

# Experts, Amateurs, and Bureaucratic Influence in the American States

Graeme T. Boushey  
University of California, Irvine  
gboushey@uci.edu

Robert J. McGrath  
George Mason University  
rmcgrat2@gmu.edu

January 21, 2016

Forthcoming, *Journal of Public Administration Research and Theory*. Previous versions of this paper were presented at the 2014 meetings of the American Political Science Association and the Midwest Political Science Association. We thank Laurence Tai, Gwen Arnold, Ken Kollman, Jowei Chen, Mona Vaklifathi, Christian Breunig, and numerous workshop participants from the University of Texas at Austin and the University of Michigan for providing useful feedback.

## **Abstract**

Over the past century, the size and reach of American state governments has increased dramatically, altering the balance of power across state capitols. Although state legislatures were historically privileged as “firsts among equals,” modern administrative reforms have transformed state governments from legislative-centric to executive-dominated systems. In many states, part-time citizen legislatures now operate alongside fully professionalized executives. We introduce a new measure capturing the relative professionalism of state legislative and executive branches, allowing us to explore the policy consequences of the rising imbalance of power across states governments. Drawing upon a large panel dataset of proposed and adopted state regulations from 1990 through 2010, we demonstrate that the eroding policy expertise of state legislators has resulted in increased bureaucratic participation in the policy process, as amateur politicians rely more heavily on professionalized executive agencies to define problems and develop solutions. Our findings highlight intuitive, yet understudied, consequences of common institutional reforms and speak to recent and recurring debates about the separation-of-powers and public policymaking.

U.S. states universally divide policymaking powers between legislative and executive branches; yet, unlike with the federal government, there is striking variation in the resources, authority, and expertise of these institutions (Krause and Woods 2014). Over the past century, as state governments have experienced tremendous growth, the balance of powers across branches has changed in meaningful ways. Spurred in part by cooperative federal/state policy initiatives following the New Deal, states invested in complex new social and economic programs and have subsequently empowered their executive branches to develop and manage these programs (Elazar 1974). Yet, comparable investments in the resources of state legislatures have been more modest (Kousser 2005), and in the majority of states, part-time citizen legislatures now operate alongside far more professional administration. Although Madison (1788) contended that “in a republican government, the legislature necessarily predominates,” modern state politics is defined by increasingly potent executives amidst the gradual deprofessionalization of state legislatures (Rosenthal 2009).

While growing executive predominance should have serious consequences for the development and implementation of public policy, the impact of this trend is not well-understood. This is especially salient now, as reformers consciously work to manipulate institutional influence among the branches. Proponents of term limits and citizen legislatures, for example, explicitly seek weaker legislatures, despite (or, perhaps, because of) mounting evidence that such measures empower executive branches and interest groups to take more significant roles in the policy process (Cain and Levin 1999; Kousser 2005; Miller, Nicholson-Crotty, and Nicholson-Crotty 2011; Sarbaugh-Thompson, et al. 2004). Conversely, reforms targeting the executive rarely seek to weaken the office of the governor or the state bureaucracy, and instead focus on facilitating executive capacity and influence over policymaking. Reflecting both trends at once, Illinois reformers qualified a constitutional amendment for the November 2014 ballot that would have introduced legislative term limits, while simultaneously increasing the governor’s veto override threshold from three-fifths to two-thirds, augmenting gubernatorial power (McGrath, Rogowski, and Ryan 2015).<sup>1</sup> Michigan reformers similarly sought to alter their institutional balance by deprofessionalizing the legislature in 2014, proposing a constitutional amendment to halve legislative salaries and prohibit full-time legislative sessions.<sup>2</sup>

---

<sup>1</sup>Ultimately, the initiative did not reach the ballot, as it was ruled unconstitutional by Illinois courts.

<sup>2</sup>This proposed initiative also failed, as proponents did not gather enough petition signatures to qualify for

These countervailing trends signal that the “quiet revolution” of increasing administrative power continues across state governments (Elazar 1974). We trace the effects of these trends with respect to state policymaking.

Building on theories of the policy process, we predict that eroding legislative/executive balance should lead to increased administrative influence in policy development. Our research goes beyond previous work in state politics that assesses the importance of legislative and executive professionalism in isolation (e.g., Kousser 2005; Squire and Moncrief 1996), as we emphasize how the *relative* professionalism and expertise of the branches shapes the character of state policymaking (Krause and Woods 2014).<sup>3</sup> This approach allows us to explore how different configurations of legislative/executive balance shape policymaking. When there is parity across highly professionalized branches of government (as in the U.S. Federal Government and California), the legislature can deliberately and selectively delegate policy discretion to bureaucracy, but ultimately maintain control over policy development (Huber and Shipan 2002). However, when citizen legislatures operate alongside fully professionalized executives (a configuration that characterizes the majority of contemporary U.S. state governments), policy delegation is more necessary than it is strategic, thus making executive influence over policymaking more pervasive.

Our primary argument for this expectation is two-fold. First, following literature on policy delegation and the separation of powers (Shipan and Huber 2002; Volden 2002), we argue that less professional citizen legislatures will have especially strong incentives to enact vague legislation, establishing the general goals and tenor of policy while relying on expert bureaucrats to fill in details through rulemaking. Second, we anticipate that expert bureaucracies are more likely to proactively

---

the ballot.

<sup>3</sup>To illustrate why this is consequential: Squire (1998) found that the volume of state legislation increases with legislative professionalism, a discovery that has been central to supporters of citizen legislatures, who argue that limiting the session length and compensation of state assemblies produces smaller and more efficient government. For example, in an endorsement of Michigan’s 2014 legislative deprofessionalization initiative, Lieutenant Governor Brian Calley asserted that “While there are many arguments that favor the institution of this style of government, there is one that stands out above all else: Part-time legislative systems produce fewer laws each year than full-time systems” (Oosting 2014). This interpretation may be misguided if legislative deprofessionalization simply redirects responsibility for policymaking to the governor and executive agencies.

and autonomously influence policy through rulemaking when they are paired with amateur legislatures. Thus, we expect bureaucratic participation to increase as gaps in expertise increase, through the mechanisms of both legislative delegation (e.g., Epstein and O'Halloran 1999; Huber and Shipan 2002) and bureaucratic autonomy (e.g., Carpenter 2001; Hammond and Knott 1996).

To explore these dynamics, we join recent research at the federal level (O'Connell 2008, 2011; Potter and Shipan 2011; Yackee and Yackee 2009), and introduce a direct measure of bureaucratic influence on state policymaking through rulemaking. We anticipate that executive agencies will assume an increasingly prominent role in state policymaking as investments in legislative expertise fall behind comparable investments in the bureaucracy. Drawing upon a unique dataset of state administrative rulemaking from 1990-2010, we explore how gaps in institutional expertise influence the actual policymaking roles of state agencies. This focus on rulemaking extends our understanding of state politics, as prior studies tracing the impact of legislative deprofessionalization have focused narrowly on legislative policy outputs (Kousser and Phillips 2012). A focus on legislation alone may be inappropriate for assessing how interbranch relations influence state policymaking as a whole, as state bureaucracies issue thousands of administrative rules each year (each carrying the force of law (Kerwin and Furlong 2011)), oftentimes setting policy for states' most complex issues (O'Connell 2008, 2011; Potter and Shipan 2011; Yackee and Yackee 2009). By directly measuring rulemaking volume, we intend to show that bureaucratic policymaking activities respond to changes in institutional balance.

