Chapter 3: The Power of Institutional Design: Governors, Vetoes, and Legislative Outcomes

Robert J. McGrath, George Mason University

Jon C. Rogowski, Washington University St. Louis

Josh M. Ryan, Bradley University

Bruce Rauner, a venture capitalist by trade and a political novice, made a strong run at the Illinois governorship in 2014, ultimately unseating incumbent Pat Quinn in the general election. After defeating a robust field of established candidates in a tightly contested GOP primary, Rauner set his sights not only on winning the general election, but also on fundamentally changing the office for which he contended. In addition to his personal campaign, Rauner worked to qualify ballot initiatives that would have introduced term limits to the General Assembly and increased the number of votes needed to override a gubernatorial veto from three-fifths of each legislative chamber to two-thirds. These reform efforts were ultimately unsuccessful, for now, as Illinois courts deemed them unconstitutional.[1] Yet, Rauner insisted that he would pursue these reforms whether elected or not, citing vague concerns for "checks and balances." In this chapter, we provide a framework for considering the effects such an institutional change might bring to Illinois. More generally, we assess how the specifics of governors' veto powers condition their influence over the legislative process.

Few political institutions are as consequential for lawmaking as the executive veto. All current governors share the president's prerogative to veto unfavorable legislation. The sequence is roughly the same for governors as for presidents – after each legislative chamber passes the same version of a bill, it goes to the executive for signature. A governor can assent, veto, or

remain silent, with the latter leading to bill passage or failure, depending on the specific "pocket veto" rules and time remaining in the legislative session. This ability to negate legislative action is among a governor's few formal legislative powers. Yet, the influence the veto affords is constrained by the legislature's ability to override vetoes with the support of a specified proportion of each chamber. Although there are many nuances to state veto rules, we are primarily interested in how variations in these override thresholds lead to variations in gubernatorial influence over the legislative process.

We view this question through the lens of institutional design and speak to historical and ongoing attempts to reform particular override thresholds in the states. Much research has demonstrated that the rules governing political organization and policymaking are important precisely because they affect political outcomes. Reformers attempt, often successfully, to change the "rules of the game," with a sense of the consequences of their proposed reforms. It was in this tradition that Bruce Rauner sought to increase the Illinois governor's legislative influence.[2]

This type of exercise is not new. The framers of the federal and early state constitutions all engaged in thought experiments about how particular institutional arrangements might play out in time. Their discussions turned into debates and compromises, the results of which shaped our early constitutions and institutions of governance. Samuel Kernell (2003, 8) notes how James Madison, in considering constitutional design, would question, "how an institutional feature would lead a politician, a citizen, or a faction to act in a particular way." Madison's contemporaries and later reformers shared this concern for how formal rules and powers affect outcomes. In the following section, we provide a brief history of the executive veto in the United

States, focusing on decisions regarding veto override thresholds and their importance for empowering executives in the legislative arena.

How We Got Here: A Short History of the Veto Override Threshold

Many of the framers saw the absence of an executive branch as a key weakness of the Articles of Confederation. Thus, establishing an executive and determining its powers was a primary goal of the Constitutional Convention of 1787. The specifics of executive power became a key point of contention in creating a new constitution, and the veto was central to how they thought about this power.[3] The delegates began by considering the merits of an absolute veto, as had been possessed by the British Crown (including royal colonial governors) and those of a more *qualified* veto, subject to override in the legislature. In his history of the presidential veto, Robert J. Spitzer (1988) carefully identifies the initial proponents of each option and traces changes to these positions over the course of the convention. Alexander Hamilton and James Wilson of Pennsylvania initially believed that only an absolute veto would guarantee needed presidential autonomy. Yet, many others saw the potential for tyranny in an absolute veto, with George Mason famously proclaiming, "We are not indeed constituting a British Government, but a more dangerous monarchy, an elective one" in discussions over the nature of the veto (Spitzer 1988, 12; Farrand 1966, I, 101).

Having thus ruled out an absolute veto and clearly unpersuaded by muted calls for a veto-less executive, the framers were split on the specific proportion of Congress they would require to override presidential vetoes. To decide this question, the framers looked to state constitutions for guidance.[4] In 1787, only two states allowed for an executive veto, and both had decided on a two-thirds proportion of each legislative chamber as the override threshold (Squire and Hamm 2005). New York established its veto in 1777, yet its original constitution stipulated that the

governor was to share the veto with the chancellor and the state supreme court in a so-called "council of revision." Massachusetts established a veto in its 1780 constitution and adopted the New York override threshold (two-thirds), but rejected the council of revision idea, giving its governor sole veto power. While these states provided templates for a presidential veto, setting the federal override threshold at two-thirds was hardly inevitable.

