred solution to that problem (Mintrom 1997). Lobbies and interest groups have much the same effect in snowballing policy innovations at the state level either from other levels of government or from other states (Balla 2001; Shipan and Volden 2006; Skocpol et al. 1993).

Proximity

Often states will compare themselves to the states contiguous to their own borders. While this is far from being a perfect comparison, neighboring states usually face similar problems and may have comparable ideological and ethnic backgrounds as well as a history of shared experiences, leading scholars to theorize geographical proximity is a factor in policy diffusion. The likelihood of a state adopting a policy innovation rises when the innovation has been adopted by another state used by decision makers as a point of comparison to their own state (Walker 1969). Berry and Berry (1992) found a tax adopted by neighboring states increased the likelihood of a state adopting a similar tax. Lieberman and Shaw (2000) posit interstate policy trends, not just from neighboring states but also nationally, influence a state's policymaking as much or more so as intrastate policy priorities. Similarly, states tend to look to other states they believe have an approximate political ideology when deciding on implementing a policy (Grossback, Nicholson-Crotty, and Peterson 2004).

Information Networks

Another possibility in how dual election administration systems diffuse lies in the theory of information networks. Intergovernmental relations in United States have traditionally been described in the format of a hierarchical arrangement with the federal, state and local governments filling defined roles and providing specific services, but the intergovernmental picture is more interconnected between both public and nonprofit agencies under the theory of information networks (Hale 2011). Hale found information exchanged among national nonprofits and public administrators in all three levels of government in the policy area of drug courts affected every stage in the public policy process (2011). Hale stated,

“The synthesis that occurred between administrators and these national organizations blurred the differences between the functions of policymaking, implementation, and administration. The synthesis of these functions generated significant and positive policy change on a national scale” (Hale 2011, 185).

Hale’s work built upon Mossberger’s concept of polydiffusion where policy information is exchanged through multiple channels both horizontally and vertically among federal, state, and local administrators as well as organizations outside of government that are also involved in the policy area (Mossberger 2000). Hale created a model of four categories under which an organization in an information network can be placed based on the information positions the organization takes and disseminates to others in the network about a policy idea. The four categories are:

1. champions – organizations “highly engaged in and highly supportive of a particular policy solution,”
2. supporters – organizations that “foster the implementation and institutionalization of champion ideas, but in ways that are directed at furthering the various missions of supporters,”
3. challengers – organizations that “may actively advocate against an innovation, or they may work to draw distinctions between their approach and the innovative idea favored by champions,”
4. bystanders – organizations that “do not devote significant effort to promote or defeat a particular policy initiative and do not express particular preferences about policy change” (Hale 2011, 23-25).

If there is an information network among election administration organizations and actors on the subject of dual election administration systems, the states adopting the policy could have utilized information from the network that influenced the diffusion of the policy to each respective state.

Decision-Making Literature

Rational-Comprehensive Model of Decision Making

Lindblom (1959) provides a description of how a policy would be made if an administrator was to follow a completely rational and comprehensive process in designing the policy. The administrator would list all goals related to an issue by order of importance then rate which policy outcomes would achieve the maximum of the most important goals then create an outline of the possible policy alternatives using policy theory and analysis of every relevant factor and then, finally, choose the alternative that achieves the best policy outcome at the lowest cost (Lindblom 1959). In order to make a completely rational decision, the administrator would have to consider every policy outcome and policy alternative whether or not he or she would have the time or resources available to achieve these goals. Obviously, this is not a decision-making model that can be fully realized because time and resources are always limited.

Limited Rationality Model of Decision Making

Lindblom and Herbert Simon offer modified versions of rational-comprehensive decision making that present a limited version of a rational model. Simon formulates the basis of what would later be called his theory of bounded rationality in his article “The Proverbs of Administration” (1946). He postulates all decision makers in an organization are limited in making rational decisions by their physical and mental capacities, their values and motivations,

and their knowledge of their job and organization (Simon 1946). They instead have to “satisfice” or resort to general rules of thumb or their own past experience in order to make a decision, usually the first alternative that adequately meets modest goals (Fry and Raadschelders 2008; Simon 1961). Even though the decision maker is not making a fully rational decision because of his or her limitations, Simon argues the decision should still be considered rational if the decision maker applied some kind of system of values to a set of alternatives when the consequences of the decision are evaluated (Fry and Raadschelders 2008; Simon 1961).

Lindblom offers another view of limited rational decision making he initially called “successive limited comparison,” that later picked up the label “incrementalism.” He argues it is impossible for a decision maker to ascertain the preference of the general public in nearly all of the decisions he or she makes because there is no way for the public to register their preferences on the issue and/or the matter is too technical for the public to understand, leading to administrators “deciding policy without clarifying objectives first” (Lindblom 1959, 82). Additionally, administrators often have difficulty ranking conflicting values involving a decision, especially if those values might shift depending on time, location, and social circumstances (Lindblom 1959). To compensate for so much uncertainty in decision making, an administrator will make policy through a “succession of incremental changes” to avoid any major, negative, unintended consequences by choosing an ineffective policy (Lindblom 1959, 86). This also allows the administrator to proceed quickly to further steps in the policy if the first incremental step achieves positive results (Lindblom 1959).

Policy Window Model of Decision Making

Another possible mode of decision-making lies in the policy window model of decision making. John Kingdon (2011) developed the theory of policy windows which, like the garbage can model, views government as an organized anarchy, but Kingdon says the policy window model, also known as the three streams model, places more emphasis on the “organized” aspect than the “anarchy” aspect of the theory. Kingdon posits three separate and generally independent process streams run through organizations and must come together to create a window of opportunity for a policy to come to fruition. These streams are problem recognition, the formation and refining of policy proposals, and politics. First, a problem must come to the attention of people involved in government, and government actors must be convinced this problem must be addressed over other problems. Second, specialists who believe they have created a policy to mitigate this problem will float their policies to decision makers and other policy specialists in hopes to rally support to their pet policy. Often these specialists come from both inside government [bureaucrats] and outside government [academics, interest groups] (Kingdon 2011). Third, the political stream – made up of factors such as public opinion, election results, administration changes, shifts in legislative ideologies, interest group pressure, etc. (Kingdon 2011) – convince lawmakers and/or administrators there might be enough support to push through a new policy, or conversely, kill an old policy. A window for policy action opens for a short time when “[a] problem is recognized, a solution is available, the political climate makes the time right for change, and the constraints do not prohibit action” (Kingdon 2011, 88).

Policy Monopoly Model of Decision Making

The policy monopoly model is a function of the punctuated equilibrium model. The punctuated equilibrium model is characterized by periods of relative stability in a policy area followed by periods of intense scrutiny of a policy (Baumgartner and Jones 1993). A policy monopoly – made up of actors who control both how the policy issue is defined by the public and access to the agenda setting process for the policy – attempts to keep its preferred policy in place and out of the spotlight (Baumgartner and Jones 1993). Policy challengers attempt to bring attention to negative aspects of the policy and redefine it in a negative light in hopes to get their preferred policy to replace it (Baumgartner and Jones 1993). Their opportunity for change arrives when the policy in place comes under intense scrutiny creating a punctuated equilibrium in this policy area. Challengers hope to push through their policy during this time and possibly become a new policy monopoly while the proponents of the current policy monopoly hope to stall until attention is shifted somewhere else or make small concessions to keep its preferred policy in place (Baumgartner and Jones 1993).

Garbage Can Model of Decision Making

Cohen's, March's and Olsen's article, "A Garbage Can Model of Organizational Choice" (1972), looks at decision making through the lens of organized anarchies, which are organizations exemplified by one or more of three characteristics: problematic preferences, unclear technology and fluid participation. An organization has problematic preferences when it does not have clear goals or defined preferences in decision making, unclear technology when the operation of the organization is not thoroughly understood by its members, and fluid participation when decision makers for any choice can change unpredictably (Cohen, March, and

Olsen 1972). Cohen et al. argue an organization has various problems and solutions floating around at any given time. The people inside or outside an organization point out these problems and champion their preferred solutions when they feel it is an opportune time to do so. These opportune times can come when a sympathetic person or people have the power to make a decision or when an organization is pressured internally and/or externally to make a decision. Many different problems and solutions are constantly swirling inside what Cohen et al. describe figuratively as a garbage can, hoping to couple together to receive attention by decision makers in the organization. This contrasts with the theory of rational decision making because solutions can and often do precede the discovery of problems as decision makers adapt a readymade solution to address a problem rather than spending time considering the best way to mitigate the problem.

Chapter 3

Design Approach

This research project attempts to discover causal mechanisms for a state adopting a dual election administration system. Original data collected from interviews and archival data from secondary sources are gathered and analyzed to determine what diffusion method or methods and what decision-making method best explained the creation of a dual election administration system in these states. For each state there can be multiple factors of diffusion in play due to the various values, goals, and pressures involved with any policy decision, but with so few state-level decision makers involved, this study focused on narrowing down the decision-making process in each state to a single theory.

Research was conducted using an in-depth case study approach relying on personal interviews and archival documents in the states that adopted and implemented dual election administration systems since 1995. Case studies are generally appropriate when answering “how” and “why” questions and are used to build theory, identify the conditions that produce results or outcomes of interest, and understand the origin and genesis of critical cases (Brown and Hale 2014). This method is appropriate for research determining causes for a dual election administration policy being adopted in these states because it required the study of conditions that led to the outcome of states enacting this election system and allowed preliminary theory building to occur for this policy phenomenon.

For the case selection, this study focuses on five states that have adopted a dual election administration system since 1995 – Arizona, Illinois, Kansas, Mississippi, and Oregon. These states serve as the cases for the research population. While there are instances of states using

dual election administration systems before this time, the lack of available primary and secondary sources prevented the possibility of an effective determination about the diffusion and decision-making processes in these cases. Yin (1994) listed five components of a case study research design that are especially important. These components are:

1. a study's questions,
2. its propositions, if any,
3. its unit(s) of analysis,
4. the logic linking the data to the propositions,
5. the criteria for interpreting the findings (Yin 1994).

This project seeks to uncover causal mechanisms for a state adopting a dual election administration system. Two general areas of concentration in public policy are utilized for this study: constructs of policy diffusion and constructs of policy decision making. The expectation proposed for policy diffusion is the determinant of political context will be impactful when a state adopts a dual election administration system, specifically, a dual election administration system will be adopted when it would be perceived as beneficial to the decision makers' political party's election chances. The second expectation is decision makers used the garbage can model of decision making when choosing how elections would be carried out in their state. The reasoning for this expectation is the solution of a dual election administration system likely will precede the determination of there being a problem in each state's election system, there will be competing interests inside of and outside of government jockeying for influence, and decision makers will need a quick and pragmatic solution because of an urgent situation.

The unit of observation is the policy makers in the five states, and the units of analysis are those policy makers' decision-making processes as well as the social and political

environment in their respective states at the time. Each case represented an embedded design (Yin 1994). This approach was reflected in public administration/public policy literature through Mossberger's (2000) study of decision making in five states to explain the diffusion of enterprise zone policy. From Mossberger (2000, 213),

“(A)nalysis of each state takes into account different decision processes within states – for example, within legislatures, agencies, or among proponents drafting initial proposals – and the way in which assorted groups and individuals contribute to the overall process. In essence, each state comprises multiple smaller studies within a case.”

The plan for linking data to propositions is to conduct case studies for all five states and use pattern matching of rival explanations in the areas of policy diffusion and policy decision making around the time of the states' adoption of a dual election administration system. Yin (1994) stated pattern matching is useful when there is a particular outcome produced in several cases and the focus of the study is on the “independent variables” that caused this outcome in each case. The five cases here all reached an outcome of the state creating a dual election administration system. These variables, introduced in chapter 4, include evidence that would support or challenge theories of policy diffusion that could have influenced the decision maker[s]' thinking – including a normative interpretation of states' rights versus federal rights in election administration, policy determinants, and the use of information networks – and theories on the process of decision making – including rational comprehensive, limited rationality, policy window, policy monopoly, and garbage can. Pattern matching requires the data both to validate explanations in the areas of diffusion and decision making while also attempting to rule out the rival explanation possibilities in each state. The findings are interpreted to attempt to show

replication across the cases, so similar results in each state are achieved by similar patterns of diffusion and decision making being present despite different policy actors, influences, and time periods in each state at the time of adoption (Yin 1994).

Qualitative research focuses primarily on observing complex political and social phenomena and then describing and analyzing those phenomena based on the observations made (Brown and Hale 2014). The qualitative style of research is best for this research project because qualitative research is generally more useful in understanding meaning behind events, behavior of the actors involved in an event, why a phenomenon occurs, or exploring a new topic in a discipline (Brown and Hale 2014). This research seeks to measure the effect pressures and feedback from sources both outside and inside the state governments' structures had on the policy diffusing to each state and delves into the decision making of the policy actors involved in adopting dual election administration systems in their respective states.

A pilot of this study was provided to Glen Browder – a professor emeritus of political science at Jacksonville State University, a former Alabama secretary of state, and a former United States Congress member – who provided feedback and observations about the interview instrument and the study as a whole. Dr. Browder is a unique and valuable informant given his experience running elections at the state level and his background as an academic. He suggested the dissertation should better describe or the interview instrument should prompt interview subjects about what sources outside government may have influenced the policy decision. He also suggested asking interview subjects their thoughts about the potential future of the policy. Additionally, he advised, when interpreting the interview data, it was important to understand that interview subjects will often fall back on a convenient argument, such as they are standing on the principle of federalism, which should not be accepted *prima facie*, but it also should not

be wholly discounted that the decision makers are trying to make good policy through their actions. Furthermore, Dr. Browder suggested focusing more attention on the political party of the appointed or elected official that controlled the specific branch that made the decision to enact a dual election administration system and less on which party controlled other parts of government that may have had some influence. He also suggested expanding the consideration of race in this study beyond undocumented immigrants to other racial groups and discuss the issue of race as an artificial construct. Much of what Dr. Browder suggested for the interview instrument and the study as a whole is incorporated.

Primary Data – Interviews

The primary data are interviews of bureaucrats and/or elected officials about their part in the decision process to create the dual election administration system policies in each state, as well as proponents or detractors of the policy. Primary data are analyzed and relevant information that could be related to a particular construct of diffusion or decision-making is grouped with the corresponding method. Representative statements are pulled from the data groupings that most effectively make the case for each state using a particular diffusion and decision-making construct.

Interviewing policy elites is an important tool in the qualitative research toolbox. Elites have specialized knowledge about the process of enacting a policy. Speaking with elites is an effective way to “explore innovation, originality, complexity, interactions, conflicts, and contradictions” (Duke 2002; Lancaster 2017). Difficulty arises in finding a policy elite willing to speak to a researcher. Often policy elites have “the power to create barriers, shield themselves from scrutiny and resist the intrusiveness of social research” (Duke 2002). Should a researcher

even obtain an interview with an elite, the researcher has to be vigilant in getting useful and accurate information as sometimes policymakers are constrained by concerns their employment or electability could be jeopardized if they express opinions outside what an agency or the public might deem acceptable (Duke 2002; Lancaster 2017).

The interviews of policy elites use a semistructured approach. This approach is useful when a researcher has a solid grasp of the topic but knows the interview subjects likely have a deeper understanding about aspects of the topic (Brown and Hale 2014). This approach also provides a general framework of how the researcher thinks the interview will unfold but offers the flexibility to rearrange the planned order, add or skip questions if particular questions produce highly relevant information or lead to unanticipated information that needs more explanation, and includes prompts to keep the interview subject focused on the subject at hand (Brown and Hale 2014). The interview questions begin with a more general, or grand tour, nature and proceed to a more specific nature. This is done to determine the interview subject's knowledge of the subject matter initially with later questions focusing more on the complexities of dual election administration system adoption. This strategy is in line with Rubin's and Rubin's (2012) suggestion to ask for more specific information later in the interview so interview subjects do not feel they continually must justify the information they provide through the entirety of the interview.

A script of interview questions was closely adhered to in almost all of the interviews conducted. The script of interview questions used in this study is provided in Appendix 2. Questions were occasionally omitted if the topic had already been thoroughly discussed as part of a previous question, though interview subjects were asked if there was any additional information they would like to add on the topic. On the other hand, additional questions

sometimes were asked by the researcher if an interview subject hit upon a particularly interesting topic during the interview, and the researcher wanted to gain greater insight about that topic or about unanticipated information. One interview was cut short when it became apparent the interview subject was only marginally involved in an effort to stop one state's proposed dual election administration system and had little insight on the system itself. The depth of discussion on a particular theme was not necessarily important, as important themes relating to a particular theory may be discussed succinctly or fading recall on details involving important themes may have limited lengthy discussion.