This research makes several important contributions. We extend research on the politics of bureaucratic policymaking in the U.S. states, providing clear evidence that the eroding professionalism of state legislatures—coupled with the growing expertise of state executive offices—has led to significant increases in rulemaking over time. These findings hold even when we account for the different political incentives for policy delegation created by divided government, or the sudden shock to legislative expertise caused by the enactment and implementation of term limits. We provide evidence that recent efforts to deprofessionalize state legislatures do not necessarily limit the size and activity of government, but rather shift policymaking authority to unelected actors in executive agencies. In fact, this effect appears strongest in states with citizen legislatures, suggesting that legislative deprofessionalization alone may be insufficient to limit the size and scope of state governments.

## The Evolution of Power in American State Governments

Legislatures had historically been the foremost policymakers in American federal and state governments. This is reflected implicitly in the framers of the federal Constitution's decision to describe Congress in Article I, and the presidency in Article II; yet it is also more explicitly designed into the formal powers of the branches. State constitutions similarly created legislature-centric governments where governors often lacked the institutional powers, such as the executive veto, even of the president. Yet, while Madison (1788) imagined in *Federalist 51* that "the weakness of the executive branch may require...that it be fortified" against the threat of encroachment from the legislature, observers of modern state politics have noted that the aggregate balance of power has tilted towards the governor, threatening to relegate legislatures to mere bystanders in the policy process (Citizens Conference on State Legislatures 1971).

The evolving balance of power in state governments was in part fueled by the dramatic growth of state governments in the post-war era. Following modest growth in the first three decades of the 20th century, state public sector expenditures accelerated dramatically, tripling between 1940 and 2000 (Council of State Governments 1950; Garand and Boudin 2004). These trends were paralleled by increases in the size of the state and local government workforce. In the early 1950s, state and local governments employed a little over 1 million full- and part-time workers. By 2010, the public sector workforce had increased to over 5 million (Bureau of Labor Statistics 2014).

This expansion of the public sector triggered a reorganization of administrative agencies across the states, concentrating new budget, administrative, and policy authority in state executive branches (Beyle and Ferguson 2008; Council of State Governments 1950; Citizens Conference on State Legislatures 1971; Rosenthal 2009; Kousser and Phillips 2012; Krupnikov and Shipan 2012). To oversee the management of these increasingly complex bureaucracies, governors professionalized the organizations of their executive offices, hiring new staff to maintain the full-time management of agencies. States enacted further reforms to support executive decisionmaking, modernizing budget and accounting offices, and enhancing the staffing and resources of the cabinet and executive planning agencies. Critics of administrative reorganization argued that the centralization of authority handed governors too much influence over the development and administration of public policy, thereby diluting the separation of powers in state governments (Council of State Governments 1950).

Public sector growth further prompted reforms to formalize bureaucratic participation in the policy process. From 1941 through the 1980s, state governments standardized their Administrative Procedure Acts (APAs) and professionalized state public workforces (de Figueiredo and Vanden Bergh 2004; Kellough and Nigro 2006). Motivated by concerns that state agencies needed to compete with private and public labor markets, reformers in many states instituted political compensation commissions charged with reviewing and adjusting salaries and benefits in order to maintain a high quality public workforce. The participation of expert and well-compensated bureaucrats in the policy process is now a common feature of modern American state politics.

Such increases in the capacity of governors and state bureaucracies to make policy coincided with the neglect of state legislatures, leading William Keefe to remark that the “loss of [legislative] parity with the governor” was the “outstanding fact of twentieth century state politics” (Citizens Conference of State Legislatures 1971, 26). Jesse Unruh, then Speaker of the California State Assembly likewise argued that part-time, underpaid, and understaffed citizen legislatures were ill-equipped to check the power of governors. Unruh characterized interbranch relations in 1960s California as “a one way exchange, with the executive branch excoriating, cajoling, pushing and hauling and the legislative branch on the receiving end” (Greenberg 1963). Unruh’s concerns were later echoed by the Citizens Conference of State Legislatures’ *The Sometime Governments* (1971), which called on state governments to address the growing imbalance in legislative/executive professionalism by adopting a sweeping slate of reforms targeting the size, organization, session length, procedures, staff support, and compensation of the legislatures.

In response to these concerns, voters across the states eventually approved reforms to increase the salary, staff support, and session length of their assemblies (Squire 2012). While these investments helped modernize state assemblies, the reforms did *not* restore equipoise between state legislative and executive branches. In fact, although the overall pattern has been one of increasing professionalism across the branches, the relative difference in state legislative and executive expertise has actually increased over the past thirty years, as state governments have made considerable investments to maintain a professionalized and expert public workforce, but have largely neglected commensurate investments in their legislatures.<sup>4</sup>

---

<sup>4</sup>Previous research has failed to recognize this empirical fact, as it has mostly treated legislative and

## Imbalances and Bureaucratic Policymaking

The increasing predominance of state executive branches relative to their legislatures should have pronounced impacts on state policymaking, through two complementary mechanisms. First, theories of delegation expect that increasing executive expertise should provide incentives for legislatures to delegate more policymaking authority to the bureaucracy. Second, theories of bureaucratic autonomy expect agencies with policy expertise to develop reputations for competence so that they may gain autonomy, defined here as the ability to make policy without direct legislative order to do so. As gaps in expertise emerge between state branches, this autonomy is more easily achieved for state agencies. We see these as complementary processes that jointly influence the degree of bureaucratic participation in policy development.<sup>5</sup>

Research on policy delegation anticipates that elected legislators have strong incentives to delegate policymaking authority to bureaucratic experts, especially when legislators face uncertainty in the design, costs and potential outcomes of policy change (Epstein and O'Halloran 1994; Huber and Shipan 2002, Volden 2002; MacDonald and Franko 2007; McGrath 2013b). Although granting unelected agents discretion over the content and scope of policy requires that legislators accept the risk of policy loss, this risk is viewed as acceptable given the gains in efficiency and expertise that come with delegation. These studies suggest that policymakers are increasingly likely to extend policy discretion to bureaucrats as their expertise decreases in relation to the expertise of the bureaucracy. When the gap in expertise is small, legislators may themselves be able to prescribe specific policy through statutory language. When the gap in expertise is wider, policymakers are more likely to grant discretion to bureaucrats, as the information and resource investment needed to produce ideal

---

executive professionalism separately (e.g., Squire (1992; 2007; 2012), Mooney (1994), and Bowen and Greene (2014) for legislative professionalism, and Beyle and Ferguson (2008) and Krupnikov and Shipan (2012) for gubernatorial powers). Below, we seek to directly compare each branch's professionalism with a relative measure.

<sup>5</sup>We take care to control for the possibility that state bureaucracies mechanically respond only to the amount of legislation passed in a state legislature. We find that controlling for such legislative productivity does not weaken our results regarding gaps in expertise, bolstering our confidence that these results are driven by increased bureaucratic influence.



policy exceeds the potential cost of bureaucratic subversion (Huber and Shipan 2002).