It seems, according to written records from the Convention (Farrand 1966), that there were a number of votes regarding the establishment of a particular override threshold. Delegates first agreed, on an 8-2 vote, to follow New York and Massachusetts in setting a two-thirds threshold. Then, upon deciding that a congressional quorum would mean a majority in each chamber, they voted on the override threshold again, this time stipulating a three-fourths proportion in each chamber (with a vote of 6-4-1). Despite gaining a majority of voting delegates, this motion was not particularly popular, especially considering that they had by this time decided that the president would be elected, rather than appointed by Congress, thereby increasing the perceived power and autonomy of the office. Spitzer (1988, 13) notes, "There was a sense at this juncture on the part of [James] Wilson and others that three-fourths gave too much to the president. [Charles Cotesworth] Pinckney in particular observed that three-fourths would put too much power in the hands of the president and a handful of senators, making them capable of blocking an override attempt." This passage reveals two important features of veto override rules. First, the prevailing sentiment was that a higher threshold meant more presidential power. Second, the framers recognized that the key mechanism allowing such power was the threshold's effect on the legislature itself. This insight is foundational to the theoretical treatment we present in this chapter. The ultimate decision in the Convention, of course, was to revert from a three-

fourths threshold to two-thirds, preferring, as Madison put it, "the danger of the weakness from two-thirds" to "the danger of the strength from three-fourths" (Farrand 1966, II, 587).

Although the framers of the federal Constitution looked to New York and Massachusetts for templates on establishing executive veto power, the remaining states were ambivalent about or strictly opposed to establishing a veto at all. In fact, after Massachusetts established its veto in 1780, it took a full nine years for a third state to institute a gubernatorial veto (Georgia in its second state constitution, in 1789), while the remaining early states omitted veto powers altogether from their constitutions.[5] Historical accounts portray early state constitution-makers as careful to avoid any institutional incentive for their new governments to fall into the tyranny that they believed characterized their colonial experiences. In addition, state framers were literal about the concept of separation of powers among the branches, with the legislature given sole responsibility for legislating (Kruman 1997, 109-130). Eventually, states would cede to the idea that the veto was necessary to guard executive independence and, as John Adams put it in a 1779 letter to Elbridge Gerry regarding the veto in Massachusetts, prevent that the governor "without this Weapon of Defence will be run down like a Hare before the Hunters" (Kruman 1997, 125). All states eventually adopted a gubernatorial veto, but they did so neither evenly nor uniformly, with North Carolina only finally adopting a veto in 1996.

Currently, thirty-seven states follow the New York/Massachusetts/United States model of a two-thirds override threshold. Seven of the remaining thirteen states possess a less onerous three-fifths threshold, and six require but a simple majority of each chamber of the state legislature to override a veto. The framers of the federal Constitution did not consider thresholds less than two-thirds, as their preferences, forged by experience with the Articles of Confederation, aligned against an institutionally impotent executive. Yet, states, with their

colonial experiences in mind, were far more willing to deny their executives the veto, as many did until the middle of the nineteenth century. One of these former colonies, Maryland, denied the veto until 1867, when it was the first state to decide on a threshold of three-fifths of each chamber. Other states granted even weaker vetoes, with Kentucky, in 1799, the first to grant a veto that was reversible with a simple majority of each chamber.

Importantly, these thresholds were not set in stone at a state's founding and have been and are still subject to change by constitutional amendment. In fact, we have identified twenty-seven instances of states changing their override threshold, and there are countless instances of failed attempts to enhance or diminish governors' veto powers.[6] Table 3.1 presents current override thresholds and documents historical changes for each state.[7]

[Insert Table 3.1 about here]

This table is interesting for a number of reasons. First, nearly half of all states (twenty-three) have changed their override threshold at some point in their history. Second, there is an overall trend, beginning in the mid-nineteenth century (Fairlie 1917), of states strengthening their veto by increasing the override threshold, or by adopting a veto where one had previously been absent. Perhaps this is due to state reformers being further removed from the memory of colonial tyranny, but it might also reflect changing attitudes about the role of the executive in states with growing populations and economies. The universal adoption of the gubernatorial veto and the trend toward higher override thresholds notwithstanding, there have also been cases of states *lowering* their thresholds, as in Kentucky (1799) and Ohio (1912), to weaken the governor. The richest example of a state calibrating its override threshold to match state preferences is Illinois. The Prairie State originally granted (in 1818) a veto by council, as in the original New York constitution. After thirty years of this arrangement, the veto power was vested in the governor

alone, yet the legislature could override the governor's veto with a simple majority vote (Fairlie 1917). Just over two decades later, the revised constitution of 1870 changed Illinois's threshold to the more common two-thirds. Then, following a century of institutional stability, Illinoisans again tinkered with the veto, reducing the threshold to three-fifths with the adoption of the 1970 constitution.[8]