[Table 3.1 about here]

All interviews were conducted by telephone except one which was conducted by video teleconference service Skype. Contact information for potential interview subjects was collected from websites or from sources involved in election administration. Interview subjects were contacted by telephone, email, or mailed letter to explain the research and ask for a time when a formal interview could be conducted. Most interview subjects are asked about other possible interview subjects who were knowledgeable about the topic, using a snowball sampling strategy. Snowball sampling is useful when only a few sources of information are known because the data collection itself helps to identify more sources (Brown and Hale 2014). A list of interview subjects is included in Table 3.1. The researcher attempted to contact many other potential sources who declined the opportunity, did not respond to the interview request, or did not have up-to-date contact information the researcher could locate.

Secondary Data

The secondary data collected include federal and state laws, policies, and administrative directives; court documents and amici briefs; state voting statistics; state undocumented immigration levels; positions of nonprofits and interest groups on the policy; media accounts and government agency press releases; state legislative bills; state taxation levels per capita; party control of state branches of government; states' history in election administration and policy; and estimates of state party identification levels.

The secondary data are important in either reinforcing or challenging information gathered over the interview process. For example, political parties play a large role as an informal institution in policy formulation. Arizona and Kansas were unified under Republican control in the legislative and executive branches when they installed restrictive dual election administration systems after prove-your-citizenship-to-register laws were struck down by the U.S. Supreme Court. Illinois had a rare moment of Republican unity in the executive and legislative branches in 1995 and 1996, and Mississippi had a Republican governor and lieutenant governor for the first time since the Reconstruction era when those states installed restrictive dual election administration systems in response to NVRA regulations. Oregon was a solidly Democratic state when it came to electing governors and secretaries of state but was transitioning from an era where Republicans controlled both legislative chambers to a time when each party controlled one house of the legislature when it installed an inclusive statewide dual election administration policy.

Data Analysis

After data collection completion, data points are pulled from the primary and secondary data for each case that are possibly significant to the theoretical constructs for both diffusion and decision making proposed in Chapter 2 of this study. Characteristics of each construct are developed to classify these data points into the construct with which they best fit forming clusters of data under each construct. These characteristics are listed in Chapter 4. A few data points fit into more than one construct, so not every data point is unique under its construct category. When a data point was used in multiple constructs, the other construct or constructs were cited along with the data point listed under each cluster. Additionally, data under the determinants construct were placed into categories that explain what specific determinant the data point referenced.

In qualitative research different data points carry varying amounts of significance. Simply counting the data to determine which viewpoint has the preponderance of the evidence was not feasible. This requires discretion as to what is important while removing bias as much as possible. This project matches a pattern of representative statements from the collected data to theories of diffusion and decision making to justify which theory best explained how a dual election administration system came to be adopted while mitigating the likelihood of a rival explanation as much as possible. Steps taken to mitigate bias are explained in the following section on limitations.

Limitations

There are several criticisms commonly lobbed at case study research by some in the scientific community. These include lack of ability to control for outside variables, the research

having little possibility for generalization, the investigator having biased views or introducing equivocal evidence, and a lack of parsimony in the research document (Van Evera 1997; Yin 1994). This research project is not exempted from these threats. Yin (1994) recommends focusing on four areas to produce quality research design – construct validity, internal validity, external validity and reliability.

Yin (1994) makes three suggestions to boost construct validity or using the correct operational measurement for the concepts studied – use multiple sources of evidence, establish a chain of evidence, and have the draft case study reviewed by key informants. Multiple sources of evidence from both primary and secondary sources were tracked down and analyzed. Yin (1994) describes “a major strength of case study data collection is the opportunity to use many different sources of evidence.” These primary and secondary data points are placed into separate databases where they are categorized as evidence in support of or against one of the theoretical constructs being tested. Collection of evidence from primary sources is documented by date as is the collection of any secondary sources of information, such as original documents, provided by the primary sources. Additionally, secondary source material collected and referenced in this study was cited. Dr. Glen Browder piloted this study and provided generous and prescient feedback as this study was getting underway.

Internal validity is threatened in case studies due to the use of inference when events cannot be directly observed (Yin 1994). King, Keohane and Verba (1995, 76) state,

"Our uncertainty about causal inferences will never be eliminated. But this uncertainty should not suggest that we avoid attempts at causal inference. Rather we should draw causal inferences where they seem appropriate but also provide the reader with the best and most honest estimate of the uncertainty of that inference. It is appropriate to be bold

in drawing causal inferences as long as we are cautious in detailing the uncertainty of the inference. It is important, further, that causal hypotheses be disciplined, approximating as closely as possible the rules of causal inference."

Replication from repeated patterns that emerge in the data were used to draw causal inferences. Each state that installed a dual election administration system shared some parallel circumstances with one or more of the other states studied here, but it must be recognized each state has its own unique social and governmental conditions. There are also three different time periods – 1995-96, 2003-04, and 2013-14 – when the states adopted and implemented the policy. Multiple theories of diffusion and decision making are used as paradigms of influence while analyzing data, and care is taken to remain open to accepting evidence supporting a paradigm not considered at the outset of the project. This approach is important to limit the risk of any extraneous factors actually having a causal relationship with a state creating a dual election administration system. Furthermore, because of the unique circumstances found in each case and the necessity of inference to build an explanation for how each case fits a particular construct, a great deal of description is included about each state from various source materials. Diligence in recording uncertainty in inferences while also doing everything necessary to eliminate as much doubt as possible in what the data are showing is necessary.

Yin (1994) states it is difficult for case studies to ensure external validity through replication due to only a small number of cases being analyzed. The generalizability needed has to be analytical rather than statistical because of the small sample size (Yin 1994). These are the only five states within the past 30 years that have implemented dual election administration systems, as far as this study has been able to determine. This study represents as many cases as possible where original data through interviews would be able to be collected. Anything further

back in time would not only be too great a tax on the memory of decision makers who would agree to be interviewed but would also present the problem of locating the decision makers involved. The data are analyzed with the goal to create a broader theory or to incorporate the data with an existing broader theory. States choosing not to adopt a dual election administration system are not included in the research population. The reasoning behind this choice is simply a lack of available data for states who chose not to adopt the policy. The adoption decisions were made administratively in the five cases that were studied, and consideration of the policy in states that chose not to adopt also would have been done administratively instead of legislatively where some records of a bill or debate might be available. Collecting primary data that are reliable in nonadopting states likely would be extremely difficult due to the amount of time passed and the lack of the ability to crosscheck information gathered.

The ability to generalize data from only five cases may be the most difficult hurdle to clear of Yin's four tests for quality case study research. With so few cases available to study, it requires the researcher to create what Yin calls a "rich, theoretical framework." This project followed Yin's suggestion of writing an individual case report for all individual cases studied (Yin 1994). The conclusions about how each individual case matched the patterns of the constructs theorized were drawn through representative statements and data to attempt to draw cross-case conclusions.

The final test is of reliability, which is the ability to repeat the same steps used while conducting research and be able to reach the same results and conclusions (Yin 1994). Data collection protocols were designed to enhance reliability of the process which, in turn, should increase reliability among the respondents about how they understood questions and answered them. When coding the data, clear coding criteria were used in determining which categories to

place interview responses. This requires meticulous attention to detail and documentation, which is done in this study. All interviews are recorded and transcribed word for word. Interview transcripts are parsed to determine what information is relevant to the decision making or diffusion of the dual election administration system policy in that state. This information is placed into a database under the theoretical construct believed most closely to match the information. Secondary data are collected through online sources or from interview subjects who offered additional documentation either digitally or by sending physical documents they had saved concerning the dual election administration system in their respective states. Secondary data are analyzed to determine if the data are relevant to any of the decision making or diffusion constructs and placed that information in a separate database for secondary data. Again, secondary sources material collected and referenced in this study is cited.

Table 3.1 – Completed Interviews

State	Interview Subject	Involvement with Policy
Arizona	Ken Bennett	former secretary of state
	Amy Chan	former state election director
	Anonymous	former election administrator
Illinois	David Orr	former Cook County clerk
	David Melton	attorney for David Orr and Monica Chavez-Silva in lawsuit to stop the state’s dual election administration system
	Ron Michaelson	former executive director of the Illinois State Board of Elections
	Monica Chavez-Silva	plaintiff in lawsuit against governor and other officials to stop the state’s dual election administration system
Kansas	Brad Bryant	former state election director
	Bryan Caskey	former assistant state election director and current state election director
Mississippi	Brenda Wright	attorney for plaintiffs in lawsuit to stop the dual election administration system
Oregon	Bill Bradbury	former secretary of state
	Paddy McGuire	former chief of staff to the secretary of state
	John Lindback	former state election director

Chapter 4

Data Analysis and Findings

The goal of this project is to understand the causal mechanisms of a state adopting a dual election administration system. The approach to understanding this phenomenon is to study theories of policy diffusion to recognize whether particular conditions existed in each state that facilitated the implementation of the dual election administration system policy and to study the decision-making process of those who implemented the policy at the state level. Three competing explanations for policy diffusion are used to analyze the data. These diffusion constructs encompass several leading theories about the way policy ideas are adopted by states, including the pressure of federal coercion, state conditions and political culture, and the effect guidance from information networks can have in a policy area. For the decision-making process, an update of Mossberger's (2000) decision-making continuum was developed, and states were placed on it based on the decision process used in adopting the policy. In Chapter 4 the collected primary and secondary data are examined and interpreted to generate findings to answer the research question. This chapter was organized around how each state fit or did not fit the mold of the theories considered. Data are discussed throughout the chapter, and findings are listed at the chapter's end.

Diffusion Constructs

Three separate constructs are theorized for why the policy of dual election administration systems diffused to the five states that adopted the policy since the mid-1990s. Those constructs are 1) states' reactions to federal mandates, 2) state-level determinants of policy diffusion, and 3)

the influence of policy recommendations that spread through information networks. State reaction to federal mandates means whether states or the extent to which states altered the operation of voter registration and/or the voting process because of changes made from the national level of government, specifically federal legislation and federal court decisions. State-level determinants are factors that suggest that states will be more or less likely to accept new ideas. These include, generally, a state's political context, resources, pressures, and the geographical or political proximity to other states. Finally, states can be influenced to adopt new ideas by information networks which include professional associations, interest groups and a variety of people who work and/or study in their realm of policy. These groups and actors create a policy information network which can be utilized as part of the diffusion process. In the sections that follow, data and findings are discussed through the lens of each of these constructs. Table 4.1 lists the main characteristics of each construct used to classify the primary and secondary data points collected in this study.

[Table 4.1 about here]

State Response to Mandates or Court Decisions Analysis

Tension in the roles of the three levels of government is a common theme in public administration in every policy area from criminal justice to the environment to education and so on. This tension may be no more pronounced than it is in the area of elections, as the U.S. Constitution's Elections Clause leaves a great deal of power in regulating elections to the states but with the caveat of Congress being able to alter those regulations or make new ones as it deems necessary. States frequently bristle whenever Congress enacts a law that forces a change in the way states run their elections or when courts interpret a state's election policy to be in

violation of federal law. Often the people involved in running elections at the state level will claim the principles of federalism have been violated when federal legislation or a court ruling forces change. For this section, data were collected from state government actors who were involved with the process of adopting a dual election administration system to determine if these actors' normative views were an influence in the state passing this policy.

Each of the five states in this case study adopted and implemented a dual election administration system either after a federal law was passed that would alter the administration of each state's elections or after a court decision at the federal level required the state to come into compliance with federal law for the federal races on the ballot. No court decision or federal legislation mandated a dual election administration system be put into place, so all five states made the decision to adopt their own policy. Mississippi enacted its system after the state legislature failed to pass election laws to bring the state's election administration within the NVRA framework. Illinois fought the constitutionality of the NVRA in federal court at the district and appellate levels and lost both cases. Illinois chose to go with a dual election administration system for the following election cycle before state courts stopped it after the primary election. Oregon put in place a dual election administration system after the HAVA required first-time-vote-by-mail voters to provide some form of identification or address verification before voting in a federal election. Both Arizona and Kansas adopted a dual election administration system after a U.S. Supreme Court ruling compelled them to register applicants to vote in federal races even if the applicants only turned in a federal voter registration form without providing proof of citizenship as was required for registering under state law.

All five states had multiple high-level government officials claim that federal mandates or court decisions were either a major reason or the primary reason for his or her state adopting a

dual election administration system. Information gathered through primary and secondary sources show state officials from all five states say their state desired to maintain sovereignty over voter registration in their elections. Ken Bennett, Arizona's Secretary of State at the time, said, "The NVRA was what I think the Supreme Court ultimately ruled took precedent over the state law for voters who only voted in federal elections. I don't think we would have had the whole issue had it not been for NVRA." Former Illinois State Board of Elections executive director Ron Michaelson said,

"This was not a partisan issue. It wasn't an issue where the Democrats wanted to expand the franchise, and Republicans wanted to fight this thing. It was more a feeling ... that this was a usurpation of state rights vis-à-vis the election process. States should make their own decisions for these voter registration issues and didn't like the fact that the feds were creeping in."

Current Kansas state elections director Bryan Caskey, who was assistant state elections director when the state's dual election administration system was adopted, said, "The whole basis of there being a bifurcated system is because of NVRA. If NVRA didn't exist, it would just be state form and state law, and none of this would have happened. So, yes, absolutely NVRA made it happen." Kirk Fordice, Mississippi's governor from 1992 to 2000, called the NVRA, "the mother of all unfunded mandates," and, "an unwarranted federal intrusion into our state's election laws," and said, "We cannot continue to bend to the will of the federal government in every instance, particularly when it's totally against the Constitution," (Sack 1998). Former Oregon Secretary of State Bill Bradbury said,

"If you didn't meet HAVA, your votes in a federal race would not be counted, so that was just part of our vote counting system. I remember being sort of pissed off. We have

had a very fraud-free election system, and we were a little P.O.'d that the federal government was reaching in and basically screwing it up. But we know we are subject to federal law, so we did what we had to do to keep our voters eligible to vote.”

Determinants Analysis

Determinants measure a state’s likelihood of adopting a new policy. Traditionally, the factors measured as determinants include a state’s unique political context, the resources available to make a policy change or adopt a new policy, and the level of pressure political or bureaucratic actors face to make a change or keep the status quo. These three determinants measure factors internal to the state. This study also includes proximity to other states, both in terms of geographic distance and general political ideology, as a determinant.

Political Context

For this study political context means 1) partisan factors that could have impacted the decision to move to a dual election administration system, and 2) the social construction of socioeconomic groups in the state which could impact how easy or difficult the voter registration and voting process was for these groups. First, this study analyzes the partisan factors aspect by several methods that capture political influence. These methods are: the decision matching the chief election official’s preference; legislative branch involvement; the involvement of other partisan, executive branch offices; and party cartel in state government. The categories in Table 4.2 show possible methods of political parties having influence in a dual election administration system diffusing in their particular state.

[Table 4.2 about here]

The first column of Table 4.2 indicates every decision to move to either a restrictive system or an inclusive system matched the chief election official's stated preference with the exception of Mississippi. Arizona's and Kansas's Republican secretaries of state adopted a restrictive policy while Oregon's Democratic secretary of state adopted an inclusive policy which matched the expected positions of their political parties. Illinois had a unique circumstance compared to the other four states as it had a bipartisan election board setting election policy for the state and a nonpartisan executive director carrying out the policy. Michaelson said, "There was very little partisanship involved [with the Illinois State Board of Elections passing the two-tier policy], although, Illinois is a very political state. ... It is correct that once this was implemented the efforts to abolish it started to get more partisan. There was no question there were more Democrats, like a David Orr, who were fighting it" Mississippi had, perhaps, the most complicated situation in adopting a dual election administration system. The Democratic secretary of state at the time, Dick Molpus, wanted to adopt a unitary system in compliance with the regulations of the NVRA but believed the state legislature would need to pass legislation in order to do so. Mississippi also had a Democratic state legislature which would indicate the state would likely adopt the NVRA guidelines. This would not play out as expected, though.

The second column indicates Mississippi as the only state legislature to get politically involved in the adoption process. Legislative involvement was not discovered in any substantial extent in the other four states around the time of the decision. While the Democrats controlled both houses of the Mississippi State Legislature, state law allowed the lieutenant governor, as president of the state senate, to appoint committee chairs. Like the governor, the lieutenant governor elected in 1991 was the first Republican lieutenant governor elected in over a century.