Considerable research has therefore focused on the relative importance of bureaucratic policy expertise in federal policymaking (Carpenter 2000; Gailmard and Patty 2007). For example, scholars have argued that the efficiency gained in policy delegation is largely dependent on the independence and expertise of the administrative workforce. When bureaucracies lack the expertise to effectively engage in policymaking, legislatures have a declining incentive to delegate policymaking discretion to them (Huber and McCarty 2004). Empirically, scholars have found that Congress delegates more discretion to agencies with more managerial capacity (MacDonald and Franko 2007). In addition, investment in merit-based civil service systems is essential, as such reforms create tangible incentives for bureaucrats to acquire policy-relevant expertise, increasing the value of policy delegation for the legislature (Gailmard and Patty 2007).<sup>6</sup>

While this research is well established, there are some limitations in extending it to state policymaking (Krause and Woods 2014). The key limitation of focusing on federal-based models is that these theories have been developed to understand a very specific configuration of legislative-executive balance that emerges when a highly professionalized legislature (Congress) makes strategic decisions to delegate policy discretion to a highly professionalized bureaucracy embedded in a highly professionalized executive office. Of course, by focusing narrowly on the politics of delegation across highly professionalized institutions, the federal-based approach overlooks ways that structural imbalances across branches may alter the incentives for delegated lawmaking.

Studies of policy delegation in the American states find that the benefits of delegation are conditioned by the professionalism and capacity of state legislatures. When there is relative parity between the legislative and executive branches, the legislature can engage in strategic delegation, manipulating the discretion given to agencies in order to maximize the gains of efficient policymaking while concurrently

---

<sup>6</sup>The delegation literature additionally emphasizes the role of interbranch agreement/conflict in conditioning delegation decisions (Bawn 1995; Epstein and O'Halloran 1994; Huber and Shipan 2002). In particular, this literature argues that policy agreement facilitates delegation, even lacking large interbranch gaps in policy expertise, and that policy conflict decreases the benefits of delegation. Thus, we control for the presence/absence of divided government below, but our primary focus is on persistent effects driven by differences in policy expertise.

minimizing the risks of goal incongruence (Huber and Shipan 2002). When there exists an imbalance between the expertise of a citizen legislature and a professionalized executive, however, the incentives for delegated policymaking increase considerably, as the legislature possesses neither the expertise nor the resources needed to effectively restrict executive influence. Under such conditions legislatures may rationally delegate extensive policy decisions to bureaucracy, as the constraints on time, resources and expertise make it challenging for low capacity legislatures to exercise the tools of administrative control (Krause and Woods 2014).

To illustrate these dynamics, consider the very different configurations of the California and Texas state governments. While both states possess large and sophisticated public bureaucracies, there are significant differences in the professionalism and capabilities of the state assemblies. California's assembly is a highly professionalized, full-time legislature that closely approximates the U.S. Congress in its resources, time in session, and the compensation of its officials (Squire 1992). As a professionalized legislature, the California state assembly possesses the legislative expertise, time, and resources to strategically grant (or withhold) statutory discretion to state administrative agencies, as well as to monitor whether agency rulemaking complies with legislative intent (Huber, Shipan and Pfahler 2001). Texas has a citizen legislature that meets in biennial sessions limited to 140 calendar days, and provides a modest annual compensation of \$7,500 to state representatives. Theories of policy delegation indicate that such an imbalance of professionalism (relative to the state's executive branch) would create strong incentives for the Texas state legislature to delegate considerable policymaking authority to the bureaucracy, as the Lone Star State's legislature faces greater constraints in the time, resources, and energy the chamber can invest in policy development.

The autonomy mechanism complements the rational delegation mechanism just described. Bureaucrats are motivated to develop expertise in order to advance personal and career ambitions (Teodoro 2009), and directly influence public policy (Gailmard and Patty 2007). Carpenter (2001), among others, argues that such investments in bureaucratic expertise are necessary for autonomous agency policymaking. Bureaucratic expertise (and its relation to legislative expertise) varies both across states and over time and we expect bureaucratic autonomy to increase with relative expertise. Policy problems do not disappear when states engage in legislative deprofessionalization. Instead, the limits imposed on citizen legislatures create opportunities for career-minded and policy-oriented

bureaucrats to autonomously expand their influence on public policy. Importantly, this mechanism does not conflict with delegation. In fact, in considering the many situations where citizen legislatures are supported by highly professionalized executive agencies, we expect both mechanisms to drive agency policy influence simultaneously. A state governed by both a citizen legislature and a less professionalized bureaucracy (such as Montana) may both legislate and regulate less. Conversely, a state with an autonomous, professionalized bureaucracy may depend on administrative agencies to manage the daily demands of lawmaking through regulatory action, as the workforce has developed a reputation for competence in policymaking.

In sum, although all state assemblies may prefer the efficiency that comes from policy delegation, citizen legislatures have especially strong incentives to enact vague legislation, establishing the general goals and tenor of policy while relying on expert bureaucrats to fill in details through rulemaking. Second, the shifting balance of power in state capitals creates different levels of bureaucratic autonomy in the policy process. When legislative expertise is low, administrative agencies enjoy greater independence, allowing bureaucrats to shape policy through rulemaking with relatively limited interference from the legislature. By both of these mechanisms, as the inter-institutional gap in policy expertise increases, administrative agencies should assume greater responsibility and influence in the policy process.<sup>7</sup>

## **Institutional Balance in the States: Measuring Expertise with Compensation**

Students of legislative-executive relations in the American states have typically focused on the impact of stark institutional changes—such as the introduction of term limits—on lawmaking and gubernatorial power. Although severe institutional reforms can affect state balances of power, this scholarship does not account for more gradual pressures that affect the character of state governments. We argue that state legislative power is more regularly eroded by the difficult politics of maintaining

---

<sup>7</sup>Importantly, we cannot disentangle these mechanisms in our empirical analyses below, as long-term changes in interbranch balance cannot explain short-term fluctuations in rulemaking. However, in related research (Boushey and McGrath 2015), we focus more directly on the determinants of short-term fluctuations (as driven by partisan change in governmental composition) and primarily find evidence for the bureaucratic autonomy mechanism.

political professionalism through investments in compensation. Although state governments have consistently raised the compensation and resources of administrative agencies in order to recruit and retain talent, maintaining similar investments to support legislative professionalism has proved more controversial. In 2010, for example, Michigan Governor Rick Snyder lured John Nixon from Utah state government to become his Budget Director for a salary of \$250,000 per year. Four years later, Nixon resigned and returned home to Utah for an even healthier compensation package. Such fluid and competitive labor markets do not exist with respect to state legislators, who are constitutionally required to have already established residency in their state districts prior to running for office.