We have thus far detailed how the framers of the U.S. and state constitutions had identifiable ideas about how the precise location of the veto override threshold would affect executive power. The framers of the federal Constitution ultimately preferred the "danger of the weakness from two-thirds" to "the danger of the strength from three-fourths"; yet, we do not know precisely how presidential-legislative relations would have been different under the alternative threshold. Similarly, we do not know what was so objectionable about the twenty-seven state override thresholds that were changed over the course of American history. George Mason's sarcastic retort that "little arithmetic was necessary to understand that three-fourths was more than two-thirds" (Ellis 2012, 33) and the association of a higher override threshold with more presidential power might actually provide a fair summary of the considerations of these past, and more current, institutional reformers.

With this, we turn to our contribution: a specific answer to the often-overlooked question of how particular override thresholds translate into executive power. This question is empirically unanswerable at the federal level, as all presidents have had the exact same veto power. Instead, we turn to the states and the variation apparent in Table 3.1. We first lay out our specific theoretical approach, which builds on recent formalizations of the framers' intuitions (e.g, Krehbiel 1998; Kernell 2003). We pinpoint two distinct, yet related, mechanisms by which override thresholds translate into executive power. First, higher override thresholds should have

the effect of increasing the size of legislative coalitions on bills that pass both chambers of a legislature. This, we argue, indicates bills that are more moderate on average than they would have been if coalition sizes were smaller. Second, higher override thresholds increase the extent to which an ideologically opposed legislature needs to accommodate a governor's preferences, and this should be most evident in state budget bargaining. We describe and summarize our own recent work where we empirically assess these mechanisms and conclude with a discussion of tangible applications to understanding variation in gubernatorial power across the states.

A Theory of the Veto's Influence on Gubernatorial Power

The veto bargaining process in the states is largely similar to the federal level, with some important differences. Governors in many states have a range of additional veto powers that are not available to the president. For instance, in the appropriations process, forty-four governors have line-item veto power which, though the specifics vary by state, gives the governor power to remove spending items from budgets and appropriations bills. Other states allow governors to reduce, but not increase, state spending, while still others grant the governor an amendatory veto, which allows governors to re-write legislative language in certain cases.

Our focus is on the power the *regular* veto confers to governors vis-à-vis legislatures during policy-making. We are particularly interested in how veto override requirements strengthen or weaken gubernatorial influence in the legislative process. The American system of separating powers promotes tension between the two branches, so assessing how institutional rules grant one branch of government power over the other is perhaps the most important topic in institutional studies of American politics. While governors have little formal role in the development of bills, the power of the veto ensures that their preferences are accounted for by the legislature.

Our challenge is to develop a theory that specifies exactly how higher veto override thresholds empower governors in bargaining with legislatures. To do this, we rely on the logic of strategic anticipation and the notion that the veto override requirement empowers so-called "pivotal" legislators whose assent is required to effect policy change (e.g., Krehbiel 1998; Brady and Volden 1998; Chiou and Rothenberg 2009). We draw from general spatial theories of lawmaking that consider how supermajoritarian rules contribute to, among other things, the slow pace of policy change that is characteristic of our system. In a way, these modern theorists describe the mechanisms by which the framers successfully designed institutions to their desired ends. Here, we apply the insights from these theories to assess how the design of veto institutions affects the balance of power between the policymaking branches.

Legislators undoubtedly know that their governor has veto power and anticipate that the veto may be used if the executive opposes proposed legislation. In turn, the legislature anticipates that if a bill is vetoed, it may attempt an override if legislative leaders are able to secure agreement from enough members. Thus, the legislature must consider the governor's preferences when crafting legislation, as well as the preferences of additional members who may be needed to override a possible veto, making the veto power consequential even when it is not used.

Generally (and abstractly), when deciding whether to vote for a bill, members of a legislature compare the proposal to the current policy, or status quo, and vote for the outcome closer to their own preferred policy, or "ideal point." If enough members prefer the proposed policy to the status quo, the policy passes the legislature and is sent to the governor. The median legislator, whose ideal point is located in the policy space with an equal number of members on each side who prefer either a more conservative or more liberal outcome, must be included in

any winning coalition (Black 1948). This median legislator is the pivotal vote in a majoritarian legislature, as 50%+1 of members is all that is needed for policy change.