Lieutenant Governor Eddie Briggs appointed fellow Republican Kay Cobb to serve as chair of the state senate's election committee which was assigned the bill to bring the state's registration procedures in line with the NVRA. Quoting Barbara Wright's Mississippi College Law Review article on *Young v. Fordice*,

“Senator Cobb, a member of the Governor's Implementation Committee, had stated she would support the legislation, but on January 25, 1995, she tabled the bill refusing to allow a committee vote. She later explained her position in part by focusing upon the registration opportunities offered to welfare recipients under the NVRA saying that people who ‘care enough to go get their welfare and their food stamps but not walk across the street to the circuit clerk’ should not be accommodated” (Wright 1998).

Interestingly, any of the state legislatures could have chosen to pass legislation either to codify or block a dual election administration system in their respective states, but none did so.

Mississippi's legislature was the only one that had any effect on a state's dual election administration policy, and that was done by one legislative member with a key committee appointment.

Unlike state legislatures, the third column indicates executive branch offices outside of the secretary of state's office were more willing to get involved in the policy process, doing so in three of the five states. Continuing with Mississippi, Governor Fordice kept up his criticism of NVRA whenever he was asked about potential legislation to get the state's registration process in line with NVRA regulations and creating a unitary system. His comments generally had less to do with whether he supported or did not support the dual election administration system in his state but more with his vehement opposition to the NVRA. Even after the U.S. Supreme Court struck down the state's dual election administration system ruling Mississippi had not received

proper preclearance from the U.S. Justice Department to implement the policy, Fordice continued his opposition by vetoing a 1998 Motor Voter bill because it did not include a provision to add voter identification requirements. Mississippi's Democratic Attorney General Mike Moore became heavily involved in the process after the original Motor Voter bill was blocked in the legislature in 1995. Moore's and Molpus's offices worked together to advise local election officials on how to implement a dual election administration system. Moore's office also defended the use of a dual election administration system in federal court against a lawsuit. Moore, himself, suggested distributing state voter registration forms at government agencies where the federal registration forms are distributed; this proposal, a spokesman for the governor said, the governor would not support because he felt it was the federal government that forced the creation of a dual election administration system and not the state itself (Associated Press 1995a).

In Illinois Michaelson and the Illinois State Board of Elections took the position that legislation from the Illinois General Assembly was needed to implement NVRA provisions at the state level. No legislation ever came from the general assembly, and Republican Governor Jim Edgar was not shy in voicing his opposition to the NVRA, echoing the concerns of unfunded mandates and voter fraud made by his Mississippi counterpart (Christian 1996). When federal courts ruled Illinois would have to comply with the NVRA for federal races, the state board of elections adopted a dual election administration system. Michaelson said, "[T]he fact that the governor, as I indicated, Jim Edgar, was outspoken in terms of his position and, certainly, did not get any legislative pushback from the Republicans who controlled the legislature, yeah, I think that certainly encouraged us to take the position we did with that way."

After the ruling in *Arizona v ITCA*, Republican Secretary of State Bennett quickly requested a legal opinion from Republican Attorney General Tom Horne about how to handle voters who do not provide proof of citizenship after submitting the federal voter registration form. Horne advised that Arizona law prevented these registrants from voting in state and local elections and state law would allow for the issuance of federal-only ballots to these voters. Both Horne and then-Governor Jan Brewer, also a Republican, noted they approved the creation of a dual election administration system in an addendum to the state's Election Procedures Manual published before the 2014 elections. There was little evidence Oregon or Kansas recruited help from other executive branch offices concerning dual election administration systems. The Kansas Attorney General's Office stamped that it approved the administrative rule change to allow federal-only voters to vote by provisional ballot in 2016, but no documentation was found that the office issued an opinion or made an official statement about the dual election administration system itself. No documentation was found that any other executive branch office had anything to do with Oregon's policy, either.

The final column indicates in three states – Arizona, Illinois, and Kansas – party influence took the form of a cartel. A party cartel occurs when the majority party has unified control of government which allows the majority party to set the policy agenda. Table 4.3 lists the political party in control of the bodies of government over a period of six four-year terms. The underlined office or legislative body was in charge of making the decision to use a dual election administration system.

[Table 4.3 about here.]

Table 4.3 provides background to the political context of each state over the time period being studied, particularly whether or not a single party controlled the governor's office, the

state's chief election official, and the state's legislature to form a party cartel over decision making on election administration. A Republican party cartel was found in three of the states – Arizona, Illinois, and Kansas – that adopted a dual election administration system, noting the Illinois General Assembly was Republican in both houses when the decision was made in 1995 but the House of Representatives flipped to Democratic control after the 1996 general election, which is why it is designated as divided for the four-year period in Table 4.2. All three states adopted the restrictive version of the policy.

Arizona and Kansas had been predominantly Republican over the time period leading up to their 2013 decisions to adopt the policy, with only a few periods of Democrats gaining the governorship or controlling one house of the state legislature. Illinois had witnessed a rising tide of Democratic strength in the decades prior, according to Cook County clerk David Orr and elections attorney David Melton, who both pointed out Democratic influence was spreading from its traditional stronghold of Chicago further out into the state since the 1960s which, in turn, was diminishing the impact of the rural, mostly Republican counties. Republicans had managed to hold the governor's office from 1977 through 2002, though. The party cartel in Illinois during the years of 1995 and 1996 was not absolute because the bipartisan elections board set the election policy for the state and was led by nonpartisan executive director Ron Michaelson.

Mississippi had been controlled by the Democratic Party since Reconstruction's end in the 1870s. It was only in 1991 that Republican Kirk Fordice managed to break the Democratic stronghold and get elected as governor. The Secretary of State's Office and the Mississippi Legislature remained solidly in Democratic control as it had for over a century. Oregon had seen its legislature shift into the Republican camp for most of the 1990s into the early 2000s, but that shift had begun to reverse itself by the time the state's dual election administration system had

been adopted in 2004 with Republicans still holding an advantage in the house of representatives and both parties having an even number of senators in the state senate. Democrats had controlled both the governor's office and secretary of state's office for nearly two decades to that point. Paddy McGuire, chief of staff to the secretary of state at the time, believed Republicans placed much of the blame of losing the state senate – and later the house of representatives after the 2006 election – on Secretary of State Bill Bradbury. “[O]ur office had done the legislative redistricting in ’01, and the Republicans largely believed that we were responsible for them going from majority status to minority status. There wasn’t a great deal of love lost between Republicans in the legislature and my boss, the Democratic secretary of state,” McGuire said.

There is also evidence politics may not have been a factor. Because of the low salience of the decision in every state, there was no indication the two major political parties in each state took a position on the use of dual election administration systems. In addition, no pattern emerged from these states in terms of changes in registration and voting percentages, likely because of the small total number of voters in each state who were not fully eligible, so no advantage for either party developed in the next couple of elections after a dual election administration system was implemented. Of course, that does not necessarily mean party politics was not a factor in any of these situations. In each state elected officials from both parties appeared to take positions generally consistent with Republicans favoring a restrictive dual election administration system and Democrats opposing with the reverse being true for an inclusive dual election administration system. The decision matched what would be considered the political preference of the party in control of the governor's office in every situation. Only in Mississippi did the decision not match the political preference of the party in control of the legislature and chief election official, but the evidence showed the chief election official

supported adopting a unified system and adopted a dual election administration system after it was unlikely the unified system legislation would be passed. The chief election official's preference was clear but ultimately unavailable to him. The Oregon State Legislature was divided at the time with Republicans controlling the state house of representatives and both parties being tied in the state senate. Finally, there did not appear to be any public intraparty conflict on the issue. The only possible exception was Mississippi's Democratic attorney general's office defended the dual election administration system in federal court, but the attorney general's office also worked with the Democratic secretary of state's office to develop regulations for the dual election administration system. These actions appeared to be more in line with the duties of the office rather than overt political maneuvering, though.

Moving past the political party influence, the second component of political context considered is the possible social construction of minority groups within each state and how those groups' social construction could influence the diffusion of a dual election administration system. Social construction is a major part of a state's political context as the theory posits policy designs can reinforce the advantage held by politically powerful groups and officials, can help determine how certain groups are viewed by the public, and can help determine the level of those groups' participation in the democratic process of the state (Schneider and Ingram 1993). Since the turn of the century, the prospect of noncitizens and undocumented citizens voting has become a major concern for groups concerned about election security. The research highlighted five areas where social construction could have been a factor in a dual election administration system diffusing to a state presented in the categories of Table 4.4.

[Table 4.4 about here]

These include 1) the state was or had previously been under Section 5 preclearance by the U.S. Justice Department, 2) two or more social welfare groups within the state pushed back or pushed forward the dual election administration system, 3) state officials made comments about the effect the dual election administration system policy would have on minority groups, 4) the state was required to provide a minority language ballot in three or more counties, and 5) the state had an undocumented immigration population 1 percent higher than the U.S. average.

The first column indicates two of the states have been subject to statewide preclearance requirements as determined by the Section 4 coverage formula of the Voting Rights Act, Mississippi since 1965 and Arizona since 1975 (U.S. Department of Justice 2015; U.S. Commission on Civil Rights 2006). Section 4's coverage formula was established to identify where racial discrimination in the voting process had been prevalent (U.S. Department of Justice 2015). Whether or not one agrees either state should have been subject to preclearance, this does establish, at the least, there was a decades-long perception that minority racial groups had been discriminated against to some degree in these states. Illinois, Kansas, and Oregon have not been subject to statewide preclearance requirements. Illinois did have Alexander County – a rural county in the far southwest corner of the state – bailed in to preclearance requirements under Section 3[c] of the VRA in the 1980s, but this only lasted for five years (U.S. Commission on Civil Rights 2006).

The second column indicates the involvement of social welfare groups in supporting or fighting against a state's dual election administration system. For the purposes of this dissertation, social welfare groups are organizations that advocate for populations who are in a type of statistical minority and/or have a history of being marginalized. Arizona, perhaps, had the largest involvement of groups contact the Secretary of State's Office or make public

statements against the dual election administration system. State officials who were interviewed recalled pushback from groups such as the Inter Tribal Council of Arizona, Mi Familia Vota, and the League of Women Voters. Additionally, groups such as the Arizona Advocacy Network, the Arizona Students' Association, the League of United Latin American Citizens, and Promise Arizona in Action either made public statements against the policy or took up action through the court system. Bennett also remembered receiving some feedback from groups that had originally supported Proposition 200 in support of Arizona's dual election administration system but did not remember which groups those were.

In Illinois two organizations participated as plaintiffs in the lawsuit to stop the state's dual election administration system, the Illinois League of Women Voters and the Illinois Chapter of the American Federation of Labor and Congress of Industrial Organizations. Cook County clerk David Orr rallied groups together to oppose the state's dual election administration system and many joined in filing an amicus brief in Orr's state court case to stop the policy. Those groups included the American Civil Liberties Union, the American Association of Retired Persons, the American Jewish Congress, the Chicago Coalition for the Homeless, the Council for Disability Rights, the Illinois Chapter of the National Association of Social Workers, the Illinois National Organization for Women Legal and Educational Fund, the Jewish Council on Urban Affairs, Metro Seniors in Action, the Public Welfare Coalition, and Americans with Disabilities Vote.

State officials from Kansas also remembered groups who came out against the policy such as the American Civil Liberties Union, the League of Women Voters, and the NAACP. In Mississippi groups such as the Lawyers' Committee for Civil Rights Under Law, the Center for Constitutional Rights, and the American Civil Liberties Union were all involved in the lawsuit to

end the state's dual election administration system. No group outside government in Oregon made a public declaration of support for or of frustration with the policy nor shared their views about the policy with the state officials interviewed for this study around the time of adoption.

The third column indicates which states had officials specifically make comments about minority groups in justifying the creation of a dual election administration system. Kansas's Secretary of State Kris Kobach made statements concerning the necessity of the policy due to the possibility of noncitizens voting. "The federal form creates a small loophole which can allow noncitizens to vote," Kobach said (Krishan 2015). He also stated, "This [federal form] loophole not only creates the risk that noncitizens will cast votes in close local elections, it also turns the U.S. Constitution on its head. The states have the clear authority to decide who's qualified to vote, not the federal government" (Koranda 2017). State officials in Mississippi made comments disparaging the NVRA and the type of voters it helps to register. Governor Kirk Fordice's media coverage included statements such as, "Some of Mr. Fordice's comments have inspired accusations that he has injected race into the debate. Last summer, he said the law was misnamed as 'motor voter' and should be called 'welfare voter,'" (Sack 1998) and also,

"Mr. Fordice also blamed the [NVRA] law for encouraging fraudulent voting, some of it by illegal aliens, and said it led to Democratic victories in two 1996 races – Senator Mary L. Landrieu's defeat of Woody Jenkins in Louisiana and Representative Loretta Sanchez's victory over Robert K. Dornan in California. Congressional investigations in both cases have failed to show that fraudulent voting determined either outcome" (Sack 1998).

Mississippi State Senator Kay Cobb, who blocked legislation to create a unitary election system, said people who can travel to pick up their welfare benefits should also be able to get to a circuit

clerk's office to register to vote (Wright 1998). In Oregon, Secretary of State Bill Bradbury said there was a particular group he thought would lose voting power if he did not install a dual election administration system after new rules from HAVA went into effect.

“What’s interesting is most of the people who did not meet the HAVA requirement were, in fact, Native Americans – older tribal elders on reservations. Now we’re not talking about a lot of people, but that was the area if you want to say there was one general area where they were not able to or chose not to meet the HAVA requirements, it was the tribal elders on some of the reservations in Oregon,” Bradbury said.

Bradbury added that an Oregon driver's license was not needed to drive on the Native American reservations, so many Native Americans did not have one and some did not have or know about having a Social Security number.

The fourth column indicates in what states ballots had to be printed in languages other than English in three or more counties at the time of adopting a dual election administration system. Concerns from the socioeconomic majority about undocumented citizens voting or a minority population gathering strength through numbers could be intensified in states where there was a large and/or growing language-minority community. Three states fell under this category, Arizona, Kansas, and Mississippi. Arizona had 10 out of its 15 counties that required minority language ballots with six of those counties due to Native American population and four of those counties due to Hispanic population (U.S. Census Bureau 2017). Kansas had four counties clustered in its southwestern area, out of 105 total, that required Hispanic language ballots (U.S. Census Bureau 2017). Mississippi had six counties, out of 82 total, that required Native American language ballots (U.S. Census Bureau 2017), due to Choctaw reservations located in the state.

Similar reasoning was used in including the final column in Table 4.4 which indicates Arizona was the only state having undocumented immigrants estimated over 1 percent higher than the national average. Table 4.5 lists the estimated total number and percentage of a state's population of undocumented immigrants in all five states as well as the nation over a 20-year time period.

[Table 4.5 about here]

In Illinois, Kansas, Oregon, and Mississippi, the state average of undocumented immigrants was close to or below the national average with Illinois having the highest per capita estimate of the four states at around 0.7 percent above the national average at the time the dual election administration system decision was made. Being a border state, it was no surprise Arizona consistently had undocumented immigrant estimates of over 1 percent of its total population for the entire time period. The undocumented immigrant estimate reached a high of 3.9 percent over the national average in 2005 and a level of 2.6 percent over the national average in 2010, the time period closest before the state adopted a dual election administration system.

Using Tables 4.2 and 4.4, the number of methods of political involvement and social construction used in each state were tallied to determine if political context was a high, medium, or low factor in the diffusion of dual election administration system to that state, as is presented in Table 4.6.

[Table 4.6 about here]

The political context in each state varied from a low of Oregon matching two of nine categories of political context to a medium level of political context with Illinois and Kansas matching four of nine categories and five of nine categories, respectively, and reaching a high level of political context in Mississippi who matched in six of nine categories and Arizona who matched in seven

of nine. This table shows political context was wide-ranging in the states being studied. Arizona having the most methods of political involvement and social construction used objectively makes sense because citizenship and the possibility of noncitizens voting was such a major issue in the state that the citizens themselves passed a proof-of-citizenship-to-register requirement using the initiative process. In Oregon, the issue barely made a ripple in the state likely because of the lack of attention the policy change received at the time and the small number of voters who could be affected.