Additionally, fear of political reprisal has made state policymakers reluctant to vote for (or accept) salary increases, and has compelled governors in many states to veto legislation that would adjust legislative compensation. Voters have shown little enthusiasm for increasing compensation of their state representatives.<sup>8</sup> The complicated politics surrounding legislative compensation are illustrated by a 2008 controversy in Louisiana, where public outrage after the state legislature voted to increase their annual salary (from \$16,800 to \$37,500) for the first time since 1980 led Governor Bobby Jindal to veto the law. Conveniently for the Jindal administration, this debate ignored the issue of executive compensation in the Pelican State. At the time of Jindal's veto, the mean compensation of ranking administrative officials in Louisiana had risen to approximately \$150,000 a year, second only to executive salaries in California.

Imbalances in compensation such as in Louisiana are the norm for state governments. Although state executive officers have enjoyed a measurable increase in compensation, state legislative compensation has largely stagnated since 1975. Indeed, a report issued by the Council of State Governments indicates that—accounting for inflation—state legislative compensation actually declined by 7%

---

<sup>8</sup>A number of states have recently circulated constitutional amendments to further deprofessionalize their state legislatures, although these have proved largely unsuccessful. Besides the 2014 Michigan and Illinois examples mentioned above, in 2010 and 2012, California activists circulated an initiative targeting similar reforms in the Golden State. The 2010 California initiative garnered the endorsement of then Florida Governor Jeb Bush, who had the following to say about the impact of legislative deprofessionalization on legislative-executive balance: “I can’t imagine being governor of Florida with a full-time legislature. It would have driven me nuts personally. But more importantly, you know, if you have a full-time legislature, the void is filled—and it’s filled with, a lot of times, just nonsensical stuff.”

from 1975 through 2005 (Chi 2007). Figure 1 illustrates the growing imbalance in compensation between state legislatures and executive agencies from 1990 through 2010. Virtually every state has experienced a widening of the gap in compensation between state executives and legislatures.

**Figure 1 goes here.**

In contrast, the federal government has been attentive to maintaining parity in the compensation of ranking public officials. The federal Ethics Reform Act of 1989 establishes nearly exact balance in the compensation of senior officers in federal agencies, Congress, and the Judiciary. In 2010, the rank and file members of the Senate and the House of Representatives were paid an annual salary of \$174,000, a sum identical to the compensation of U.S. District Court Judges and nearly identical to the baseline compensation of \$179,900 for deputy secretaries in executive agencies. Likewise, White House cabinet officials share compensation levels with party leaders in Congress (Schwemle 2011).

While Figure 1 reveals that state and federal governments typically make very different investments in legislative and executive compensation, there is broad consensus that maintaining competitive salaries is essential for securing a *professionalized* and *expert* public workforce. For example, a 2015 OMB survey of salary trends in the public and private sectors determined that maintaining salary parity with the non-federal labor market was critical to “closing the skills gap” while “building a world class federal management team” staffed by “the best talent from all segments of society” (OMB 2015, 81-82).

This same sentiment is echoed in the charters of state political compensation commissions, which are charged in 19 states with making recommendations for adjusting salaries and benefits of elected and appointed officials in order to attract and retain a professionalized public workforce. These commissions routinely survey the salaries of comparable workers in the private and public workforce in order to gauge the market for specific skills, and to ensure that their state is able to attract talented and expert public officials.<sup>9</sup> For example, the 2014 Massachusetts Special Advisory Commission on Public

---

<sup>9</sup>The powers and duties of these state compensation commissions vary considerably from state to state. California’s Citizen Compensation Commission considers the salaries of top appointed executive officials alongside elected officers. In other states the compensation commissions focus narrowly on only elected officers. For the states without compensation commissions, salary increases are either determined by the legislature and the governor, or are indexed to estimated cost of living increases.

Officials' Compensation was "guided by a thorough review of data comparing Massachusetts with other states, a strong desire to ensure that the state attracts and retains highly talented individuals regardless of means or geography and the principle that officials should be fairly compensated based on the significant responsibilities of the offices they hold." (Swasey 2014). Utah's Elected Official and Judicial compensation commission recently struggled to calculate the value of service and salary into a single measure of compensation, noting that "a certain amount of prestige and honor is associated with the holding of an elected office or an appointment to judiciary" but that nonetheless "it is imperative that the salaries for these important positions reflect the duties and responsibilities associated with them" (Report of the Utah Elected Official and Judicial Compensation Commission 2014).

Following the lead of the state governments themselves, we employ compensation as a proxy measure for policy *expertise*, a central concept in the policy delegation and separation of powers literatures. Although there are many dimensions to the evolution of state power and expertise over time (e.g., changing formal policymaking powers, full- versus part-time status, staff support, and the structure of the policymaking process itself), perhaps the most enduring and consequential dimension of governmental professionalism has been compensation. We argue that compensation begets expertise, and that poorly compensated public positions are, on the whole, less likely to attract quality candidates.<sup>10</sup> This argument has persisted throughout U.S. history, with reformers arguing from the 19th century on that poor pay forces lawmakers to turn elsewhere for income, limiting the time and energy they can invest in lawmaking (Squire 2012).<sup>11</sup> To be clear, compensation generates

---

<sup>10</sup>There are, of course, exceptions to this, with some highly civic-minded, yet talented, individuals willing to take significant pay cuts to serve the public, as well as there are independently wealthy policy entrepreneurs for whom official salary is inconsequential.

<sup>11</sup>These concerns remain present in debates over legislative and executive compensation today. For example, arguing in support of a 2014 proposal to increase the annual compensation of Maryland legislators from \$43,500 to \$50,330, Delegate Galen Clagett pointed out that an increase in compensation would attract more qualified candidates to office, noting that "You pay peanuts, you get monkeys." In 2015 New York Governor Andrew Cuomo recommended establishing a commission to address the lagging salaries of both the legislative and executive workforce, noting that increased compensation would "reward those who treat their legislative gig as a full-time job" and allow him to overcome challenges in staffing key administrative positions with talented individuals because of non-competitive pay (Campbell and Spector 2015).

expertise through incentives (as stipulated in, e.g., Gailmard and Patty (2007) and Teodoro (2009)) and thus measures perceptions, rather than objective qualifications or actual factual policy knowledge.

This approach is also consistent with attempts in the state politics literature to measure the “professionalism” of institutions (e.g., Squire 1992, Squire 2007, King 2000). In fact, while the most widely cited measures of state legislative professionalism are calculated by assessing the compensation, session length, and staff support afforded to lawmakers in the assembly, recent studies have found that relying on a simple measure of annual compensation provides a reliable estimate of professionalism that is consistent with the more complicated index measures (Mooney 1994).

Recent research additionally stresses the importance of disaggregating professionalism indices when a single dimension is more appropriate for testing a particular theory (Bowen and Greene 2014). In our case, compensation is the relevant dimension. As is evident in the thinking of official state compensation commissions, compensation is a proxy for the policy expertise of the individuals inhabiting governmental institutions. Other dimensions of professionalism may more accurately capture effort or material resources,<sup>12</sup> but we argue that compensation most directly captures the expertise needed to address state problems with the production of policies. Crucially, this approach extends beyond legislatures, as scholars of bureaucracy have demonstrated that bureaucrats acquire expertise to maximize compensation and policy influence (Gailmard and Patty 2007), and improve chances for promotion within and across state governments (Teodoro 2009). Thus, compensation is uniquely comparable across state legislatures and executive branches, as well as it is comparable over time. While other resources might be partially relevant for examining policy production (such as staff resources, time in session, and organizational structure<sup>13</sup>), compensation is the only one capable of capturing the *relative* balance across branches.