The governor makes the same comparison amongst the status quo and proposed policies, and, if she prefers a proposal to the status quo, will sign the bill. If she prefers the status quo, however, the governor can veto, sending the bill back to the legislature for an override attempt, with the specific override requirement determining rules of re-passage. If a state requires three-fifths or two-thirds of legislators to override, the legislature operates under supermajority rules. The member whose ideal point lies in the policy space such that three-fifths or two-thirds of other members are to their left or right (depending on where the status quo is located) is now said to be pivotal because she must now be included in any winning coalition. As the override requirement increases in size, a legislature may find it difficult to assemble a sufficiently large coalition that satisfies the preferences of both the median legislator *and* the override pivot, thereby advantaging the governor relative to lower override requirements.

Moreover, the override requirement has important implications for the magnitude of policy change. Crucially, the two-thirds or three-fifths member is more favorably disposed to many status quos than the median legislator. On a liberal to conservative spectrum, the veto override pivot will be on the conservative side of the policy space if the legislature is attempting to move policy in the liberal direction and on the liberal side if a proposed bill moves policy in a conservative direction. For an override to occur, then, the proposal must be more centrist than the status quo such that both the median legislator and the override pivot prefer the proposal. If the policy is too extreme, either to the left or the right, it may win approval from the median, but it will be too far from the override pivot's preference to ensure a successful override.

A governor can project strength in such bargaining by threatening to withhold her signature unless the legislature moves policy toward her preferences. The veto power sustains this bargaining process—without it, the legislature would have little incentive to heed the executive's preferences, since her approval would not be needed to enact the legislation. With the override requirement, the legislature must seek to modify their legislation to attract gubernatorial support, *or* it can try to ensure the veto override pivot's support. If either actor approves, the legislation will become law regardless of the preferences of the other.

These institutional arrangements have important implications for state policymaking. Most obviously, without the veto, legislatures could pass bills without considering the preferences of the executive. More importantly, however, the necessity of making either the governor or the veto override prefer the new policy to the status quo requires policy *moderation* in many cases. This is especially true when the governor and the chamber median have very different ideological preferences; for example, when different parties control the executive and legislature. Consistent with the framers' intuitions, the veto limits the amount of policy change the legislature can make and produces compromise when the governor and the legislature have highly divergent preferences.

It is thus clear how different override requirements affect policymaking. A two-thirds requirement is the most difficult bar for a legislature to overcome in the American context, and makes a relatively moderate member of the legislature the pivotal actor if the governor exercises a veto. When the veto override is set at three-fifths, the pivotal actor will be closer to the median than the two-thirds member would have been. This allows the proposed policy to be farther away from the status quo and the resultant policy is more extreme than it would have been under a more stringent override threshold. And, because it is more difficult to assemble a coalition made

up of two-thirds of members of the chamber, the legislature will be more willing to accommodate the governor. According to this logic, a three-fourths threshold, as considered by the federal framers, would have afforded even more power to the president than the two-thirds they decided on, just as two-thirds accords more power than three-fifths.

In contrast, veto powers under a simple majority override requirement provide the governor with little, if any, leverage in bargaining with the legislature. In this case, the median legislator *is* the override pivot. And because a proposal can be passed by the legislature with a simple majority vote, the same coalition of legislators can override a gubernatorial veto without accommodating any new actors. Thus, when considering a policy proposal, the legislature has little reason to heed the preferences of the governor—anything that can pass the legislature can become law, regardless of the governor's wishes. It is no surprise, then, that governors in states with lower override requirements have consistently sought to expand state veto override requirements.[9]

Deriving from this theoretical framework then, we can specify a number of testable hypotheses regarding the ways in which the existence and substance of veto powers affect the legislative process across states. First, we hypothesize that states that have higher override thresholds have larger winning coalitions on legislation than states with less onerous thresholds. Second, we predict that these higher override thresholds also force ideologically unfriendly legislatures to better accommodate gubernatorial preferences when constructing state budgets. We have assessed these hypotheses in a series of papers and summarize this work below, augmenting it at times with additional analyses and thoughts.

Veto Override Thresholds and the Size of Legislative Coalitions

In another paper (McGrath, Rogowski, and Ryan 2015), we test the hypothesis regarding the relationship between veto override thresholds and the size of legislative coalitions; rather than detail it here, we direct readers to that paper, and provide only a summary. To compare the effects of different veto override requirements, we simply measure the size of winning coalitions in states with different veto rules in 1999-2000.[10] Holding a variety of other factors constant, including the size of the majority party and the level of legislative professionalism within the state, we find that winning coalitions in states with supermajority (two-thirds or three-fifths) overrides are larger than in states with simple majority requirements, suggesting that legislation in these states is more moderate, appealing to a broader spectrum of legislators. Substantively, our results indicate that legislative coalitions are approximately 1.9 percentage points larger in supermajority states than in simple majority states, meaning four to five additional legislators' preferences are taken into account in large legislatures with supermajority overrides than would be needed in majority override states. This effect is exaggerated on important or salient bills, as these are the types of bills most likely to attract significant attention from the media and the public, and those most likely to interest the governor.