Resources

The measurement of possible monetary resources available and whether or not state officials considered the amount of resources needed to implement a dual election administration system are used to evaluate the resources portion of determinants. This was done by analyzing the state's level of tax revenue in addition to deciding if state officials gave any meaningful attention to the costs of implementing the policy. Results are presented in Table 4.7 with a stub column listing the state and the year a decision was made, the second column showing the total state tax revenue collected by the state for that year, the third column presenting where the state ranks among all 50 states when that tax revenue is measured as state taxes paid per state resident with the highest ranking representing the highest revenue per person, and the fourth column establishing if state officials considered the cost of the policy when making a decision about adopting it.

[Table 4.7 about here]

Looking at columns two and three together, it does not appear any of the five states were flush with revenue when deciding to go with a dual election administration system. Only Kansas

and Illinois were close to the median with the other states in the bottom third of revenue per resident at the time of the decision. Illinois was the only state that seemed to throw out some figures about cost for implementing a unitary system. Governor Jim Edgar placed an estimate of \$20 million to comply with NVRA under a unitary system, but critics said Edgar was inflating the cost by tying it in with the purchase and installation of a new computerized voting network, and the cost was actually less than \$1 million (Tyson 1995). Cook County clerk David Orr estimated the cost for Cook County alone in the 1996 presidential elections to be at least \$1 million to implement a dual election administration system. Despite these widely varying figures, it does not appear cost was a major factor as a determinant.

Column four indicates costs incurred by the state or passed on to counties to implement a dual election administration system were generally given little to no thought by state-level decision makers. Illinois State Board of Elections executive director Ron Michaelson said, “We did not give the counties any additional monies to implement this nor was there any kind of appropriation. They just had to assume the financial responsibility for it. I don’t know how onerous that was.” Much like Michaelson’s response for Illinois, state officials in Arizona, Kansas, and Oregon said there was a lack of attention to costs because the costs were assumed to be small and mostly would be taken up by the counties. Arizona’s former Secretary of State Ken Bennett said,

“We could tell that the number of NVRA-registered voters was pretty small to start with, so I don’t remember it ever being a major aspect of the decision as to the fiscal impact or the resources available to administer the decision once the decision was made. That was pretty minor compared to the whole scheme of what it takes to run an election in the

state. That was not a major consideration in making the decision, but it was considered as we went along.”

Former Kansas state election director Brad Bryant said,

“Instructions to counties, memos, directives, handouts – we produce those internally all the time, so it wasn’t a budget line item for us at the state level, but it was at the county level. ... They had to produce a separate ballot. Any time you say you’ve got to have a separate ballot for X or Y at your election, there is an expense there. To the extent that it complicated or extended their training sessions with poll workers, they might identify some expense there.”

Former chief of staff to the Oregon Secretary of State Paddy McGuire said,

“It wasn’t a big deal. That was a problem for the county clerks but not us, to be perfectly frank. We thought, and I think correctly thought, that the numbers were going to be so low anyway that if a small county had two or three voters in this situation, or even in Multnomah County if they had 200, then OK there would be some amount more time devoted to that. But is it even measurable?”

It is unclear if Mississippi was able to consider costs because of the lack of time the Secretary of State’s Office had to decide on and implement a dual election administration system when legislation for a unitary system was killed in committee in the Mississippi State Senate. The assistant attorney general for Mississippi, Bob Sanders, who argued the *Fordice v. Young* case gave testimony that the cost to the state was “roughly a half million dollar cost per election year ... for keeping separate books and for putting forth the efforts required to maintain the voting place in the proper way” (U.S. Commission on Civil Rights 2001). Sanders’s testimony came well after the policy decision was made, though.

Pressures for Change

Pressures for change considers whether the decision makers felt compelled to implement a dual election administration system due to outside forces expressing their preference for or against the policy. This includes a decision maker noting an actor's, an organization's, or the general public's position on a dual election administration system influencing the decision maker's decision process. Additionally, this construct considers if the public had much, if any, awareness about the state's dual election administration system and if other issues involving elections were receiving a greater level of attention at the time of the decision. Table 4.8 notes the state and year the decision was made in the first column, the salience of dual election administration systems at the time of the decision in the second column, other issues in elections that may have been more salient at that time in the third column, and the salience of citizenship being an important issue when it came to voting in the fourth column.

[Table 4.8 about here]

The second column indicates salience of dual election administration systems was low in all five states. Arizona's Bennett remembered "receiving strong feelings on both sides from organizations that supported the decision or didn't," but later added said, "We were respectful of feelings on both sides, but my decision was not driven by outside input." An anonymous election administrator in Arizona said, "I think there were explanations where we needed to explain what we were doing like to the legislators and things like that, but I don't remember even getting letters from some of the outside groups like I would on other issues – lobbying groups or special interest groups saying, 'Hey, we've noticed you've done this. What does this mean?'" Former Arizona state election director Amy Chan added, "I don't remember there being a lot of blowback."

In Illinois, Orr rallied multiple groups to support his lawsuit against the dual election administration system and several newspapers around the state expressed support for ending the policy in editorials, but it appeared there was barely a ripple about the policy outside of the people and groups involved in the court case. Even a plaintiff in the lawsuit, Monica Chavez-Silva, said the public was not aware of this change in the voting system nor was she aware of it before being asked to renew her driver's license as a test to see if she would be informed she would need to register to vote with a state registration form to be eligible to vote in state and local races. "[M]y general sense is that probably the average person wasn't highly aware of the details of the voting system – like I said, I wasn't," Chavez-Silva said. In Kansas, most pressure seemed to come from national groups rather than inside groups. Brad Bryant said, "Groups like Project Vote, the Brennan Center, there were a lot of interest groups like that we would deal with, and a number of them could pop up at any time when something notable was going on in our state or any other state. ... [I]t strikes me that most of the contacts we had from outside groups were groups that disagreed with it." The American Civil Liberties Union at the national and state level in Kansas asked for and received a permanent injunction of the policy.

In Mississippi, Democrats controlled the legislature and the secretary of state's office, but the dual election administration system was not salient enough to gain traction to pressure legislators to pass through a bill on the topic one way or another, even with the secretary of state who opposed the policy but adopted it because he felt it was the only option without authorizing legislation. The secretary of state's office also reported that 78 of 82 circuit clerks in the state wanted the state to pass a Motor Voter law (Holland 1997). After the *Young v. Fordice* decision restored a unitary system in the state, Gov. Fordice again vetoed legislation that would have brought Mississippi voting laws in line with the NVRA despite his veto being essentially

toothless due to the supremacy of the Supreme Court ruling over state law. In Oregon, the inclusive system seems almost unknown by the public. Bradbury said, “[I]t was sort of a specific kind of elections detail issue that people generally don’t get that involved in outside of the people responsible for elections – the county clerks and the secretary of state’s office.” Former Oregon state election director John Lindback said, “I don’t recall feeling particularly pressured. There was some pressure from clerks because they just didn’t appreciate having to administer these different kinds of ballots, but I don’t recall any particular pressure from the legislature.” Several years after the policy was implemented, former Republican state representative and current State Senator Kim Thatcher tried to publicize her problems with the dual election administration system through a newspaper she ran and introduced legislation several times to create a unified system, but her bills have never made it out of committee.

At the time of each state’s decision, other elections issues likely were more prominent in the five states, as indicated in column three. Mississippi and Illinois were generally more concerned about the powers provided to the federal government through the NVRA rather than the dual election administration system that resulted from it. Mississippi Attorney General Mike Moore wrote in documents filed in the federal court case challenging the state’s dual election administration system, “It is denied that [state election] officials have implemented a dual system of voter registration. They are simply managing a dual system that has been thrust upon them by the [federal government]” (Associated Press 1995a). Concerning the same lawsuit, Fordice’s chief of staff said, “The reason we want to fight that lawsuit is because [the U.S. Congress] created the dual system. We didn’t. They passed a national act that doesn’t comport with our state law” (Associated Press 1995a). A press release from Gov. Jim Edgar, Secretary of State George Ryan, Attorney General Jim Ryan – all Republicans – and Michaelson stated,

“We have resisted implementing the federal ‘motor voter’ law in Illinois because we fear it could lead to election fraud in a state that unfortunately has a well-known history of such fraud. We have no problem with making it easier for eligible voters to register. We do have a problem, however, with the law’s insistence that we abandon safeguards in state election law that allow us to purge the rolls of ineligible – and even deceased – registrants” (Edgar et al. 1996).

In Oregon the petition process was the issue likely getting a great deal more of attention around that time. Lindback said,

“Most of the fraud conversations in Oregon at that time were focused on the petition process – the initiative petition. There was paid initiative petition gathering going on. There was fraud in that process, pretty serious fraud from time to time, so when you talk about fraud in elections in Oregon people’s minds went to the petition process. Voter registration fraud wasn’t on the radar because there had been very few cases with that.”

Arizona and Kansas also had other issues likely getting a greater level of attention in 2013 than dual election administration systems. An anonymous Arizona election administrator said, “I don’t know if it was people weren’t really paying attention [to the dual election administration system] or There were a lot of other issues going on in elections at the time, a lot of campaign finance, so maybe that was just diverting attention.” In Kansas, the dual election administration system was an outgrowth of election security rules put into place by legislation Kobach helped pass through the legislature, but the policy itself was not a huge topic. Bryan Caskey said, “From my perspective as an administrator, we still had more people vote in 2014 than we had in the previous [non-presidential] election in 2010.”

The fourth column indicates citizenship was salient in Kansas and Arizona but how the topic became salient in each state differed. Arizona’s election officials only discussed the topic of citizenship when directly asked about it or when challenged by a social welfare group. The public drove the discussion, particularly since the state’s petition process produced Proposition 200 which required proof of citizenship to register to vote. Bennett emphasized he did not feel comfortable throwing aside the proof-of-citizenship requirement after the *Arizona v. ITCA* decision since Proposition 200 had passed with around 77 percent of voters in favor of it. Chan said,

“[W]hen I was at the Secretary of State’s Office we actually saw people prosecuted for voting twice, and it was always like citizens who lived in two states, had homes in two states, and registered in both states and voted by mail. It was never undocumented folks. So I guess in a broad sense, I would say that the perception of [voter fraud] led to our bifurcated system because I think that is what led to this initiative that required that proof of citizenship.”

Kris Kobach led the discussion on citizenship in Kansas due to his rise as a national figure on the topic, authoring bills introduced or passed in several states to curb the undocumented immigrant population. “Immigration policy affects your national security. Your immigration policy will affect your taxes. It will affect the welfare systems of the country,” [Kobach] added. “It will affect crime statistics in the country. It will affect culture, broadly defined. And so, it's one of those issues that touches everything else” (Thrush 2016). Bryant said,

“To me the whole thing goes back earlier when the secretary of state at the time, Kris Kobach, was elected saying this is what he is going to do. There were a few other things he was going to do, but this was the main thing – this citizenship verification and this

photo I.D. to vote. It fit right into a wave in 2010. It was a Republican sweep of all the statewide offices with strong majorities in the House and Senate. He was a part of that, and that was a sign of the times.”

Citizenship was not a topic brought up in Mississippi in the mid-1990s, and the state had a low estimated population of undocumented immigrants. Even critics of the dual election administration system in Illinois, such as Orr and Melton, saw the dual election administration system as much more of a partisan battle rather than a specific attack on undocumented immigrants. Oregon’s Bradbury said, “Really, there was no discernible impact on Hispanics or Asian-Americans any different from other white Oregonians. Like I said, the only place we really saw an impact was particularly with the [Native American] tribal elders.”

Proximity

For this study proximity is measured both by geographic distance of states that have adopted a dual election administration system and party identification proximity among those same states measured by a political partisan index for the states at the time of adoption to determine if states with similar party ideological proximity could influence each other’s actions. Table 4.9 depicts a stub column listing the states, a column listing states in close geographic proximity to one another, and a column listing which states have similar political party identification.

[Table 4.9 about here]

Geographic proximity is an easy variable to measure in column two. None of these states share a border. The only two that can be placed within the same national region are Midwestern states Illinois and Kansas, and they are separated by the state of Missouri. Illinois’s policy took place

in the 1996 primary election while Kansas's policy took place in the 2014 election cycle. It is unlikely there was any influence taken by Kansas from Illinois's dual election administration system given the geographic and chronological distance involved. While scholars such as Berry and Berry (1990) present good evidence that neighboring states adopting a policy can boost the chances for a state to pass a similar policy, there is nothing to suggest that occurred here.

Looking at states being influenced by other states that may have similar party identification in column three, there is little evidence states could have looked at other states with approximate partisan views outside of Arizona and Kansas. According to the Cook Partisan Voting Index (The Cook Political Report 2014), which measures how strongly a state leans to one party compared to the nation as a whole, Mississippi leaned nine points away from the mean for the Republican Party in 1994, a year before the adoption of its dual election administration system, while Illinois leaned four points toward the Democratic Party the same year. Oregon leaned one percentage point toward the Democratic Party when it created its dual election administration system in 2004, averaging the 2002 and 2006 results since the 2004 data were not readily available. Arizona and Kansas were five percentage points apart in 2014, one year after their dual election administration systems were adopted and the first year they were implemented in both states. Arizona leaned Republican by seven percentage points while Kansas leaned Republican by 12 percentage points. Both states leaned solidly Republican, and both states had been dominated by Republicans at the state level except that both had elected Democratic governors in 2002 and 2006. Both of these states made the decision to go with a dual election administration system at roughly the same time, and both pursued a lawsuit against the EAC to allow requirements involving proving citizenship to register to vote to be listed on the federal voter registration form. These states' actions could have influenced each other.

Information Networks Analysis

The final diffusion construct considered in this study is the reliance on information networks when a state considered adopting a dual election administration network. It is possible that decision makers relied on the extensive network of professional or election-oriented networks for guidance on the topic of dual election administration systems. State election officials also could have looked for feedback from local election officials while making a decision on the topic. The effect of information networks on the diffusion of dual election administration systems is measured in four ways 1) the state having previous experience with the policy, 2) state election officials receiving feedback from local election officials and/or other states' election administrators before making a decision, 3) state election officials receiving feedback from local election officials and/or other states' election administration after making a decision, and 4) the state championing the policy to other states or the policy is challenged by other states or election organizations. These categories and the states classified under these categories are displayed in the columns of Table 4.10.

[Table 4.10 about here]

Mississippi was indicated in column one since it was not far removed using another form of a dual election administration system which ended in the late 1980s. The earlier version was not the same as it required people to register with a county registrar to vote in federal, state, and county elections as well as with a municipal clerk to vote in municipal elections (Parker 1990). Since municipal elections generally are not held at the same time as county, state, and federal elections, administering elections may not have been as complex as the policy instituted in 1995, but many state and local election officials likely already had a basic understanding of how a dual

election administration system operated, at least. It is possible the state needed little to no advice from other sources to adopt or implement the policy.

All of the states made the dual election administration system adoption decision at the state level, but the second column of Table 4.10 indicates if the state gathered information from outside state government that either aided or hindered the diffusion of the policy in each state. None of the states appeared to engage in a large-scale, fact-finding mission on dual election administration systems before deciding to adopt the policy. There were discussions with or assistance provided by other state offices or the legislature in Arizona, Mississippi, and Oregon, but none were from what could be considered elections experts or with colleagues in other states with the possible exception of communications between Kansas and Arizona. Kansas's former state election director Brad Bryant remembered communicating with Arizona election officials on several issues, possibly including this one. Arizona's former state election director Amy Chan remembered working with Kansas on the Interstate Voter Registration Crosscheck Program but not specifically on the topic of dual election administration systems. It was unclear if Illinois reached out for any feedback from any sources, either outside or inside state-level government.

All five states reached out to local election officials after the decision to adopt was made, as indicated in the third column. While it is clear most state-level decision makers felt like local election officials could not help develop alternative policy possibilities, all of them seemed to feel it was important to involve the local officials in planning for the implementation and execution of a dual election administration system. Mississippi polled circuit clerks asking if they would like to see the state pass NRVA legislation to create a unitary system (Holland 1997). The anonymous Arizona election administrator said, "We had a daylong meeting [with local

election officials] that we basically sat through and tried to work out the problem, and it was really, truly about programming at that point. Like how do we do this?” Michaelson said, “[The Illinois State Board of Elections] had an advisory committee of election authorities composed of, I don’t know, maybe 10 or 15 county clerks that we met with periodically. ... I’m sure we met with them to explain this and to explain how it should work and so forth and so on.” Bryant said the Kansas Secretary of State’s Office laid out some options about how to proceed with implementation to a group of local election officials. “We outlined a couple or three options, and then we convened I guess you might call it a task force of county elections officers because a state election office, in order to be successful in all matters, needs to work closely with counties. We can’t always anticipate how policy decisions will affect the counties in their administrative tasks, so we got a group to look at that,” Bryant said. For Oregon, Lindback said, “The detail of how all those provisions of the vote-by-mail manual are worded are worked out with the clerks. The clerks are consulted on all that. Not everything that goes in there they agree with or are things they particularly want to do, but they are at least consulted, and they have input into administratively how these things are supposed to work.”