---

<sup>12</sup>Such as legislative session length, for example. Kousser and Phillips (2012) argue that this dimension is most relevant for a legislature’s ability to patiently bargain over budgets with governors, who are all full-time employees with full-time staffs.

<sup>13</sup>It is of course possible that these other elements of legislative professionalism are consequential to agency policymaking, so we account for these in our empirical analyses as well.

## Data, Variables, and Methods

To explore how interbranch gaps in policy expertise shape agency policymaking, we focus on variation in the rulemaking activities of state agencies. Our focus on state rulemaking volume is novel in the literature. Other research focuses on delegated discretion (e.g., Huber and Shipan 2002; McGrath 2013a), or oversight (e.g., Woods and Baranowski 2006), but these are indirect measures of bureaucratic policymaking. By focusing on the actual policymaking behavior of state agencies, we can more directly capture their influence.<sup>14</sup>

Although the process can sometimes stray from the generic sequence we describe, rulemaking follows a similar timeline across states and policy areas. If an agency wants to cement an implementation protocol, establish binding regulations, or change substantive policy prospectively, it must usually do this through the formal rulemaking process. The first step is generally for an agency to give notice of their intent to make a rule on a certain issue. All states have Administrative Procedure Acts that serve to structure the rulemaking process and require agencies to formally publicize proposed rules (Bonfield 1986; Jensen and McGrath 2011). States vary in where agencies are required to publicize, with some states maintaining a register or bulletin similar to the *U.S. Federal Register* and others requiring agencies to publish proposed rules in prominent state newspapers.<sup>15</sup> Ultimately, these publication requirements are meant to solicit public participation, which agencies consider when amending, pursuing, or retracting their proposed rules.

For a rule to be officially adopted and eligible to take effect, agencies publish a “final rule” after the notice and comment period. Finalized rules carry the force of law (Kerwin and Furlong 2011). We focus on both the volumes of rules proposed and adopted by state agencies. Proposed rules represent

---

<sup>14</sup>Our theoretical focus also differs from these studies. We make claims above regarding the combined outcomes of delegation and independent agency action. Examining the content of state laws (as in, say, Huber and Shipan (2002), would get at the delegation mechanism, but would fail to measure autonomous agency action. Thus, observed rulemaking actions is a direct measure of what we intend to study in this research and is not merely a proxy for legislative delegation.

<sup>15</sup>In addition to the requirements established in APAs, some states require their agencies to publish entire calendars and anticipated future rulemaking activity, akin to the national-level *Unified Agenda of Federal Regulatory and Deregulatory Actions*.



agencies' ideal policy preferences at the outset of negotiated rulemaking. Adopted rules represent the final actions agencies take in order to implement laws and regulations. Including proposed and adopted regulations issued by state administrative agencies allows us to assess the impact of legislative-executive balance on bureaucratic participation in both the development and adoption of public policy.

## Outcome Variables – Measures of State Rulemaking Volume

In order to measure the volume of rules made by state agencies over time, we collected data from Lexis Nexis State Capital's *Regulatory Tracking Report*. Employing empty keyword searches by state and year allows us to identify a universe of available proposed and adopted regulations issued in the period from 1990 through 2010.<sup>16</sup> From these searches, we were able to collect summary information about each entry in the database, including metadata on the agency that issued the regulation, a synopsis of the rule, the proposed, adopted, and effective dates (where applicable), as well as information regarding the section(s) of the state regulatory code affected by the rule.<sup>17</sup>

We counted the number of proposed and adopted rules by state and year, creating a panel dataset of rulemaking volume in the U.S. states. The panel is unbalanced, as Lexis Nexis simply does not have data through 1990 for some states, and for others, the information from the first few years of data is

---

<sup>16</sup>When a simple state-year search returned more than 1,000 total rules (the maximum number of documents that Lexis Nexis will return), we narrowed the search to specific months within a year and appended the data to create aggregate state-year measures. In addition, we found information regarding rulemaking in Texas to be too voluminous to collect using our empty keyword strategy and have thus excluded Texas from our sample.

<sup>17</sup>See Tables A1-A3 for descriptive information about the rules data, including the policy topics covered and the duration of the rulemaking process across the states. Notably, these data indicate that state administrative agencies are more efficient in notice and comment rulemaking than the federal government. Across states the mean time from rule proposal to rule adoption is 113 days (SD: 100.23, Min: 0, Max: 2,755). While in no state is the average time from rule proposal to rule adoption longer than a year, cross sectional comparisons reveal considerable variation in the time to rule adoption by state governments. Nevertheless, since many rules are proposed in one year and adopted in another, we always treat proposed and adopted rules separately to take into account this timing aspect.

obviously incomplete.<sup>18</sup> All told, our procedure identified 291,201 proposed and 292,568 adopted rules across the states in the years 1990-2010.<sup>19</sup> As Figure 2 makes clear, there is considerable variation in the volume of rulemaking activity, both across states and over time.

**Figure 2 goes here.**

## Explanatory Variables

We use *Difference in Salary* to measure the gap between executive compensation in a state-year and its concomitant legislative compensation. As we have explained, this is ultimately a proxy for gaps in policy expertise across state branches. We take comfort from the fact that state salary commissions use the same data that we do when estimating how different levels of compensation translate into desired levels of policy expertise for the public workforce.<sup>20</sup> We calculated executive compensation from tables in annual volumes of the the *Book of the States*.<sup>21</sup> For each state, these contain the salaries of officials such as the governor, lieutenant governor, secretary of state, attorney general, treasurer, etc., but also of less visible executives, such as the top administrators of state departments of health, fish and wildlife, public libraries, and parks and recreation. We identified 55 common agency heads across the states and averaged across all salaries for a summary measure.<sup>22</sup> Although

---

<sup>18</sup>The process of determining that a particular state-year has incomplete data is largely subjective. To check the robustness of our decisions, we include Appendix B, which presents results from models where we do not make any subjective decisions and include all data that we were able to collect from Lexis Nexis.

<sup>19</sup>These figures diverge in that some rules are proposed but never adopted and others are adopted (so-called “emergency” rules) without previously being proposed.

<sup>20</sup>See, e.g., the 2014 final report of the Massachusetts Special Advisory Commission Regarding the Compensation of Public Officials, where the commission directly compares, using the same data we use, cost of living adjusted salaries of constitutional officials of neighboring states to its own, assuming, as we argue above, that higher salaries attract more qualified individuals: <http://bit.ly/1zfcGkE>

<sup>21</sup>Titled “Selected State Administrative Officials: Annual Salaries,” which is based on results of a yearly survey conducted by The Council of State Governments: <http://csg.org>. This is the same data source used by Huber and Shipan (2002) in calculating the professionalism of state health agencies.