For additional evidence on the effects of the veto, we compare the differences in winning coalition sizes in North Carolina before and after it adopted the veto in 1996. Of the twenty-seven changes in override threshold noted in Table 3.1, this is the only amendment recent enough to evaluate empirically. Fortunately, potential confounders of coalition size, including the identity of the majority party in the House and Senate, the party of the governor, and the level of professionalism in the North Carolina legislature did not change substantially between 1996 and 1997, providing similar environments across which to compare coalition sizes. As with the cross-sectional results, there is a significant increase in the size of winning coalitions once North

Carolina adopted its supermajority veto,[11] especially on bills that were more controversial. On such bills (with winning coalition sizes ≤ 0.95), mean coalition sizes increased from .787 to .826 in the House after the adoption of the veto and from .815 to .837 in the Senate.

We thus find strong evidence that coalition sizes are larger in supermajority override states than they are in simple majority states and that North Carolina's move from having no veto to having a supermajority veto increased coalition sizes significantly (McGrath, Rogowski, and Ryan 2015). But does a simple majority override requirement confer any gubernatorial advantages relative to the absence of a veto altogether? Our evidence suggests not. In Table 3.2, we compare coalition sizes in pre-veto North Carolina to those in states with simple majority overrides. On the whole, the table provides little evidence to suggest that the mere existence of the veto affects coalition sizes. Though states with simple majority overrides did pass legislation with the support of about two percent more of their members compared to pre-veto North Carolina, these differences disappear when we examine more contentious legislation. A simple majority requirement thus appears to make no difference for the size of the coalition passing legislation. These results suggest that veto authority confers power only when it increases the size of the legislative coalition needed to enact policy over an executive's objection. Governors in states with simple majority overrides are either institutionally weak, or else must rely upon other means (such as unilateral action) to enact new policy that is more in line with their preferences.

[Insert Table 3.2 about here]

Veto Overrides and Budgetary Bargaining

These findings provide indirect evidence of the veto override's effects on gubernatorial influence over state policymaking: as a legislature must assemble larger coalitions to override a

gubernatorial veto, that legislature has greater incentives to accommodate its governor's policy wishes. In this section, we focus on a particular policy area—state budgets—to *directly* estimate how much influence the override requirement affords state executives.

Budgets are especially important to the study of state politics. All states must complete a budget at least every other year, and their passage is required for the functioning of state governments. Budgets set statutory requirements for state spending on issues like education, transportation, health and social welfare programs, and local government programs like police departments and urban renewal. And, unlike other legislation, governors frequently have an important role to play in the formal development of the budget.

Across the states, governors are charged with developing and submitting budget proposals to their legislatures. Legislatures then use the governor's proposal as a baseline, adding and subtracting spending in accordance with its preferences. Governors use their budgetary requests to promote programs they support, and deny funding to those programs that they do not. And, because budgets renew funding for state programs, the status quo is hardly benign. A failure to pass a budget leads to zero funding for state programs, a fact that exerts significant political pressure on state legislators and governors (Kousser and Phillips 2012).

Despite legislatures' general willingness to defer to the governor's proposal on many funding matters, budget negotiations between the branches can become quite contentious. For example, since 2002, five states have enacted late budgets and experienced partial government shutdowns.[12] California has long been the state with the most difficulty passing on-time budgets—by 2011, it had passed only six budgets on-time in twenty years.[13] These stand-offs frequently revolve around the unwillingness of the legislature and executive to compromise on spending programs. We argue that variation in veto override requirements should condition

gubernatorial success in budget bargaining with legislatures. In particular, we predict that higher override requirements will make the governor more powerful during the budget passage process.

We assess this prediction in a paper comparing budgets proposed by the governor to those enacted by the state legislature (McGrath, Rogowski, and Ryan 2014). It should be the case that in states with higher override requirements, budgets enacted by the legislature (and signed by the governor) are closer to what the governor proposed. In those states where overriding a veto is relatively easy, the legislature will change the budget more, all else equal, because the governor's veto is a less powerful tool for creating legislative concessions.

Our budgetary data on proposals and enactments come from *The Fiscal Survey of the States* (NASBO 1987-2011). Controlling for other important factors like legislative professionalism, term year, and state revenue, and accounting for the possibility of strategic proposal-making, we find that governors in states with two-thirds override requirements have significantly more success in achieving their budgetary proposals compared with governors in states with three-fifths and simple majority override requirements.[14] The substantive effects of our estimates are quite large, suggesting that governors with a two-third veto achieve budgets that are between twenty and thirty-three dollars per capita closer to their proposals than governors with smaller override thresholds. Thus, if Illinois (with a population of almost thirteen million) were ever to change its override threshold from three-fifths to two-thirds, we estimate that governors would be more successful in achieving their requests by between $256 and $422 *million*. There is no wonder then that Bruce Rauner sought to change the override threshold as he competed for and won the Illinois governorship. Our findings here are unequivocal—the veto override requirement is an important determinant of budgetary outcomes, as it was for legislative

coalition sizes. Higher requirements advantage governors in their relations with state legislatures, confirming the insights of the framers and later institutional reformers in the states.