The fourth column indicates if any state or election organization championed or challenged a dual election administration network as explained through Hale’s (2011) theory of information networks and policy innovation. When discussing pressures for change under the determinants construct, there were several interest groups and social welfare groups that attempted to influence the decision maker[s] to either discard the state’s dual election administration system or to hold steady and keep the dual election administration system. In the context of information networks, this study’s focus was on professional networks or colleagues

in other states that had a general interest in promoting or advocating against a dual election administration system as a policy solution in various contexts.

The only discussions on dual election administration systems through state officials connecting by professional networks discovered through data collection showed the policy never reaching a level where organizations or states could gather enough momentum to champion or challenge the concept. Lindback said,

“I was, of course, active in the National Association of State Election Directors. I was president of that group in 2008 and an officer in that group for several years, so I was party to lots of conversations among state election officials and the conversations the EAC and congressional staff had with state elections officials. I was also an officer on the EAC Standards Board and was party to lots of conversations. I was invited by the EAC to participate in certain panels at various times. It just never came up in the meetings I went to as a big issue, and if it did come up, it was in polite conversation in which my secretary wasn’t going to change his mind.”

Lindback also stated, “I think Washington [state] at the time, felt similarly [to Oregon]. I don’t remember what they did. I don’t recall whether there were any Democratic states who were ready to mount their horses and change their state laws. I could be wrong. It was a long time ago. It wasn’t a particularly hot conversation.” Bryant remembered a more robust discussion and consideration among states about moving to a dual election administration system after HAVA passed, which is the time period in which Oregon enacted its system. Bryant said,

“In 2002, HAVA was a big deal. It was a big change in election procedures, and states had many, many conferences and discussions about it nationwide among the states, and [dual election administration systems] was one of the possibilities considered by, as far as

I know, all or most of the states at that time. Some of the people didn't like HAVA, so they said, 'We can do all of what HAVA does, we can do that for federal,' ... Some states seemed to be serious about doing that. I can't name them. I don't know that any of them really did, but ... [t]hat was part of the HAVA discussion in NASED and NASS, and there were a lot of options for implementing HAVA at the time. You had to decide policies for your state, and that was one of them that all the states had that they wrestled with."

Bryant said Kansas never came close to adopting a dual election administration system after HAVA, but for him the whole concept of that kind of policy dated back to the time period after HAVA was enacted. Even among the states that adopted a dual election administration system policy, none of them appeared to champion the policy as a solution for other states. Without a policy champion, it is difficult for supporters, challengers, or bystanders to develop since the policy has little chance to diffuse.

Decision-Making Constructs

Five separate constructs are theorized for why state officials decided to adopt a dual election administration system. Those constructs are 1) the rational-comprehensive decision-making model, 2) the limited rationality decision-making model, 3) the policy window decision-making model, 4) the policy monopoly decision-making model, 5) and the garbage can decision-making model. These constructs are commonly used in public administration as frameworks for how bureaucrats consider policy options. Table 4.11 lists the constructs and the main characteristics of each one used to classify the primary and secondary data points collected in this study.

[Table 4.11 about here]

Decision making using the rational-comprehensive model can be indicated by decision makers listing all goals related to an issue by order of importance, creating an outline of the possible policy alternatives using policy theory and analysis of every relevant factor, rating policy outcomes by which outcome would achieve the maximum of the most important goals, and choosing the alternative that achieves the best policy outcome at the lowest cost. Decision making using the limited rationality model can be indicated by decision makers establishing simple goals; considering immediate values and needs; developing alternatives based on thorough, but not exhaustive, research of the policy; listing policy options which may or may not have been ranked; choosing the first alternative to satisfy goals; and planning to implement the policy in incremental steps. Decision making using the policy window model can be indicated by decision makers recognizing and defining a problem, choosing an alternative from proposals already available, having a limited time to act, and noticing there is a lack of political constraints at the moment and/or most of the general public is indifferent to the policy. Decision making using the policy monopoly model can be indicated by decision makers focusing on keeping as much of the current policy as possible rather than developing a new policy, taking action to consolidate support through actors inside and outside government, and keeping the policy out of the spotlight and/or downplaying it as low impact. Decision making using the garbage can model may be indicated by decision makers having conflicted or undefined policy preferences; finding a quick, pragmatic solution to respond to an urgent situation; having different actors with various preferences or various levels of interest and experience involved in the decision; and adopting a policy idea that had been around for a while but previously with no way to incorporate it or using a previous policy in new circumstances.

This project's study of decision-making begins with Mossberger's useful decision-making continuum as a guide for determining how the five states made their individual decisions to adopt a dual election administration system (Mossberger 2000). Figure 4.1 displays Mossberger's continuum where decision-making based on established goals and using strong analysis is classified as rational comprehensive or bounded rationality decision-making while decision-making based on political compromise to satisfy competing preferences is located on the other side of an interruption in the continuum and is classified as organized anarchy.

[Figure 4.1 about here.]

Mossberger viewed rational administrative decision-making as most rational when politics were removed from the process to the greatest extent possible. The decision process became less rational when her data showed a state relied less on the methods of decision making long considered as rational in the public administration discipline, such as defining the problem, listing values, establishing goals, creating and ranking alternatives, and choosing the best alternative. As fewer of these methods, in number or extent, were used to make the decision and as the influence of competing political interests grew, the farther to the right she placed the decision process meaning the less rational the decision was. This continued until Mossberger established politics and compromise became the predominant factors in making a decision. At this point Mossberger inserts an interruption in the continuum as the decision-making logic has shifted from a rational choice model to an organized anarchy model as competing preferences jockey to enact their preferred policy. As the influence of competing preferences further replace the use of neutral analysis in choosing a policy, the farther right along the organized anarchy section of the continuum the decision is placed.

In the cases of decision-making for dual election administration systems, it is difficult to place any of the states' decisions in the realm of the traditional rational choice method. Each decision process began with a normative belief that the federal government, either through legislation or a court ruling, had overstepped its boundary in the election system and interfered with that state's ability to conduct its own elections and decide its own electorate. One might assume Mossberger would say these decisions should be placed on the right side of the interruption as the logic for these decisions began with an unscientific belief or assumption without study. When describing her continuum, Mossberger was quick to point out that just because politics ended up being the predominant factor in several of the states in her study, that did not make any of those states' decisions any less rational; it just changed the logic used in the decision-making.

What this dissertation attempts to do is further define Mossberger's continuum to scale the rationality of public administration's commonly cited decision-making constructs, eliminate the continuum's interruption, and place the states adopting a dual election administration system on this continuum.

[Figure 4.2 about here]

This updated model is represented by Figure 4.2 where the rational comprehensive decision-making paradigm is on the left because it represents the decision process that utilizes a methodical process of research-based goal setting and establishment of alternatives. The decision-making classification slides to the right as less research is conducted and fewer alternatives are developed and considered. The paradigms move from rational comprehensive to limited rationality to policy window to policy monopoly to ending with a garbage can construct

where a policy is forced upon a decision maker, a pragmatic policy is cobbled together to respond to an urgent situation, or a previous policy is reincarnated.

This research posits there should be no interruption in the continuum even if there is a supposed shift between empiricism and normativism as the primary factor driving the decision. Supposing the decision maker[s], from an unbiased viewpoint, could have taken the time to evaluate all the literature and theory about the role of federalism in the country's election system before deciding to implement a dual election administration system, the decision would promote a set of values which instantly introduces politics, especially on this topic because of the starkly contrasting views of the two major political parties and the numerous non-governmental organizations involved with election policy. The decision would immediately be seen as beneficial to one side and detrimental to the other, and the decision maker would have to utilize political support to defend the decision when it was attacked. Scholars, such as Waldo (2007), argue that all policy goals are value-based and, therefore, political. If this reasoning is followed and all goals are value-based, the continuum's measurement of rationality should be based on the level of analysis of various alternatives used in reaching a decision. Making a decision from a neutral, empirical process was an impossibility from the outset in these cases.

Perhaps most striking about these five states' choosing to adopt a dual election administration system is that none of the decision makers actually thought it was a great policy. The decision makers either thought the policy was preferable in comparison to the conditions their state would have to accept in order to be a unitary election system or felt they had no choice available to them except to adopt a dual election administration system. Chan said in Arizona,

“I think the prevailing issue for us was, one: you know, it was implemented because a court told us we really had to, and then two: we had that initiative that tied our hands with

regard to we couldn't do anything with the state-level requirements, so we couldn't take that federal decision and then say a bifurcated system is too complex and not require proof of citizenship. We really were stuck, you know, with this bifurcation.”

The Illinois State Board of Elections released a statement approximately six months before adopting a dual election administration system warning chaos and uncertainty could ensue after adopting a dual election administration system.

Bryant said Kansas briefly considered a dual election administration system after the passage of HAVA. “I thought it seemed silly, and we dismissed that quickly, but this concept dated back to HAVA for me. We rejected it at the time under a different administration, so when it came around again as a result of the S.A.F.E. Act [which implemented proof of citizenship and voter identification] in our state, I think it was still seen as a bad idea, but it was what we were left with.” Mississippi Secretary of State Dick Molpus told a reporter, “A dispute over the federal motor voter law means as many as 11,000 people who want to vote in Tuesday's [1995] primaries will be turned away ... There's a great deal of confusion. I'm afraid we're going to find a lot of people disenfranchised” (Associated Press 1995b). In Oregon's decision process, McGuire said,

“We talked to legislative leadership and spent a lot of time with the Secretary [of State], and we really had no desire to make it harder to vote in state elections, which we would have had to do to get them to align. We had the situation, and we figured we'd make the best of a not-great situation by directing the counties to essentially maintain two lists, and that's what we did.”

Rational-Comprehensive Model Analysis

Every decision maker started from a place of being forced to adjust to an unwelcome policy development. Now the decision-making process in each state, as it relates to the attributes of each of the five decision-making models, can be considered beginning with the rational-comprehensive model. Collected data from each state were analyzed to see if the data matched any characteristics of the rational-comprehensive model. These characteristics include decision makers listing goals related to an issue by order of importance, outlining the possible policy alternatives using policy theory while also analyzing every relevant factor, rating policy outcomes by which would achieve the maximum of the most important goals, and choosing an alternative that achieves the best policy outcome at the lowest cost. The rational-comprehensive model was included in this study to see if any of its characteristics might be evident in the decision process, but no state took any of the laborious steps to come close to being considered a comprehensive decision. As noted by theorists such as Lindblom and Simon, constraints placed upon the decision maker makes the rational-comprehensive decision process nearly, if not totally, impossible (Fry and Raadschelders 2008; Lindblom 1959; Simon 1961).

Limited Rationality Model Analysis

Next, the characteristics of the limited rationality model are considered in Table 4.12.

[Table 4.12 about here.]

Each column lists the states matching a characteristic of the limited rationality model which include decision makers: establishing simple goals; considering immediate values and needs; developing alternatives based on thorough, but not exhaustive, research of the policy; listing policy options which may or may not have been ranked; and planning to implement the policy in

incremental steps. Column one indicates if the states established simple goals when considering a dual election administration system. In the shallowest sense of the ideal, four of the five states had at least one simple goal of keeping their current registration process intact while accommodating new regulations from the federal government, but there appears to be little thought given to goals beyond this in any of the states. Those involved with the decision-making process in Arizona brought up the additional goal of respecting and accommodating the right of every voter in the state to vote to the extent state and federal law allowed. Bryant brought up how Kansas works to avoid voter confusion in a general sense, but not specifically in the context of making a decision on a dual election administration system. Mississippi's Secretary of State's Office originally had a goal for the state to enact a unitary system under the NVRA guidelines but was thwarted when the legislation to do so was blocked in a state senate committee. Its goal then became complying with both state and federal law, similarly to the other states.

Much like the goals in column one, four of the five states had decision makers who valued, at a basic level, maintaining control over their elections processes which informed their goal to keep their state system intact as much as possible. Mississippi was subject to federal preclearance during its decision process, so much of its decision making could have been based on satisfying what the U.S. Justice Department would find acceptable. It is also possible that Molpus, who was a Democrat and was running for governor at this time, preferred to expand registration as much as possible to benefit his party and his election chances as the Democratic Party tended to favor the NVRA policies. Besides maintaining control, column two indicates states that considered other needs and values existing in the state at that time. In this case, it did appear decision makers took account of the election values of the state, as a whole, in three instances. Bennett said,

“In 2004 over 77 percent of Arizona voters had gone to the polls and over a million Arizona voters had voted yes for Prop 200 to require proof of citizenship and I.D. at the polls. So we very much were considering the goals, the wishes, the policy statement that we took Prop 200 to be, that the majority of the voters in Arizona wanted proof of citizenship in order to register to vote and voter I.D. at the polls.”

In Kansas, Caskey pointed out how election security was a priority to Secretary of State Kris Kobach and was something on which he campaigned and the proof-of-citizenship-to-register requirement he passed through the state legislature was part and parcel of that security priority. Caskey said, “Still to this day, there is definitely a good percentage of Kansans who absolutely are worried about the qualifications and the security of the right to vote, like there are in every state. I think most people are concerned about that. How you get there, of course, different states take different approaches.” In Oregon, Lindback said, “I don’t want to speak for Bill Bradbury, Paddy McGuire, and all those people who were part of that decision, but yeah, I think Oregon’s value of inclusion ruled the day. Oregon has a long history of that. Yeah, I think values were at the very core in the decision.” This sentiment was supported years after the decision in an interview of acting state elections director Gina Zejdlik, though she was not involved in the original decision. Zejdlik stated the state’s dual election administration system came about because Oregon wanted to “enfranchise to the maximum level” (Underhill 2013). Secretary of State Bradbury also said he saw an immediate need to protect the ability to vote for Native Americans living on Oregon reservations who may not or cannot provide the proper information to register to vote. In Illinois, Michaelson said the State Board of Elections just did not feel NVRA was a healthy development in election administration at the time but gave little thought to any overarching goals or values. Both Orr and Melton saw Republican state officials’

lack of action to fully incorporate the NVRA as a political strategy, but as the actual decision makers on the dual election administration system, Michaelson was a nonpartisan official and the board was a bipartisan body. Michaelson did not believe the board saw this as a partisan issue when the dual election administration system decision was made. Again, Mississippi's secretary of state was forced into adopting a dual election administration system, so if he considered the state's values on elections, it was likely in relation to his original decision to move forward with a unitary system.

No state appeared to show qualities in any sizable way of the final three characteristics of limited rationality decision making as indicated in columns three, four, and five of Table 4.12. No decision makers were able to conceive any viable possibilities beyond the binary choice of adopting a dual election administration system or a unitary system and showed no signs of expending much effort in researching the issue. Furthermore, there was no incremental installation of the policy, nor did there appear to be any plan to do so.

Policy Window Model Analysis

Table 4.13 looks at which states match the characteristics of the policy window model.

[Table 4.13 about here]

Each column lists the states matching a characteristic of the policy window model which include decision makers: recognizing and defining a problem, choosing an alternative from proposals already available, having a limited time to act, and noticing there is a lack of political constraints at the moment and/or the political outlook is favorable for a new policy. The table's first column reflects every state recognized there was a situation where a change in federal law or a federal court decision was going to force them to react with changes to their own voter registration laws.

Sources from all five states identified mandates or court orders were the reason a decision had to be made. In four of the states, the decision makers themselves defined the problem as federal interference with an effective state policy rather than the problem being the state's current registration policy needing improvement or wholesale change. In Mississippi the governor and a key state senator stated the problem was federal interference, so they opposed Mississippi complying with the new NVRA provisions, and the senator, Kay Cobb, had the ability to block NVRA compliance legislation in committee. Molpus made the decision to adopt the dual election administration system, but it is unclear whether he thought the NVRA was overbearing on states, or he was simply trying to preclear Mississippi's NVRA compliance with the U.S. Justice Department.