<sup>22</sup>We limit our attention to agency heads and the governor and cabinet, as they are responsible, directly or indirectly, for the policymaking activities of their agencies (just as legislators are for the policymaking arm

this data source has some drawbacks, it is ultimately the best available source for compensation levels of policy-relevant state executives.<sup>23</sup> As with the legislative salary data below, we adjust for inflation by using the Consumer Price Index and scaling salaries to year 2000 dollars. The mean executive salary in the data is \$86,919 (SD: \$13,757; Range: \$54,672 - \$131,627).

State legislative salaries are far lower in comparison. To calculate these salaries, we again turn to the *Book of the States*, which gives yearly base levels of personal compensation for state legislators. In some cases, there are differential salaries for legislative leaders and, in these cases, we use the non-leader salary. To avoid artificially inflating the gap between executive and legislative salaries, we also tack on per diem compensation (calculated by the per diem rate multiplied by the number of days the legislature was in session in a given year—also available from the *Book of the States*) to legislators' salaries.<sup>24</sup> The mean legislative salary in our data is \$29,311 (SD: \$21,475; Range: \$78.98 - \$124,926) and the mean *Difference in Salary* is \$57,607 (SD: \$17,6002; Range: \$-13,018 -

---

of the legislative branch). For many of the less prominent positions, the *Book of the States* does not report an annual salary every year. In these cases, we carried forward the value of the previously recorded salary and averaged across the reported salaries and these values to create the summary executive salary measure. We have included elected officials (such as the governor, secretary of state, attorney general, etc.) in our measures, but have alternatively calculated mean executive salaries for non-elected officials only to verify that our analyses are robust to this coding decision (see Table C5). Although those who compete for and obtain elected office do so for reasons other than compensation, the salaries for elected officials are almost universally indexed to the salaries for non-elected top administrators in the states in order to maintain a salary hierarchy.

<sup>23</sup>We alternatively examined the Quarterly Census of Employment and Wages (<http://www.bls.gov/cew/>) to identify compensation levels for rank and file non-legislative state employees. Unfortunately, industry codes in these data do not allow us to identify policymaking positions and to separate them from non policy-relevant positions, such as school teachers, clerks, parks maintenance workers, etc. Whereas the *Book of the States* data may exclude positions that are policy-relevant, such as agency policy staffers, program analysts, and researchers, the QCEW categorizations are overly broad and dilute the compensation figures for individuals who play a role in developing, as opposed to solely implementing, state policy.

<sup>24</sup>In some cases, this significantly increases our measure of legislative compensation. This is a conservative approach and serves to bias our estimates on *Difference in Salary* (calculated as the difference between average executive salary and legislative salary) downward. When we alternatively exclude per diems and use the base salaries only, our results more strongly confirm our theoretical expectations.

\$96,862.<sup>25</sup> Although salaries measure perceptions of expertise, they also measure other aspects of a state, such as costs of living, varying labor markets, and varying degrees of market distortion. Yet, we expect the non-expertise components of executive and legislative salaries to be controlled for by state fixed effects, thus ameliorating concerns regarding measurement error. Figure 1 displays the 50 state average of executive and legislative salaries for each year from 1990 to 2010. Figure 3 highlights the cross-sectional variation that exists in these data (Figure A1 shows over time variation within each state), with California notably the least executive-dominated state, and Nevada with the highest median *Difference in Salary*.

**Figure 3 goes here.**

We include a number of controls to account for other political and demographic factors that may influence state rulemaking. First, we additionally account for variation in dimensions of legislative professionalism apart from compensation. As these cannot be directly compared to executive levels, they are not relative measures, but instead, absolute indicators of *Legislative Session Length* (in days) and *Legislative Expenditures (per Legislator)* (in thousands of 2010 dollars).<sup>26</sup> *Divided Government* accounts for the impact of goal incongruence between the executive and the legislature. We control for a state having a *Democratic Governor* to account for systematic effects of party control of state executives, as well as an indicator variable for the *First Year of a New Governor*, as agency bureaucrats might be more cautious adopting controversial regulations during an administrative transition. To account for differences between states with annual and biennial sessions, we include a variable indicating whether the state legislature was *Out of Session* in a state-year. Finally, we

---

<sup>25</sup>As a general rule, executive salaries are higher than legislative, so these differences are almost always positive. Legislative salaries are larger than executive only in California, in 1999, 2001, 2005, 2006, and Pennsylvania, in 1990, and 1991.

<sup>26</sup>Biennial data is available at <http://dx.doi.org/10.7910/DVN/27595> (Bowen and Greene 2014). We carried forward previous values to the second year of each biennium to create yearly data. There is modest correlation between our *Difference in Salary* measure and *Legislative Session Length* (correlation coefficient of -.52) and *Legislative Expenditures (per Legislator)* (correlation coefficient of -.49). *Legislative Session Length* and *Legislative Expenditures (per Legislator)* are positively correlated at .49.

control for the *Number of Bills Enacted* by a state legislature in a given state-year.<sup>27</sup> Potter and Shipan (2013) hypothesize that legislative activism, reflected in increased lawmaking volume, may signal an ability of the legislature to oversee and overturn bureaucratic policymaking, making agencies less likely to propose or finalize rules and regulations. Alternatively, legislative activity that delegates broad authority to bureaucrats may spur rulemaking activity. We are therefore agnostic as to the potential effects of changes in lawmaking activity on rulemaking, but nevertheless control for the volume of legislation in our models.

We add several controls from the U.S. Census of States Governments to account for the changing sizes and resources of states.<sup>28</sup> With *State Workforce (Log)*, we can assess how changes in the size of the administrative state affect the size and scope of bureaucratic policymaking. Likewise, *State Population (Log)* and *State Per Capita Income* control for changing state characteristics and serve as a proxy for state demand for regulations.<sup>29</sup>

## Empirical Strategy and Results

The data are organized as a panel of proposed and adopted rules in the states from 1990- 2010.<sup>30</sup> The major empirical issues to accommodate with such a data structure include the possibility of serial autocorrelation over time, correlated errors across and within states due to unobserved sources of heterogeneity, and potential omitted variable bias. To deal with the first issue, we include year fixed effects in each of the models we estimate. To deal with the second issue, we alternatively include state fixed effects (FE), lagged dependent variables (LDV) as regressors, and both strategies at once (FE + LDV), clustering standard errors by state.<sup>31</sup> In each case, the estimates should be interpreted

---

<sup>27</sup>We have also specified lagged versions of this variable and moving averages over 2, 3, and 5 years to capture recent, but not concurrent, lawmaking activity. Our results are robust to these alternative specifications.

<sup>28</sup>Available at <https://www.census.gov/govs/>

<sup>29</sup>Although all of these controls are in part motivated by previous literature, we also estimate a parsimonious model and presents its results in Appendix C, Table C8.

<sup>30</sup>These are count variables, so we alternatively used MLE count models (negative binomial and poisson), but present OLS results here, noting that the alternative specifications yield nearly identical results.

<sup>31</sup>Clustering by state universally increases the standard errors in our models and thus makes it more difficult to reject null hypotheses. Although there is some concern that the inclusion of LDV with unit fixed effects

as within-state estimates for each covariate. That is, state FE models (and to a lesser extent, LDV models) eliminate sources of (observed and unobserved) state-level heterogeneity in determining the influence of within-state variation in the included covariates. Therefore, we do not directly assess the role that between-state differences in interbranch relations have on rulemaking volume. Instead, all of our empirical tests and claims concern the effects of an over-time change in each independent variable on rulemaking in a particular state.