Conclusion

While our theoretical perspective explains several ways in which veto rules affect legislative outcomes in the states, there is still much to understand about how veto powers influence the bargaining process between governors and legislatures. For example, vetoes are occasionally sustained—even in states with majority override requirements. Similarly, legislators do not always maintain their original positions when it comes to override attempts. Examples of this abound, but the New Jersey legislature under Governor Chris Christie regularly fails to override vetoes, even when the original coalition is larger than the two-thirds override requirement.[15] While such situations may be somewhat idiosyncratic, existing research (Kousser and Phillips 2012) indicates that governors possess resources (such as access to fundraising and the governor's bully pulpit) that they may transfer to pivotal override actors to ensure their success in sustaining vetoes, even if it means that these pivotal actors change their positions from the original vote.

In other circumstances, legislatures construct winning legislative coalitions that are nonetheless not large enough to override a veto. In Missouri in 2013, a veto-proof Republican supermajority passed two controversial bills related to taxes and gun control, but neither received veto-proof support in either chamber. Some Republicans believed the bills to be too extreme, and when Democratic Governor Jay Nixon vetoed both, the House and Senate were unable to gather enough votes to override. Instances like this can at least partially be attributed to uncertainty[16] and the ability (or lack thereof) of parties to pressure recalcitrant members. Future work should

examine how legislative parties affect the power dynamics between the legislature and the governor during veto bargaining.

Moving beyond the theoretical perspective we have offered here, other rules related to the veto may affect the governor's influence over policy outcomes. For instance, state provisions vary in specifying how legislatures respond to gubernatorial vetoes. These rules sometimes enable governors to effectively "wait out" the legislature. Contrast the examples of Missouri and Texas. In Missouri, legislatures are unable to override gubernatorial vetoes once the legislative session ends. Thus, by waiting until the end of the legislative session to veto legislation, governors can help prevent proposals they oppose from becoming law. Similar dynamics play out in Texas, where the legislature is unable to consider vetoed legislation once the session ends unless governors call a special session. In other states, though, legislatures themselves can call special sessions, thus eliminating the governor's ability to wait out the legislature.

Kousser and Phillips (2012) have examined such dynamics, and find that governors wield greater power when the legislature must act quickly, especially in the context of budget negotiations with an unforgiving reversion point. However, little work has focused on formal rules that extend or shorten the session, or provide the legislature with more time to consider override attempts. These provisions, though subtle, may provide important sources of leverage for governors, and thus better enable them to achieve their legislative goals.

All fifty states provide their governors with veto powers, yet the details of veto powers vary considerably across the states. These "rules of the game" play an important role in structuring the environment in which bargaining takes place between legislatures and governors. As this chapter has shown, these details have important implications, therefore, for how power is shared across the branches. Thus, it is no surprise that reformers – including gubernatorial

candidates such as Bruce Rauner – have targeted veto rules as a means of changing the distribution of power across the branches of government.

Endnotes

[1] Chicago Sun-Times. "`D-Day' Spells Defeat for Rauner's Term Limits Referendum." Tina Sfondeles. August 22, 2014. Accessed at: http://politics.suntimes.com/article/springfield/'d-day'-spells-defeat-rauner's-term-limits-referendum/fri-08222014-350pm on October 20, 2014.

[2] Rauner's failed amendment would have been the fourth time in its history that Illinois would have changed its override requirement.

[3] The provision of the veto was hardly the *only* issue at stake affecting executive power. For instance, according to Ellis (1999, 33), at least a quarter of Convention delegates preferred a *plural* executive, including such important framers as Benjamin Franklin, Edmund Randolph, and George Mason.

[4] By 1787, every state but Connecticut and Rhode Island had established a constitution.

[5] South Carolina established an absolute veto in its provisional 1776 constitution, only for the veto to be removed entirely by 1778.

[6] Failed attempts are impossible to catalogue across all states, but individual state case studies indicate that changes to a governor's existing veto power are often on some actor or another's political agenda. As an example, Jack D. Fleer (2007, Chapter 1), recounts how every sitting North Carolina governor from 1977 to the veto's adoption in 1996 had pushed for (varying forms of) veto powers. Regarding North Carolina specifically, Fleer found failed attempts that date back to 1933, but even this detailed account is sure to miss informal politics advocating, or opposing, changes to formal gubernatorial powers.