The second column indicates no state officials gave any indication a dual election administration system had been an existing proposal that had been previously brought up to them except for Illinois. The Illinois State Board of Elections released a memo to local election officials in December 1994 saying it did not have the authority to enact the changes required by the NVRA to be implemented by the beginning of 1995 without the state passing legislation giving the board the power to do so (Illinois State Board of Elections 1994). Without this state legislation, the board's memo declared the only option would be to implement a dual election administration system which the board predicted would be "characterized by chaos in the conduct of elections and the real possibility of uncertainty in the outcome" (Illinois State Board of Elections 1994). A dual election administration system was developed totally by the secretary of state's office in Kansas and Oregon and by cooperation between the secretary of state's office and the state attorney general's office in Arizona and Mississippi. None of the interview subjects

recalled outside policy entrepreneurs developing a dual election administration system and pitching it to state election officials in any of the states.

The challenge for the third column is deciding if a state was making a decision under a limited time frame to act since basically every decision has time constraints, but some are more constricted than others. Several interview subjects stressed it was important to get rules and guidelines from the state election office to the local election office as soon as possible every year to avoid causing confusion among local election officials and the public. Mississippi election officials had the shortest amount of time between issuing the guidelines for running a dual election administration system and the date of the next statewide election. The bill to change state election law to be in accordance with the NVRA was tabled January 25, 1995, and the memorandum to create a dual election administration system was issued February 10, two days shy of being exactly six months until the state primary elections. While there was obviously some urgency for Mississippi to create a new policy, the election being over six months away was not particularly limiting while the decision was being contemplated. This is especially true since there was no legislative process to work through to enact the policy and the guidelines for implementing a dual election administration system were able to be sent out by memorandum from the Mississippi Secretary of State's Office to local election officials. Therefore, no state was categorized by working under a limited time frame.

The fourth column indicates no state election officials saw constraints on their ability to adopt a dual election administration system. State laws gave the decision makers power to carry out state and local registration regulations, and federal law or court rulings forced them to carry out regulations for federal races that differed from state regulations. There was not enough political will in legislative branches of the five states to force a change to or to force the end of

the dual election administration system in any of the states at that time. State court rulings in *Orr v. Edgar* and *Brown, Brown, and Stricker v. Kobach* for Illinois and Kansas, respectively, as well as the U.S. Supreme Court ruling in *Young v. Fordice* for Mississippi would eventually end the policies in those three states. Arizona and Oregon still carry out their dual election administration systems, though in 2022 the Arizona State Legislature passed a law to try to enforce a unitary system of registration under state law only, an action challenged in federal court by the U.S. Justice Department (Beech and Jackson 2022).

Policy Monopoly Model Analysis

Table 4.14 looks at which states match the characteristics of the policy monopoly model.

[Table 4.14 about here]

Each column lists the states matching a characteristic of the policy monopoly model which include decision makers: focusing on keeping as much of the current policy as possible rather than developing a new policy, taking action to consolidate support through actors inside and outside government, and keeping the policy out of the spotlight and/or downplaying it as low impact. In four of the five states, the state-level decision makers in charge of election administration in the state preferred keeping the state's voter registration policy over accepting the changes being applied to all states by the federal level, as indicated in the table's first column. The focus of these decision makers moved to maintaining the state's voter registration policy as much as possible when it became clear keeping their states' policies in their entirety would be untenable. Bennett said,

“Overall, given that the only other alternative was to disregard the citizenship requirement completely, which we had been administering for eight to nine years already,

I think even the [local election officials] that had concerns ended up supporting the idea that for the few federal-only voters who wanted to participate in federal races that it made sense to do a small carve out for them rather than disrupt the entire system that had been in place for eight-plus years.”

Michaelson pointed out Illinois already had a law on the books before the NVRA passed saying state citizens could ask for assistance in registering to vote when applying for or updating their license at any state driver’s license offices, rather than the driver’s license office employee being required to ask the applicant about registering to vote as was required by the NVRA. “So that is where Illinois was, and we thought that was not a bad place to be,” Michaelson said. Bryant said in Kansas, “Most [groups] we heard from, I believe, were opposed to the bifurcated system, as we were, but their solution was more to say just let everybody vote everything. We would have had to turn our backs on the state law at the time to do that.” Bradbury said for Oregon, “We then said, ‘well we’re not going to give up our registration system just because the feds say ‘HAVA.’ We just added to our registration system to make sure everybody could vote. We weren’t going to throw out our registration system because it had worked just fine, so we kept it.” Conversely, Mississippi Secretary of State Dick Molpus was part of a task force organized by the governor to update the state’s voting laws to be compliant with the NVRA. It was only when legislation to incorporate those updates stalled, did he take action to move Mississippi to a dual election administration system to keep election law the same for the state and local levels.

Column two indicates four of five states took action to consolidate support among other state government offices or the legislative branch with Kansas being the exception this time. Shortly after the *Arizona v. ITCA* decision, Bennett reached out to the state’s attorney general’s office to get an opinion on how to proceed with registration. An anonymous Arizona election

administrator said, “We sought advice from our counsel, the attorney general’s office, and basically what we got back was that we had to do this bifurcated system. So that wasn’t something we came up with. Frankly, it was really challenging. That is essentially where we were at. That is what we were told to do. We didn’t feel strongly that we could probably go against that.” Arizona got statements of support for the dual election administration system from Gov. Jan Brewer and state Attorney General Tom Horne in the revised elections procedures manual sent to local election officials (Arizona Office of Secretary of State 2014). Illinois had a strong showing of support from the state’s executive branch offices. Elected officials – including Gov. Jim Edgar, Secretary of State George Ryan, and Attorney General Jim Ryan – as well as appointed State Board of Elections executive director Ron Michaelson all lent public support to the dual election administration policy (Edgar et al. 1996). The Mississippi Secretary of State’s Office teamed up with the attorney general’s office to develop and adopt the dual election administration plan in short order. Oregon made little effort to rally any other offices to support the policy, but McGuire did remember at least keeping some members of the legislative branch apprised of what was going on. Kansas was the only state where no effort appeared to be made to reach out to other parts of government to line up support for the dual election administration policy. Kobach used in-house legal counsel, sometimes even serving as the attorney of record himself, in cases surrounding the dual election administration system and proof-of-citizenship policies. Both Bryant and Caskey thought it was possible Kobach could have lined up support within the Republican Party since he was a major figure in the state at the time, but no documentation was found of any other elected officials or the party itself rallying to his aid to defend the dual election administration system, which could have been because the policy was not a high-profile issue in Kansas.

On the topic of the policy becoming a high-profile issue, policy monopolies tend to try to keep their preferred policy off the public radar or downplay it as a minor issue. Column three indicates four states displayed characteristics of doing exactly that. Bennett said, “Yeah, it was such a small carve out that people who were included in the carve out got to vote on the races they probably felt were most important and that would be president, Congress, and U.S. Senate. As I recall the criticism dissipated very rapidly, but not completely, because I think there was another group that filed a lawsuit in 2017.” After Illinois’s 1996 primary election under the new dual election administration system ran relatively smoothly without major problems, a spokesperson for Gov. Jim Edgar needled Orr – who warned of possible disarray with the new system – in a media report. “Said Edgar spokesman Mike Lawrence, ‘On this issue David Orr has always struck me as much more of a Chicken Little than a Paul Revere’” (Christian and Recktenwald 1996). Bryant said the Kansas Secretary of State’s Office wanted all eligible voters to exercise that right but noted,

“I think the people who didn’t complete the registration process and got this label put on their file and altered their eligibility to vote in that election and had opportunities to correct the error – we offered them alternatives as much as we could, opportunities to correct it – and didn’t do so were not the most likely voters to show up on Election Day anyway.”

Bradbury said for Oregon, that detailed policy issues like the dual election administration system do not tend to invite much interest outside of the state’s election administrators. McGuire added that he did not feel a bill to bring state law in accordance with the HAVA would have been likely to pass anyway since Democrats controlled one chamber of the legislature and the governor’s office. Not surprisingly, Mississippi’s Secretary of State Dick Molpus, who preferred

implementing a unified system, did not mind bringing attention to how as many as 11,000 people could be “turned away” due to the state’s dual election administration system shortly before the first statewide primary election was held (Associated Press 1995b). Molpus was also quoted saying, “There’s a great deal of confusion. I’m afraid we’re going to find a lot of people disenfranchised” (Associated Press 1995b).

Garbage Can Model Analysis

Finally, Table 4.15 considers if the five states followed Cohen’s et al.’s garbage can model of decision making.

[Table 4.15 about here]

Each column lists the states matching a characteristic of the garbage can model which include decision makers: having conflicted or undefined policy preferences; finding a quick, pragmatic solution to respond to an urgent situation; having different actors with various preferences or various levels of interest and experience involved in the decision; and adopting a policy idea that had been around for a while but previously with no way to incorporate it or using a previous policy in new circumstances. The first column indicates in which states there were conflicting preferences involved in the decision. Other than Mississippi, decision makers in all four states were clear they preferred a dual election administration system rather than a unitary system after federal rulings forced them to accept new practices, though keeping the pre-federal standards would have been the best scenario for them. Mississippi’s Molpus led a governor-created task force to recommend changes to state election laws for compliance with new NVRA rules. Molpus later adopted and implemented the dual election administration system after it appeared highly unlikely the state legislature would pass legislation related to the task force’s suggestions.

Molpus's assistant secretary of state had already begun advising local election officials to add NVRA federal form registrants as fully eligible voters, an action that had to be reversed when the legislation failed (Sanders 1998). It is apparent a dual election administration system conflicted with Molpus's preference.

Most of the states adopted a dual election administration system as a pragmatic solution to the federal mandate or court decision they now had to deal with, as indicated in column two. Mississippi both created and decided on instructions for implementation of a dual election administration system between the dates of January 25, and February 10, in 1995 (Wright 1998). An anonymous Arizona election administrator said, "This really was procedural. You know what I mean? We had sort of gotten to the point where we had basically legal advice tell us, 'This is your option. This is it. This is how you comply with those laws.'" Kansas's Bryan Caskey said, "So we kind of got backed into a corner of, OK, if you fill out the federal form then you are automatically eligible for U.S. Senate and U.S. House. If you fill out the state form, you are eligible for everything else, although that was not what we wanted because the voter does not distinguish between what type of form they use, quite frankly." Oregon's John Lindback said, "It didn't take long for [Secretary of State Bradbury] to make that decision. As I said it was more problematic to administer but so be it." Illinois was not included because in late 1994 Illinois's State Board of Elections brought up a dual election administration system was a likely result for the state in the 1996 election cycle without legislation passing the Illinois General Assembly, so while the decision was pragmatic and simple, the board had put in some thought about the situation well before it came to pass.

Column three indicates there was evidence groups and people – such as Promise Arizona, the Kansas ACLU, the League of Women Voters of Illinois, and Oregon state legislator Kim

Thatcher – who either at the time of the decision or at a later time would speak out to oppose the dual election administration systems in their respective states, but none actually had the power to alter the decision in any way (Bailey 1996; Cooper 2014; Santos and Eligon 2013; Thatcher 2012). Several groups outside government also opposed Mississippi’s dual system, but the difference in Mississippi is there were people in government involved who could alter the decision of the decision maker. Cobb blocked the legislation Molpus supported that would have made Mississippi NVRA compliant because she felt people should have to register with their local election official, the NVRA was an unfunded mandate, and Republicans had just gained control of Congress and might roll back or rescind the NVRA (Wright 1998). Gov. Kirk Fordice also was outspoken in opposing NVRA compliance in Mississippi and even vetoed a 1998 bill that again attempted to bring state laws in accordance with NVRA regulations despite the state’s dual election administration system being no longer in use due to court rulings and preclearance not being granted for the policy (Branson 1998). Cobb’s and Fordice’s involvement and their conflicting preferences with Molpus played what could be the most important role in Molpus having to make a decision to adopt a policy that was not his preference.

The fourth column indicates if a dual election administration system policy itself or the idea of the policy had been suggested within the decision-making organization some time before it was eventually adopted. Arizona’s Bennett said, “There was no history that we could find in our state. I don’t think we spent much time, if any, trying to look around the country to see if anybody else had bifurcated voter registration systems or whatever.” Bradbury, McGuire, and Lindback all said during interviews they could not recall any policy similar to a dual election administration system ever being in place or being discussed in Oregon. Illinois, Kansas, and Mississippi did have some background with the idea of a dual election administration system.

The Illinois State Board of Elections had mentioned a dual election administration system as a likely outcome without state legislation passing, but there was no need to implement it until Illinois's challenge of the federal government's authority to compel state compliance with the NVRA failed in federal appeals court, and Illinois decided not to appeal to the U.S. Supreme Court. Before raising this possible policy outcome, though, the dual election administration system concept was foreign to the Illinois State Board of Elections. Michaelson said, "There was nothing in our experience that helped us or influenced us on this thing. It was new ground for sure." The concept of a dual election administration system had been raised in the Kansas Secretary of State Office approximately a decade earlier after HAVA passed but was quickly dismissed until the Kobach administration adopted the policy in 2013, Bryant said. Mississippi had familiarity with a dual election administration system where registrants could vote in political races for all three levels of government or could only vote in municipal elections depending on which local election official registered the voter as recently as 1987. The mechanics of that dual election administration system were different than the system implemented in the mid-1990s, but the idea of having voters only eligible for particular races was not new in the state.

Table 4.1 – Diffusion Construct Characteristics

Construct	Characteristics
States' Reactions to Federal Mandates	<ul style="list-style-type: none"> - policy adopted shortly before or after federal legislation or a federal court decision mandated change to a state's voter registration policy - state officials cite a federal mandate as reason for policy being adopted
Determinant – Political Context	<ul style="list-style-type: none"> - state government party cartel - partisan officials in the executive or legislative branches get involved - policy decision matches decision maker's party preference - perception the policy could benefit one party's election chances over the other party's chances recognized - perception the policy could affect voter turnout and registration levels recognized - state has history of discrimination toward minority groups in elections - social welfare groups push forward or push against policy - state officials comment about minority groups in relation to the policy - perceived or actual presence of changing population demographics that could benefit one party over the other
Determinant – Resources	<ul style="list-style-type: none"> - state has large revenue base to use for elections - decision makers conscious of the cost of the dual system and factor that into the decision
Determinant – Pressures for Change	<ul style="list-style-type: none"> - the policy is salient among the public, media, and/or organizations involved with elections - other elections issues or policies are ignored due to policy getting more attention - decision maker acts due to pressure from various sources
Determinant – Proximity	<ul style="list-style-type: none"> - a geographically nearby state adopts a similar policy - a state with a similar political party identification adopts a similar policy
Information Networks	<ul style="list-style-type: none"> - decision makers utilize professional networks inside and outside government for feedback about the policy - actors or organizations within the elections universe champion or challenge the policy

Table 4.2 – Methods of Political Involvement




Decision Matched Preference of Chief Election Official	Legislative Branch Involvement	Other Partisan Executive Branch Offices Involvement	Party Cartel in State Government
Arizona	Mississippi	Arizona	Arizona
Kansas		Illinois	Illinois
Oregon		Mississippi	Kansas
Illinois*			

* Illinois's chief election official is appointed by a bipartisan state elections board. The chief election official agreed with adopting a dual election administration system, though he was not a partisan official.

Table 4.3 – State Level Political Party Control

	1991	1995	1999	2003	2007	2011	2015
Arizona 2013							
Governor	Red	Red	Red	Blue	White	////	Red
Sec of State	Blue	Red	Red	Red	Red	////	Red
Legislature	White	Red	White	Red	Red	////	Red
Illinois†‡							
Governor	Red	////	Red	Blue	Blue	Blue	Red
Election Board	White	////	White	White	White	White	White
Legislature	White	////	White	Blue	Blue	Blue	Blue
Kansas							
Governor	Blue	Red	Red	Blue	Blue	////	Red
Sec of State	Red	Red	Red	Red	White	////	Red
Legislature	White	Red	Red	Red	Red	////	Red
Mississippi^							
Governor	Red	////	Blue	Red	Red	Red	Red
Sec of State	Blue	////	Blue	Blue	Red	Red	Red
Legislature	Blue	////	Blue	Blue	White	White	Red
Oregon							
Governor	Blue	Blue	Blue	////	Blue	Blue	Blue
Sec of State	Blue	Blue	Blue	////	Blue	Blue	Blue
Legislature	White	Red	Red	////	Blue	White	Blue

//// Cells with slashes signify when a dual election administration system was adopted.

-  = divided control between Democrats and GOP
-  = GOP control
-  = Democrat control

† Illinois has a state board of elections made up of four Democrats and four Republicans. The board’s executive director, appointed by the board, is designated as the chief election official for the state. The other four states have a partisan, elected secretary of state who serves as CEO.