Table 1 presents results for our preferred models of proposed and adopted rulemaking in the states. To preview, these results consistently confirm our argument regarding the importance of the relative gap in expertise, as measured by the *Difference in Salary* variable, between state executive and legislative branches.<sup>32</sup> They demonstrate that, even controlling for myriad other factors, the expertise gap drives state rulemaking activity in statistically significant and substantively interesting ways. Furthermore, we demonstrate that it is precisely the difference between the two salaries that matters and not the independent effects of executive or legislative compensation on their own.

**Table 1 goes here.**

Table 1, column 1, displays estimates from a model of state *proposed* rulemaking. Looking first to our *Difference in Salary* variable, we see that it is statistically distinguishable from zero ( $p < 0.05$ ,  


---

produces biased estimates, research suggests this problem is less severe in longer panels (Beck and Katz 2004). We present the full FE + LDV results in the main text below, but provide alternative specifications in Appendix C.

<sup>32</sup>For the main analyses, we measure *Difference in Salary* contemporaneously to proposed and adopted rulemaking. Although one might suspect that changes in salary take some amount of time to manifest as changes in institutional expertise, which suggests measuring some lagged value of *Difference in Salary*, this is not necessarily the case. For one, changes in legislative and executive salary are known in advance of actual enactment, so to the extent that high salaries attract high expertise individuals (and vice versa), there should be no lag in the effect of salary on expertise. Furthermore, rulemaking in the states often takes place much more swiftly than in the federal government (perhaps suggesting that our general argument about the effects of institutional imbalance on bureaucratic policymaking might also be used to explain the *speed* of rulemaking), with the mean numbers of days from rule proposal to adoption in our data just under 113 days (see Table A3). Considering all of this, and without a theoretical justification for a particular lag structure, we present results for contemporaneous values below, but include lagged specifications in Appendix C.

two-tailed) and quite large in magnitude. The coefficient suggests that an increase in the gap between executive and legislative salaries of \$1,000 leads to an increase of more than one proposed rule a year. Furthermore, there is much within-state variation in *Difference in Salary*, giving this effect some real impact. For example, the state with the most variation in this variable, Louisiana, ranges from a salary gap of \$45,819 to \$96,862, which would lead to an increase of almost 60 proposed rules, holding other factors constant. This is one-and-a-half times larger than the standard deviation in proposed rules for Louisiana in the sample. In the state with the least variation, Missouri, an increase from the lowest gap (\$43,617) to the highest (\$54,981) would lead to nearly 13 new proposed rules in a year. Looking beyond the *Difference in Salary* variable, no other variables are distinguishable from zero, save for the lagged dependent variable. Most interestingly, neither of the absolute measures of legislative professionalism (*Legislative Session Length* or *Legislative Expenditures (per Legislator)*) has a systematic effect on proposed rulemaking. In some ways this is not surprising, as we have argued that salary is the relevant dimension of legislative professionalism for measuring expertise. Yet, as *Legislative Session Length* and *Legislative Expenditures (per Legislator)* measure material resources that could be used for oversight, they could be expected to affect rulemaking *content* even though we do not find them to affect rulemaking volume.

Table 1, column 2, presents results from an analogous model of the determinants of *adopted* rules. Here, the coefficient on *Difference in Salary* is slightly smaller than it was in column 1, but is measured with slightly more precision. The substantive implications, though, are the same: increases in the gap between executive salary and legislative salary lead to increases in rulemaking and thus bureaucratic participation in policymaking. On the other hand, decreases in this gap, or, as is the case for a number of years in California and Pennsylvania, negative gaps (legislative salary higher than executive salary), lead to less rulemaking. In addition, these effects are *per year*, so these are minimal long-term effects if a state does not experience a subsequent decrease in *Difference in Salary*. Of the control variables, it seems that transitions in the governor’s mansion often coincide with decreases in agency rulemaking, indicating that agencies might bide their time to learn the managerial proclivities of the new state executive.

**Table 2 goes here.**

One potential concern is that our results are driven entirely by the individual levels of executive

and legislative expertise (as reflected in salaries), rather than the relative difference between the two. To address this, we estimate models where first include only *Executive Salary*, then *Legislative Salary* (each adjusted for inflation to year 2000 dollars), then both, for each of the two dependent variables. Table 2 displays these results. After showing results with each salary measure entered one at a time into the regression, column 3 demonstrates that when both measures of compensation are included simultaneously, they each significantly affect proposed rulemaking. As we would have expected, *Legislative Salary* negatively affects rulemaking and *Executive Salary* positively affects it. As a legislature’s capacity for expertise increases, it seems less willing to delegate policymaking authority to the bureaucracy. Likewise, as an executive’s expertise increases, it seems more willing to shoulder the policymaking burden through increased rulemaking. Columns 4-6 replicate these results for the adopted rules dependent variable. We thus see evidence of both components of the *Difference in Salary* measure exerting countervailing pressures on state rulemaking, lending credence to our decision to measure the relative balance in Table 1.<sup>33</sup>

A second alternative explanation for our findings is that changes in *Difference in Salary* might occur simultaneous to other shocks that affect legislative-executive relations and rulemaking in the states. One feasible such shock is the enactment and imposition of legislative term limits in many states during the period of our data.<sup>34</sup> Term limits may affect bureaucratic participation in the policy process in two key ways. Most critically, term limits are associated with diminished oversight of bureaucracy, leaving agencies with greater independence in policymaking (Carey, Niemi, and Powell 2000; Farmer, Mooney, Powell, and Green 2007; Kousser 2005; Kurtz, Cain, and Niemi 2009; Sarbaugh-Thompson et al. 2010). Second, term limits create amateur legislatures that may produce more ambiguous and sweeping legislation than they had in the past, leading to more agency discretion (Kousser 2005).

---

<sup>33</sup>We also estimated models where we step-wise included *Difference in Salary* with each component salary measure. These models confirm that it is precisely the *gap* in salaries (and, therefore, expertise) that matters for rulemaking volume (i.e., none of the component measures significantly determined rulemaking in these models, but the *Difference in Salary* does).

<sup>34</sup>For some of the broader reviews of the term limits literature, see, e.g., Carey, Niemi, and Powell 1998, Carey, Niemi, Powell, and Moncrief 2006; Cain and Levin 1999, Moncrief and Thompson 2001; Sarbaugh-Thompson, et al. 2004; Kousser 2005; Mooney 2009; Miller, Nicholson-Crotty, and Nicholson-Crotty 2011.



**Table 3 goes here.**

We seek to assess term limits’ empirical impact on interbranch relations by examining whether the reform has increased rulemaking volume in the states where they took effect. We are specifically interested to see if term limits have a mitigating effect on the impacts we have estimated for *Difference in Salary*. In Table 3, we present the models from Table 1, while adding variables for *Term Limits Enacted* and *Term Limits Impact* to indicate the years that states enacted term limits as well as all of the years these term limits had actual impact in either chamber of state legislatures. The results of these term limits models provide little support for this rival hypothesis. Indeed, the coefficients and levels of statistical significance for *Difference in Salary* across models remain the same as before or grow in magnitude. This provides suggestive evidence that term limits, as a shock to legislative-executive relations, did not increase rulemaking above and beyond the gradual increase caused in many states by widening gaps between executive and legislative compensation.