[7] We compiled this table after referencing multiple sources. We first used John A. Fairlie's 1917 article on state veto powers to indicate the state of override thresholds at that time. We then referenced the invaluable collection found in George E. Connor and Christopher W. Hammond's

edited volume, *The Constitutionalism of American States.* Finally, we collected all state constitutions and constitutional amendments, aided by the NBER/University of Maryland State Constitutions Project (www.stateconstitutions.umd.edu), to verify each state's override thresholds over time. We thank Qing Zheng for his assistance in compiling this information.

[8] Walling (2008, 449) makes sense of this most recent change as a counterbalance to Illinois governors gaining the power to reduce appropriations originally approved in the legislature.

[9] The most recent such example is Alabama's Governor Bob Bentley, who, in 2013, introduced a measure to the Alabama Constitutional Revision Commission to increase the override threshold from a simple majority to three-fifths. Although Bentley's proposal would apply only to future governors, the legislature voted the proposal down, arguing that their ability to easily override a veto was necessary for them to protect their constituents' interests.

[10] See McGrath, Rogowski, and Ryan (2015) for more details. The data we use come from Wright's 2004 study and cover all state legislatures in their 1999-2000 sessions. Coalition sizes are calculated by dividing the number of "yea" votes on final passage by the total number of votes. We argue, in line with the theory presented above, that legislatures should have the greatest incentive to assemble winning coalitions with an eye toward an override attempt when their preferences diverge from the governor's, such as during divided party control of government. Of course, while this will not be true in every case of divided government (nor does unified government imply the absence of conflict between governors and legislators), across many bills in many states, the effects of the veto should produce observable differences in coalition sizes.

[11] North Carolina adopted a three-fifths override threshold for its veto.

[12] These states are Michigan, Pennsylvania, New Jersey, Minnesota, and Tennessee. Source: National Conference of State Legislatures. http://www.ncsl.org/research/fiscal-policy/late-state-budgets.aspx

[13] Time Magazine, "California Miracle: An On-Time Budget." http://content.time.com/time/nation/article/0,8599,2080637,00.html

[14] Our analyses (McGrath, Rogowski, and Ryan 2014) indicate that it does not matter if the governor prefers more or less spending than the legislature for these results to hold.

[15] In fact, Christie is "undefeated" in the sense that none of his vetoes have been overridden in the legislature. This includes bills initially popular with both parties in the legislature, including a number of highly popular bans on "fracking" waste in the state. NJ.com. "Christie Extends Winning Streak on Veto Overrides as N.J. Assembly Vote Falls Short." Brent Johnson, September 29, 2014. Accessed at: http://www.nj.com/politics/index.ssf/2014/09/christie_extends_winning_streak_on_veto_overrides.html on October 20, 2014.

[16] See Cameron and McCarty (2004) for an excellent summary of how uncertainty affects bargaining between legislators and executives.

Black, Duncan. 1948. “On the Rationale of Group Decision-making.” *Journal of Political Economy* 56:23–34.

Brady, David W., and Craig Volden. 1998. *Revolving Gridlock: Politics and Policy from Jimmy Carter to Clinton.* Boulder, CO: Westview Press.

Cameron, Charles, and Nolan McCarty. 2004. "Models of Vetoes and Veto Bargaining." *Annual Review of Political Science* 7: 409-435.

Chiou, Fang-Yi, and Lawrence S. Rothenberg. 2009. “A Unified Theory of U.S. Lawmaking: Preferences, Institutions, and Party Discipline.” *Journal of Politics* 71(4):1257–1272.

Connor, George E., and Christopher W. Hammons, eds. 2008. *The Constitutionalism of American States*. Columbia, MO: University of Missouri Press.

Ellis, Richard J., ed. 1999. *Founding the American Presidency.* Rowman & Littlefield Publishers.

Ellis, Richard J. 2012. *The Development of the American Presidency.* Routledge.

Fairlie, John A. 1917. "The Veto Power of the State Governor." *The American Political Science Review* 11.3: 473-493.

Farrand, Max. 1966. *The Records of the Federal Convention of 1787,* 4 volumes. New Haven CT: Yale University Press.

Fleer, Jack D. 2007. *Governors Speak.* Lanham, MD: University Press of America.

Kernell, Samuel, ed. 2003. *James Madison: The Theory and Practice of Republican Government.* Stanford, CA: Stanford University Press.

Kousser, Thad, and Justin Phillips. 2012. *The Power of American Governors: Winning on Budgets and Losing on Policy*. Cambridge, UK: Cambridge University Press.

Krehbiel, Keith. 1998. *Pivotal Politics: A Theory of U.S. Lawmaking.* Chicago, IL: University of Chicago Press.