‡ Both chambers of the Illinois General Assembly were controlled by Republicans in 1995, classifying Illinois as a party cartel when the decision was made to adopt a dual election administration system. The state senate flipped to Democratic control after the 1996 elections, which is why it was designated as divided control for the 1995-1999 time period.

^ Mississippi has state elections a year after the other states listed have their state elections, so all of its results are actually a year behind (e.g., Mississippi had a Democratic governor from 2000-2004 rather than 1999 to 2003, as displayed.)

Source: (Ballotpedia n.d.; n.d.; n.d.; n.d.; n.d.; Gardner 2019; Illinois State Board of Elections n.d.; National Governors Association n.d.)

Table 4.4 – Methods of Social Construction

Preclearance State	Two or More Social Welfare Groups Push Back or Push Forward	State Officials Comment about Minority Groups	Minority Language Ballot in 3 or More Counties	Undocumented Immigration Population 1% Higher than U.S. Average
Arizona	Arizona	Kansas	Arizona	Arizona
Mississippi	Illinois	Mississippi	Kansas	
	Kansas	Oregon	Mississippi	
	Mississippi			

Table 4.5 – Estimates of Undocumented Immigrant Population by State,
Selected Years 1990 to 2010

	1990	1995*	2000	2005	2010
Arizona	90,000 (2.5%)	195,000 (4.6%)	300,000 (5.8%)	450,000 (7.6%)	400,000 (6.3%)
Illinois	200,000 (1.7%)	337,500 (2.9%)	475,000 (3.8%)	350,000 (2.7%)	525,000 (4.1%)
Kansas	15,000 (0.6%)	35,000 (1.4%)	55,000 (2.0%)	60,000 (2.2%)	65,000 (2.3%)
Mississippi	5,000 (0.2%)	7,500 (0.3%)	10,000 (0.4%)	40,000 (1.4%)	45,000 (1.5%)
Oregon	25,000 (0.9%)	67,500 (2.1%)	110,000 (3.2%)	140,000 (3.8%)	160,000 (4.2%)
United States	3,525,000 (1.4%)	5,950,000 (2.2%)	8,375,000 (3.0%)	11,100,000 (3.7%)	11,200,000 (3.6%)

Percentages represent how much of the total population undocumented immigrants make up. The **bold-type figures** display the closest year prior to when a state adopted a dual election administration system.

* 1995 undocumented immigrant population extrapolated by averaging the 1990 and 2000 population estimates

Immigrant Population Source: (Passell and Cohn 2011); Total Population Source: (U.S. Census Bureau 2011)

Table 4.6 – Level of Political Context in Each State

Low: Two or Fewer Methods	Medium: Three to Five Methods	High: Six or More Methods
Oregon [2 of 9]	Illinois [4 of 9]	Mississippi [6 of 9]
	Kansas [5 of 9]	Arizona [7 of 9]

Table 4.7 – State Tax Resources and Administrative Cost Consideration

State and Year Policy Decision Was Made	Total State Tax Revenue	Tax Revenue Per Capita Ranking Among All States	Did State Officials Consider Cost of Policy?
Arizona 2013	\$13.47 billion	40th	No
Illinois 1995	\$16.59 billion	28th	No
Kansas 2013	\$7.62 billion	23rd	No
Mississippi 1995	\$3.60 billion	38th	Unclear
Oregon 2004	\$6.10 billion	40th	No

Sources: (Ballotpedia n.d.; U.S. Census Bureau, n.d.; n.d.)

Table 4.8 – Salience of Dual Election Administration Systems by State

State and Year Policy Decision Was Made	Dual System: Low or High Salience	Other Salient Election Issues	Citizenship: Low or High Salience
Arizona 2013	Low	Campaign Finance	High
Illinois 1995	Low	NVRA	Low
Kansas 2013	Low	Election Security	High
Mississippi 1995	Low	NVRA	Low
Oregon 2004	Low	Petition Process	Low

Table 4.9 – Geographic and Political Party Proximity Among Dual System States

State	Geographically Nearby States Create a Dual System?	States with Similar Party ID Create a Dual System?
Arizona	No	Yes – Kansas
Illinois	No	No
Kansas	No	Yes – Arizona
Mississippi	No	No
Oregon	No	No

Table 4.10 – Influence on State Officials from Other Sources within Election Administration

State had previous experience with a dual system	State officials got feedback before decision from LEOs and/or other states' election administrators	State officials got feedback after decision from LEOs and/or other states' election administrators	State championed policy to other states, or policy challenged by other states or election orgs.
Mississippi		Arizona Illinois Kansas Mississippi Oregon	

Table 4.11 – Decision-Making Construct Characteristics

Construct	Characteristics
Rational-Comprehensive Model	<ul style="list-style-type: none"> - goals related to an issue listed by order of importance - outline of the possible policy alternatives using policy theory and analysis of every relevant factor - policy outcomes rated by which outcome would achieve the maximum of the most important goals - alternative chosen that achieves the best policy outcome at the lowest cost
Limited Rationality Model	<ul style="list-style-type: none"> - simple goals established - immediate values and needs considered - alternatives developed based on thorough, but not exhaustive, research of the policy - policy options listed which may or may not be ranked - first alternative to satisfy goals chosen - plan to implement the policy in incremental steps
Policy Window Model	<ul style="list-style-type: none"> - problem recognized and defined - alternative chosen from proposals already available - limited time to act - recognition of a lack of political constraints at the moment and/or most of the general public is indifferent to the policy
Policy Monopoly Model	<ul style="list-style-type: none"> - focus is on keeping as much of the current policy as possible rather than developing a new policy - action taken to consolidate support through actors inside and outside government - policy is kept out of the spotlight and/or downplayed as low-impact
Garbage Can Model	<ul style="list-style-type: none"> - organization or decision makers have conflicted or undefined policy preferences - quick, pragmatic solution developed to respond to an urgent situation - different actors with various preferences or various levels of interest and experience are involved in the decision - policy idea adopted has been around for a while but had no way to be incorporated or a previous policy is used in new circumstances

Table 4.12 – Limited Rationality Decision Model Characteristics

Simple goals established	Considered immediate needs/values	Alternatives based on research of issue	List of policy options	Implement policy incrementally
Arizona	Arizona Kansas Oregon			

Table 4.13 – Policy Window Decision Model Characteristics

Problem recognized and defined	Alternative chosen from existing proposals	Limited time frame to act	Lack of constraints to action or politics are favorable
Arizona	Illinois		Arizona
Illinois			Illinois
Kansas			Kansas
Mississippi			Mississippi
Oregon			Oregon

Table 4.14 – Policy Monopoly Decision Model Characteristics

Focus on maintaining current/previous policy as much as possible	Take action to consolidate support of policy	Avoid attention/downplay as low impact
Arizona	Arizona	Arizona
Illinois	Illinois	Illinois
Kansas	Mississippi	Kansas
Oregon	Oregon	Oregon

Table 4.15 – Garbage Can Decision Model Characteristics

Conflicting or unclear preferences	Developed quick, pragmatic solution for crisis	Variety of actors with differing preferences or interest involved	Policy idea had been around or past experience with policy
Mississippi	Arizona	Mississippi	Illinois
	Kansas		Kansas
	Mississippi		Mississippi
	Oregon		

Figure 4.1 – Mossberger’s Interrupted Decision-Making Continuum

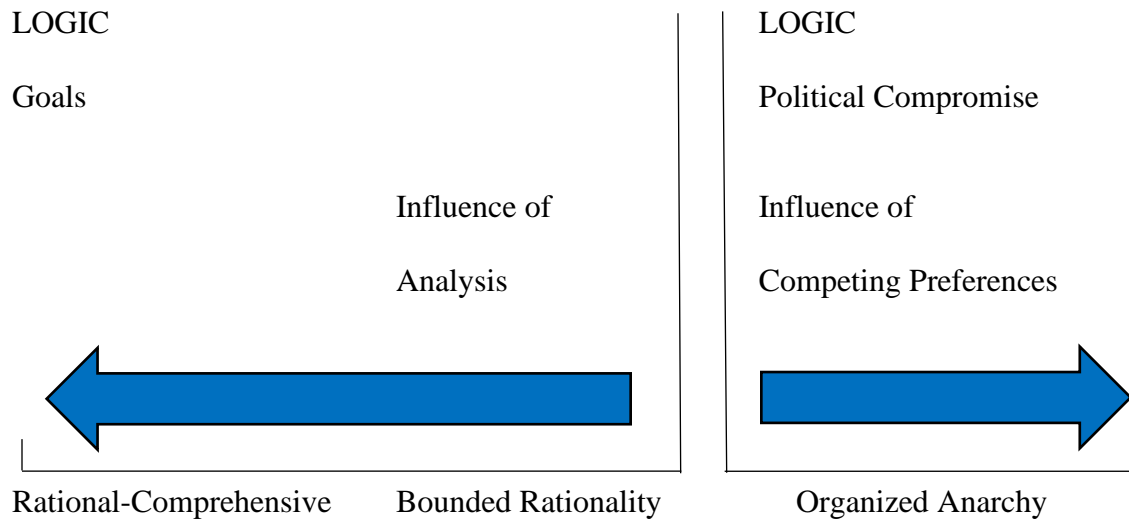
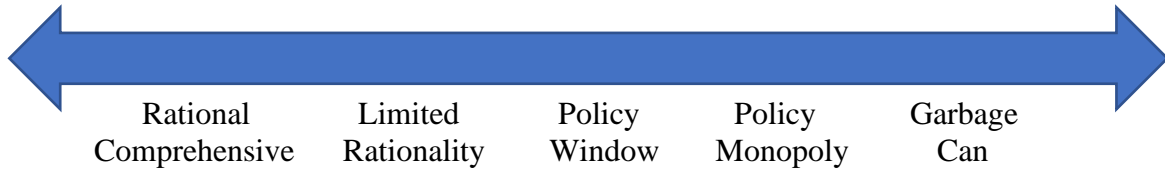


Figure from Mossberger (2000), pg. 162

Figure 4.2 – Modified Decision-Making Continuum

Policy chosen based on methodical research of alternatives

Policy chosen because it was forced upon decision maker or no other alternatives developed



Chapter 5

Conclusion

This dissertation project, over the course of five chapters, undertakes the task of providing some explanation into the causes of a state adopting a dual election administration system. Chapter 1 defines the concept of a dual election administration system and its variations, establishes the research question for this project and the benefits of answering that question, and provides a historical background of the concept in the United States, with a large amount of focus on the five cases of interest in this study. Chapter 2 discusses potential paradigms of policy diffusion for states adopting a dual election administration system policy – including state governments and the federal government attempting to establish their desired roles in election administration, the influence of policy determinants, and the use of information networks. Additionally, chapter 2 discusses some common methods of administrative decision making states may have used in adopting a dual election administration system including the rational-comprehensive model, the limited rationality model, the policy window model, the policy monopoly model, and the garbage can model. Chapter 3 explains the design and reasoning behind this research project and establishes a protocol for data collection and examination. Chapter 4 analyzes the collected data to determine which diffusion and decision-making constructs provided any explanatory power behind the adoption of a dual election administration system in these cases. Here in chapter 5, the discussion includes some general findings of the dissertation, those findings' implications in the fields of election administration and policy, the limitations of this project's findings with some suggestions for future research, and some

conclusions about dual election administration systems' place in the world of elections public policy.

Findings Overview

Table 5.1 displays a synthesis of the results found in the policy diffusion data analyzed in chapter 4.

[Table 5.1 about here]

Column one lists each state included in this study. Column two indicates if federal legislative mandates or court rulings were a factor in each state's policy adoption, column three indicates which forms of determinants were impactful in each state's adoption of a dual election administration system, and column four indicates if information networks played a role in each state's policy adoption. Beginning with column two, it is apparent mandates and court decisions drove the diffusion of dual election administration systems in each of the five cases. People with knowledge of the policy adoption process acknowledged as much in statements made around the time of the policy coming into place in their states or during interviews for this project. An interesting detail about dual election administration systems in these five cases is no one defended the policy as a desirable election administration outcome. Those defending the policy would only claim it was better than the alternative of fully following what was prescribed by a federal mandate or court order. Dual election administration system proponents in all five states believed their states' regulations and laws were effective and proper for their election process while the federal mandates or court decisions would only encumber the election system. State officials' normative beliefs that the federal government should allow states to run their own elections, at least for elections in their own states, were apparent.

Shifting to column three and its four components of determinants used as a possible method of policy diffusion, there is evidence a state's political context, which includes the social construction of groups within the state, was an impactful factor in every state but Oregon. Both Arizona and Mississippi matched the criteria for a high level of political context with both fitting six or more conceptions of political context out of the nine measured. Additionally, Illinois and Kansas used four and five of the models of political context, respectively, reflecting a medium level of political context. Only Oregon showed a low level of political context, based on the criteria established. Oregon met criteria for fewer than three methods of political context as the issue stayed out of the spotlight at the time of the decision, and partisan wrangling over the policy remained mostly dormant. The second determinant, resources, showed no sign of being a factor as none of the states studied had abundant revenue, and the policy decision makers showed little inclination to measure the financial burden of the policy. The third determinant, pressures for change, labeled as "pressures" on the table, also was not impactful. The policy's salience for anyone not involved with election administration or voting rights was low, and it is likely other election issues garnered more attention given the apparent small number of voters who actually voted a limited ballot. Even in Mississippi, the secretary of state – who was also running for governor the year the state's dual election administration system was adopted and publicly expressed his disdain for the policy – failed to move the political needle for the legislature to pass a unitary policy. Finally, the fourth determinant, proximity, was not relevant in terms of geographically nearby states adopting similar policies, but political ideological proximity could have played a role with Arizona and Kansas both having similar, recent history in the composition of their partisan officials in the state executive and legislative branches and both states having similar Cook Partisan Voting Index scores. Arizona's and Kansas's policy actions

might have encouraged each other in their own election policy endeavors, but it does not appear either state actually helped the dual election administration policy diffuse to the other state.

The final method of policy diffusion considered in the fourth column is information networks. Despite several elections-based professional organizations existing and state-level election administration colleagues available in all 50 states, it does not appear any state asked for advice in these elections networks nor did they attempt to be a champion for dual election administration systems in any capacity. State election directors in both Kansas and Oregon remembered dual election administration systems being discussed in a professional network setting after the HAVA was passed, but they did not remember any state coming close to adopting the policy, other than Oregon itself. State officials also could have used local election officials within their states as a resource but instead waited until after making the decision to adopt a dual election administration system to make contact. State officials only used local election officials as a resource when it came to implementing the policy.

Figure 5.1 displays the decision-making model used by administrators in each of the cases and where that model lands on the modified decision-making continuum.

[Figure 5.1 about here]

Four out of five states – Arizona, Illinois, Kansas, and Oregon – fit securely in the policy monopoly model. All four had a state policy in place the decision makers found preferable before federal courts or federal legislation forced them to adapt. Instead of accommodating all the changes required to implement a unitary system or examining this new situation in a categorical, thoughtful manner to reach the most rational decision possible, the decision makers chose to keep in place what they saw as an effective state election policy as much as they possibly could. Other than Kansas, every state took action to consolidate support among other

state officials. State officials in the four policy monopoly states also brought up in various ways how few people actually voted a limited ballot to justify the policy and downplay its impact, as is common when trying to maintain a policy monopoly. Mississippi was the exception in its decision making as it is classified under the garbage can model. There was conflict among state officials in the adoption of a unitary system under the NVRA rules, which caused the Mississippi Secretary of State to implement a dual election administration system against his preference for a unitary system. Mississippi also had to develop a quick, pragmatic solution for the crisis, had a variety of actors involve themselves in the process, and ultimately used a policy with similarities to one discontinued in the state less than a decade ago.

Implications

The findings of this study highlight several intriguing elements of election administration in this country that could point to a state being ripe to adopt a dual election administration system in the future. Beginning with perhaps the most obvious finding of this study, state leaders with strong feelings for the effectiveness of their state's voter registration regulations are likely to act to keep those regulations in place as much as possible when federal regulations force changes to be made. In each of the five cases, one or more state leaders shared a strong belief that federal involvement threatened the culture and effectiveness of established election practices in their states and was unnecessary. This policy easily could be used to promote normative views of elections, particularly with more of a states' rights slant for election control.

Nearly any discussion of normative policy views introduces the political aspect of policymaking, and dual election administration systems are no exception. Political context served as a mid-level or high-level determinant during the policy adoption process in Arizona,

Illinois, Kansas, and Mississippi in this study both through elements of partisan, elected official involvement or through social construction of groups within the state. Even though political context was low at the time of Oregon's adoption process, it later surfaced when a Republican state legislator introduced legislation several times attempting to bring Oregon's voter registration process in accordance with federal guidelines.

The U.S. has seen several instances of defiance of federal edicts in the past decade, such as sanctuary cities or sanctuary states for undocumented immigrants or the refusal to enforce federal gun regulations. Dual election administration systems appear to be a natural extension of this phenomenon. Should a state decide any future federal legislation or court rulings might adversely affect its voter registration process, it can apply these required changes only to the federal races where legal precedent has limited the reach of any kind of national regulation. This can even be done without the state, itself, passing legislation, as was the case in the five states included in this dissertation. If federal legislation and federal court rulings can only address registration involving the federal political races, then state laws already on the books remain intact. Therefore, any changes to accommodate federal laws can be done administratively leaving the state legislatures out of the picture completely unless they choose to get involved. This gives a state's chief election official, who is usually a partisan elected or partisan appointed official (Hale, Montjoy, and Brown 2015), the opportunity to enact a dual election administration system that could be advantageous for his or her own political party without the burden of pushing through legislation. During times of a party cartel in state government, it even would be possible to push through legislation to create a dual election administration system in opposition to previous federal standards established through the NVRA, the HAVA, or *Arizona v. ITCA*.

Given the nation's current bent toward ideological purity on both sides of the political spectrum, maximizing the ideals of either voter participation or election security could be weaponized, in a sense, through using dual election administration systems. Both political parties have exhibited an affinity for using a dual election administration system since the 1990s with Republicans in Arizona, Illinois, Kansas, and Mississippi favoring a restrictive dual election administration system and Democrats in Oregon and Democratic-leaning, local-level areas such as Montgomery County, Maryland, and Montpelier, Vermont, adopting an inclusive system. Arizona and Kansas, as states with similar political party identification, may have influenced each other, either directly or indirectly, to adopt similar dual election administration system policies beginning with the 2014 election cycle. As pushes to activate and motivate liberal and conservative voting blocs in elections continue, parties looking to expand their base and/or contract the opposing party's base may embrace dual election administration systems as a political tactic. The lack of attention or understanding of dual election administration systems exhibited by the public in the five cases studied provides evidence political repercussion for adopting this policy would be small or even nonexistent.

This research project also highlighted the value of normative decision making by state election officials. When changes were mandated from the federal level, it appeared state election decision makers took a legalistic view to determine the simplest way possible to maintain the state's current voter registration system, except for Mississippi, where the dual election administration system took the role of plan B when legislation failed to adopt a unitary system. A comprehensive approach of identifying multiple goals and voter values within the states and developing multiple possible solutions to the situation was never undertaken in any state, although, in several states' defense, it is likely the decision makers held an inherent

understanding of the public's voting values in their respective states. Finding the best solution did not appear to be a goal in these cases. The goal appeared to be sending a message that the state's voter registration policy could not or should not be altered by a higher level of government, and it fell to state-level decision makers to step in to protect the state's election values. This created a policy monopoly mindset in four of the states and a garbage can mindset in Mississippi as the secretary of state quickly had to create a pragmatic policy to respond to an impending urgent situation in an environment of conflicting policy preferences when other state-level decision makers decided it was incumbent upon them to protect their view of the state's election values if the secretary of state did not share their outlook.

This study makes a case that public policy decision making generally begins from a normative viewpoint, eschewing the conventional assumption of neutrality, which led to the contribution of an adaptation of Mossberger's decision-making continuum. The adaptation removes the continuum's interruption, where Mossberger held that decision making shifted from achieving specific policy goals to achieving political compromise, while the adapted continuum asserts political goals are entrenched throughout the decision-making process. Furthermore, the adapted continuum displays additional, common forms of policy adoption methods. These methods are placed on a sliding scale beginning with a decision maker conducting meticulous research of policy alternatives then proceeding all the way over to a decision maker choosing an alternative forced upon him or her or a decision maker choosing an alternative because it was the only one possible due to the current policy environment or time frame to act. This adapted continuum can provide a new way to classify normative policy adoption decisions.

Opportunities to Address Limitations

While there are exciting possible implications of this research, there are also several limitations of note to reiterate and discuss how future research could mitigate these issues. These limitations include the ability to generalize this study's findings, the possibility of investigator bias, and the possibility of unincluded theories and variables having explanatory power. A brief discussion of each follows.

First, this research can be criticized for the selection of the five case studies. In each case the state chose to adopt a dual election administration policy which could limit the external validity of the study. The lack of documentation, memory lapses due to passed time, and the general low salience of the policy among most in the state elections policy universe at the time of consideration made the decision to limit this study to only adopters of dual election administration systems necessary, as data in nonadopting states were even more scarce. Even among primary sources in this study's research population, there were several details that were misremembered and had to be corrected either by other primary sources or by data collected in secondary sources. Future research could expand the search for reliable data from states that considered policy adoption but chose not to do so. New research could also use different methods for measuring the policy diffusion variables among adopters and nonadopters to search for any correlations. Expanding the study to municipalities' decision making when adopting or not adopting dual election administration systems could also be useful both to examine the differences and similarities between localities and states as well as to provide support or to challenge the findings of this study.

Second, there is always a risk of a lack of reliability of the research when there is only one investigator carrying out the research and classifying the data. Discernment is required

when establishing decision rules about qualitative data classification and when determining meaning of collected data. This study uses extensive documentation of data collection, uses triangulation of the data, and establishes parameters to classify data in order to bring clarity to the analysis of each data point and remove bias as much as possible. Future research could critique this study's interpretation of data by establishing new decision rules to eliminate equivocal data or to interpret more clearly the existing data.

Third, with this dissertation being the initial scientific study of the dual election administration system phenomenon, there is ample opportunity both for outside variables having explanatory power in these theory constructs and for theory constructs not studied here to have explanatory power for this phenomenon. This study investigated a variety of variables that could possibly identify some causal mechanisms of policy diffusion in the forms of reactions based on normative beliefs about federalism, determinants, and information networks. This was also done in investigating variables of policy decision making models such as rational comprehensive, limited rationality, policy window, policy monopoly, and garbage can. While many were considered, it is unlikely the list is exhaustive. Further research might uncover other variables that could bolster any of these diffusion or policymaking theories. Additionally, other public policy theories could further explain causes of states adopting a dual election administration system. A possibility might include the effect a more-representative or less-representative bureaucracy might have on adoption of the policy (Grissom, Kern, and Rodriguez 2015; Johnston and Holt 2021; Wilkins and Williams 2008). There is a cavalcade of other possibilities to test theoretical paradigms in this policy area because of a scarcity of literature on the topic.

Conclusion

If nothing else is accomplished by this study, it is at least an entryway into the study of dual election administration systems in the United States. However, there is a case to be made this study contributes much more to social science than that. States that adopt a dual election administration system do not appear to be prone to putting a great deal of thought into adopting the policy. In recent times, at least, the decision seems to be more a knee-jerk reaction against a national government action with the main goal being to preserve state election law as much as possible. Interestingly, each state made a decision that would likely be supported by the governor's political party, even when the decision went against the majority party in the state legislature in Mississippi or when the legislature's chambers were split between parties in Oregon. It is possible a governor holds outsized influence in this area, even if the governor does not involve himself or herself on a public level on the policy itself. States with a recalcitrant governor who can veto any legislation to change state election law to comply with federal election law might be most likely to adopt a dual election administration system, though more cases need to be studied to better establish that correlation.

Turf wars between the national and state levels remain alive and well in election administration and flare ups on this policy occurred off and on for the better part of the past three decades. The struggle for electoral control between those two levels in the context of dual election administration systems as well as numerous other election programs remains as an interesting facet of the discipline. Further study between the push and pull of the local level of election administration against the state and federal levels could bring in much more data about the diffusion factors that influence their policymaking. This research also presents an interesting possibility that liberal-leaning states may be as willing as conservative-leaning states to act

toward preserving states' rights on this issue, though more liberal-leaning states will have to consider adopting dual election administration systems in order to draw any more substantial conclusions.

As the world becomes more interconnected, one would assume the elements and actors of election administration do as well. This study implicated, though, feedback is not solicited for all major decisions. These decisions to adopt dual election administration systems made fundamental changes to a subset of voters' level of election participation, which is important. Yet, the decision affected only a small number of voters and added little in total cost for running elections. The decisions were controversial, but state officials received little blowback for adopting them. If the dual election administration system had been more salient within the state, would administrators have spent more time seeking out and utilizing outside information? Will states be more apt to champion a dual election administration system now as a means to fight back against alleged federal government overreach because of the policy's low salience?

Given what has been discovered and what is still unknown about dual election administration systems, is it a worthy subject of deeper scientific inquiry? Absolutely. As political polarization appears poised to remain the norm in future years, this policy would seem to be low-hanging fruit for both parties to maximize their election fortunes whenever the federal government rules a state policy cannot be applied to federal races. The policy is also expanding at the local level as major municipalities attempt to adopt it for municipal races. Future research can assist in further pinpointing when a state or municipality is poised to adopt the dual election administration system. Additionally, the models for policy diffusion and normative decision making created here can be utilized for studying many other policies both inside and outside the elections world.

The narrator of the Bible's book of Ecclesiastes asserts, "There is nothing new under the sun." Dual election administration systems fit that description as the policy has popped up in different forms throughout the country's history. Some may view it as a loophole for states to exploit while others may see it as a bulwark from the federal government taking over the entire elections process. Further understanding the policy and why it is appealing in some places despite likely drawbacks in election efficiency is worthy of future research. While one may question the wisdom of adopting dual election administration systems, it is difficult to argue the policy has the power to reinvent itself across eras, and there is little doubt this will include future eras.

Table 5.1 – Synthesis of Diffusion Constructs Tested

State	Mandates/Courts	Determinants	Info Networks
Arizona	Yes	Political Context: Yes Resources: No Pressures: No Proximity: Yes [party ID with KS]	No
Illinois	Yes	Political Context: Yes Resources: No Pressures: No Proximity: No	No
Kansas	Yes	Political Context: Yes Resources: No Pressures: No Proximity: Yes [party ID with AZ]	No
Mississippi	Yes	Political Context: Yes Resources: No Pressures: No Proximity: No	No
Oregon	Yes	Political Context: No Resources: No Pressures: No Proximity: No	No

Figure 5.1 – Modified Decision-Making Continuum with States

Policy chosen based on methodical research of alternatives

Policy chosen because it was forced upon decision maker or no other alternatives developed



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Appendix 1

The countries of the European Union are required to allow foreign nationals from other European Union countries [i.e. a Polish citizen living in France] to cast votes and run for office at the local level and for seats in the European Parliament of the foreign national's host country, according to the 1992 Treaty of Maastricht (Bauböck 2005; Day and Shaw 2002; Treaty of Maastricht 1992). This necessitates the creation of at least two voting classifications in these countries with foreign national residents voting in local races and E.U. parliament races only and full citizens voting in local races, state/regional races, national races and E.U. parliament races.

Some countries – such as Belize, Ireland, Sweden and Venezuela, among others – provide universal local suffrage to all residents, regardless of nationality, while countries such as Argentina, Israel, Norway and Portugal extend local suffrage to foreign nationals as long as the foreign nationals' countries agree to provide local suffrage to their expatriates in return (Bauböck 2005; Day and Shaw 2002). Again, this requires the formation of a dual election administration system to distinguish which people have full voting rights and which people can only vote in local races.

Australia has operated a dual election administration system in some areas of the country since 2009. Australians who are eligible to vote are required to vote in all elections in which they are eligible to do so. Failure to vote could result in a fine. In 2009, the state of New South Wales, and in 2010, the state of Victoria introduced direct enrollment and direct update voter registration systems, where the states' election authorities could gather information from other state agencies on new residents and changes of address of current voters to enroll automatically or update the voters' information in their systems (Australian Electoral Commission 2012).

When people were enrolled or changes to their enrollment were made, state election officials contacted the affected citizens to allow them to correct any information, and those who did not respond were automatically enrolled or updated (Australian Electoral Commission 2012).

Australia's Commonwealth Electoral Act of 1918 required potential registrants to send in an enrollment form to the Australian Electoral Commission, the national election administration body (Killesteyn 2013). Because some citizens added by the states of New South Wales and Victoria did not return the national-level enrollment form, despite requests from the Australian Electoral Commission to do so, a discrepancy between the two states' voter rolls and the federal voter rolls resulted (Killesteyn 2013). Citizens who did not return the national-level enrollment form were classified as state-only electors and could not vote in national elections (Australian Electoral Commission 2012). The Commonwealth Electoral Act has since been amended to allow the Australian Electoral Commission to install a nationwide direct enrollment and direct update voter registration system (Australian Electoral Commission 2016). But in some territories, such as the states of South Australia and Western Australia, there are different state requirements to enroll as a voter in state elections, so the AEC's direct enrollment can only register electors for federal races (Killesteyn 2013; Australian Electoral Commission 2016). As a consequence, voters enrolled to vote via the AEC direct enrollment and direct update system who did not sign up with their state election officials were eligible to vote in federal elections only (Australian Electoral Commission 2016; Killesteyn 2013).

In Canada, voter lists are compiled at the national, state, and local level by separate government agencies. Voter lists are shared among the levels of government to increase accuracy and save money, though not all territories participate, and it can take weeks or months for voter lists at the different levels to all reflect a change made (Elections Canada 2017). This

would lead to at least some variability among voting lists, though efficient administration of the lists should keep the number of differences low. Additionally, in some local jurisdictions, there are school boards for both French-speaking schools and English-speaking schools while other local jurisdictions have school boards for secular schools and religious schools (Council of Ministers of Education, Canada 2008; Saskatchewan School Boards Association 2016). This creates dual election administration systems in multiple localities in Canada, as local election administrators must register in which school board elections voters wish to participate. Voters are only allowed to register for and vote in elections for one school board even if there are multiple school boards in their voting district (Saskatchewan School Boards Association 2016).

The Republic of the Philippines also conducts dual election administration systems. The Philippines Commission on Elections registers what it refers to as “regular voters,” who are 18 or older and vote in the races for more-traditional government offices such as president, congressional representatives, governors and mayors among others (Sixteenth Congress of the Philippines 2016). The Commission on Elections also registers voters between 15 and 30 years of age for the *Katipunan ng Kabataan*, a government-sponsored coalition of Filipino youths with some limited government powers (Official Gazette of the Republic of the Philippines 2016). This creates two classifications of voters for the Philippines Commission on Elections to register.

Appendix 2

[*prompt*] Has interview subject signed the information letter/consent form?

1. What was the problem or problems identified that prompted consideration for a two-voter-list system?

2. How did the organization come up with an idea to have an election system with two voter lists?

- [*prompt*] Were any other policies considered?

3. Did you think about any goals or values your state has when it comes to voting and elections while considering this policy?

- [*follow-up*] Did you think this policy would have an effect on those goals and values?

- [*follow-up*] Were any of those goals or values in conflict when it came to this policy?

4. Did any past experiences play a role in deciding to adopt this policy?

5. What administrative or legislative process was gone through to get the two-voter-list system enacted?

- [*follow-up*] Who made the final decision to go forward with this policy?

6. Tell me about how the policy was carried out once it was adopted.

7. Did you or your organization receive advice or pressure from sources either inside or outside government to either encourage or discourage implementing a two-voter-list system?

- [*prompt*] Who or what were those sources?

- [*follow-up*] Did this communication have any effect on your decisions about the policy?

8. Were fiscal or administrative resources, or lack of resources, available to carry out this policy a major consideration in creating this policy?

9. Did changes in federal elections policy, such as HAVA or Motor Voter or anything else, play a role in the decision making on a two-voter-list policy?

10. This policy was installed when Republicans/Democrats controlled the state's branches of government [specifically governor, legislature and/or secretary of state]. Did that play a role in this policy being enacted?

- *[follow-up]* Did any national political party offer its opinion on the policy?

11. Did changing demographics of the people living within the state factor into creating two voter lists? For example, in your state [there was a rise in undocumented citizens, there was a population shift from rural to urban areas, etc.].

12. Did you ask for or receive any feedback from local election officials about the policy?

13. What are criticisms the policy received?

- *[prompt]* Concerned about voter suppression (or) election integrity?

14. Do you remember any effect on voters and turnout this policy had?

15. Do you see any changes coming in the future of this policy?