Kruman, Marc W. 1997. *Between Authority and Liberty: State Constitution Making in Revolutionary America.* Chapel Hill, NC: University of North Carolina Press.

McGrath, Robert J., Jon C. Rogowski, and Josh M. Ryan. 2014. ``Veto Override Requirements and Executive Success.” Working Paper. George Mason University, Washington University in St. Louis, Bradley University.

McGrath, Robert J., Jon C. Rogowski, and Josh M. Ryan. 2015, *forthcoming.* “Gubernatorial Veto Powers and the Size of legislative Coalitions.” *Legislative Studies Quarterly.*

Spitzer, Robert J. 1988. *The Presidential Veto: Touchstone of the American Presidency.* Albany, NY: State University of New York Press.

Squire, Peverill, and Keith E. Hamm. 2005. *101 Chambers: Congress, State Legislatures, and the Future of Legislative Studies.* Columbus, OH: Ohio State University Press.

Walling, Jeremy. 2008. "Understatement and the Development of Illinois Constitutionalism" in George E. Connor and Christopher W. Hammons, eds. *The Constitutionalism of American States*. Columbia, MO: University of Missouri Press.

Wright, Gerald C. 2004. "Representation in America's Legislatures." Indiana University: National Science Foundation Grant.

Table 1. State Veto Override Thresholds and Historical Amendments

State	Current	Changes	State	Current	Changes
AL	50%+1	No veto from 1819-1875	MT	66.7%	No changes
AK	66.7%	No changes	NE	60%	No changes
AZ	66.7%	No changes	NV	66.7%	No changes
AR	50%+1	No veto from 1836-1874	NH	66.7%	No changes
CA	66.7%	Changed from 66.7% of those present to 66.7% of total membership in 1879	NJ	66.7%	No veto from 1787-1844; Changed from 50%+1 to 66.7% in 1947
CO	66.7%	No changes	NM	66.7%	No changes
CT	66.7%	Changed from 50%+1 to 66.7% in 1965	NY	66.7%	Changed from veto by council to veto by governor alone in 1821
DE	60%	No veto from 1787-1879	NC	60%	No veto from 1789-1996
FL	66.7%	Changed from 50%+1 to 66.7% in 1868	ND	66.7%	No changes
GA	66.7%	No changes	OH	60%	No veto from 1803-1902; Changed from 66.7% to 60% in 1912
HI	66.7%	No changes	OK	66.7%	No changes
ID	66.7%	No changes	OR	66.7%	No changes
IL	60%	Changed from veto by council to veto by governor alone in 1848; Changed from 50%+1 to 66.7% in 1870; Changed from 66.7% to 60% in 1970	PA	66.7%	No changes
IN	50%+1	No changes	RI	60%	No veto from 1790-1906
IA	66.7%	No changes	SC	66.7%	Changed from absolute veto to no veto in 1778; No veto from 1778-1868
KS	66.7%	No changes	SD	66.7%	No changes
KY	50%+1	Changed from 66.7% to 50%+1 in 1799	TN	50%+1	No veto from 1796-1870
LA	66.7%	No changes	TX	66.7%	No changes
ME	66.7%	No changes	UT	66.7%	No changes
MD	60%	No veto from 1788-1867	VT	66.7%	Changed from veto by to council to veto by governor alone in 1836; changed from 50%+1 to 66.7% in 1913
MA	66.7%	No changes	VA	66.7%	No veto from 1788-1870
MI	66.7%	Changed from 66.7% of those present to 66.7% of total membership in 1850	WA	66.7%	No changes
MN	66.7%	No changes	WV	50%+1	No veto from 1863-1872
MS	66.7%	No changes	WI	66.7%	No changes
MO	66.7%	Changed from 50%+1 to 66.7% in 1875	WY	66.7%	No changes

Table 2. Is Some Veto Better than No Veto? Mean House Coalitions in Pre-Veto North Carolina and Comparable States

	North Carolina 1995-1996	**States with simple majority overrides, 1999-2000**		
		All	Different party from governor	Divided government
Coalition ≤ 0.95	.787	.802	.808	.794
Coalition ≤ 0.75	.644	.638	.649	.637

Note: Cell entries are mean coalition sizes as a proportion of the total number of voting legislators. Average winning coalition sizes for the NC House in 1995-1996 are compared to coalition sizes for the lower chambers of states with simple majority override requirements in 1999-2000. Nearly 57% of the NC House was controlled by Republicans, and thus only those states with majority party sizes less than 60% are included. "Different party from governor" indicates states where the House was controlled by a party different from the party controlling the governorship, and "Divided government" indicates states in which at least one chamber was controlled by a party different from the one holding the governorship.