In fact, our null findings regarding term limits are not especially surprising, given the difficulties inherent in assessing causal impacts of institutional reforms with regression-based methods (Abadie and Gardeazabal 2003; Abadie, Diamond, and Hainmueller 2010; Malhotra 2008; Keele, Malhotra, and McCubbins 2013). Two particular problems exist. First, the pressures that led states to adopt term limits (e.g., direct democracy, fiscal conservatism, population growth) may also be associated with administrative rulemaking (Keele, Malhotra, and McCubbins 2013). Second, it is likely that “term limits” is too blunt a measure for the unique political contexts and variation in term limit severity (number of terms allowed, availability of reelection after a hiatus, etc.) that exist in the states. Simply put, term limit laws are not uniform and we should not expect them to have uniform “treatment effects” on state politics. Such treatment heterogeneity implies analyzing each term limits experience as a unique case study. It may be true that the shock of term limits, and *not* a gradual erosion of relative legislative capacity for expertise, led to changes in bureaucratic policymaking in *some* states.

To examine this possibility, we follow Keele, Malhotra, and McCubbins (2013) in using synthetic case control methods to assess the impact of term limits on agency rulemaking (Abadie and Gardeazabal 2003; Abadie, Diamond, and Hainmueller 2010; Abadie, Diamond, and Hainmueller 2011). Specifically, we use synthetic matching to compare trends in rulemaking in term limits states with estimated

trends in rulemaking in “synthetic” states created by matching on a weighted combination of relevant characteristics of non-term limits states. We are especially interested to see if the “treatment,” that is, the enactment or imposition of term limits, has a discernible effect on the extent to which the trends (of the real state and its synthetic counterpart) track each other post-treatment.

We present more details in Appendix D, but our conclusions largely mirror the null results from above, with a few notable exceptions. Term limit adoption is never significantly related to increased proposed or adopted rulemaking. On the other hand, the year in which term limits went into effect in both Arizona and Ohio has a statistically significant coincidence with increased *proposed* rulemaking, but had no effect on adopted rulemaking in any states (again, see Appendix D). In the end, although there is some muted evidence that term limits have affected agency rulemaking, we find no evidence that these effects could be driving our aggregate results regarding the *Difference in Salary* variable. In fact, that term limits have led to increased rulemaking in these few states bolsters our general theoretical claim. For example, in Berman’s (2004) case study of the Arizona experience with term limits, the author notes that interviewees “saw term limits giving agency heads an advantage in dealing with legislators on budgeting matters and, by default, greater responsibility for coping with long term and complex problems.” One respondent directly stated, “executive agencies were more likely to take the lead in focusing on long term and complex problems.” As these “long term and complex” problems likely involve government regulation, we see these sentiments as being entirely consistent with the increase in rulemaking activity in the Arizona bureaucracy post-term limits.

In sum, our results consistently support the contention that within-state gaps in the capacity for expertise between the policymaking branches drives agency rulemaking activity. These results are robust both to alternative empirical specifications and to assessing alternative explanations.<sup>35</sup> This support is not dispositive, however. Although our research design allows us to control for time invariant state-specific factors affecting rulemaking, it is possible that something else, like the changing

---

<sup>35</sup>We include a number of robustness checks in Appendix C. In addition to those already mentioned, we logged the dependent variable for Table C4 to “unskew” its distribution, we control for the possibility that rulemaking diffuses across geographical boundaries in Table C6, and we limit the sample of rules to those that affect multiple sections of a state’s administrative code to validate that our theory explains policy consequential rules rather than strictly administrative (and non-salient) issues (Table C7).

nature of federal-state relations is the primary driver of state rulemaking over time. In particular, it is clear that in some policy areas, like education and health, the federal government has become more active in mandating state rulemaking over the course of our period of study (although see Table A2 for evidence of the stability of state rulemaking agendas). While there is no doubt that such a trend would affect state rulemaking, it is unlikely that this negates the influence of interbranch balance, although perhaps federal-state relations have themselves affected this balance. And, this may well be the case. Federal policy mandates take power from state policymakers and, thus, may encourage the legislative deprofessionalization that we have identified as the proximate cause of rulemaking. Thus, interbranch balance itself may be resultant from a larger institutional process and we encourage future research to examine this relationship.

## Conclusion

We have attempted to confront a persistently important question regarding the separation of powers in the American system of government. In particular, we address the practical consequences of unequal balances of power between executive and legislative branches across the American states. State governments have evolved from the 18th and 19th centuries, where legislatures dominated inchoate administrative states. Since at least the middle of the 20th century, we have seen state executives gain ascendancy while legislatures suffer through explicit reforms (e.g., term limits) and routine neglect. Empirically, we have focused on gaps in compensation across branches and argued that these proxy overall trends in institutional capacities for policymaking expertise. Using this measure and an extensive new dataset of rulemaking activity in the states, we find that when legislatures become weaker, relative to executives, agencies engage in more rulemaking activity, either through increased legislative delegation or increased agency autonomy. Importantly, these results hold regardless of policy conflict and the possibility of agency drift. Simply, changes in institutional balance do not affect underlying demands for public policymaking. Instead, they shift much of the responsibility for solving state problems to the unelected bureaucracy, raising concerns about democratic accountability and responsiveness, as well as interbranch conflict. Such conflict is ongoing in Texas, where lawmakers recently returned from an 18 month hiatus to find that, to them, state agencies had “gone rogue,” acting on hundreds of issues in ways inconsistent with their laws (Tinsley 2014).

Our argument goes beyond extant applications of principal-agent theory to state policymaking and takes seriously Krause and Woods's (2014) recent call to consider variation in institutional capacity when studying how the policy process plays out in the states. In addition, we contribute to a burgeoning literature on the institutional and political determinants of rulemaking in the United States (O'Connell 2008, 2011; Potter and Shipan 2013; Yackee and Yackee 2009).

This focus on rulemaking provides an important new perspective on the impact of legislative deprofessionalization on state policymaking. For example, in their work on interbranch balance, Kousser and Phillips (2012) conclude that American governors are "winning on budgets and losing on policy," as powerful governors have considerable advantages in compelling state legislatures to enact budgets, but frequently fail to convince assemblies to enact key agenda items in legislative sessions. This dynamic is explained by the delicate balance of executive/legislative power. A legislature that fails to enact a governor's budget may face severe backlash from an unhappy constituency. However, a legislature that refuses to enact a governor's agenda item typically risk little for refusing to change the status quo.

Of course, such a focus on lawmaking provides only a partial perspective on executive influence on policy. Our research suggests that a chief executive who fails to secure legislative support for their agenda may pursue extra-legislative pathways to develop and enact policy, as recently occurred when Kentucky Governor Steve Beshear elected to implement the key provisions of the Affordable Care Act entirely through executive action. Future research that focuses on the development and implementation of specific policies through rulemaking will help us further understand the limits and opportunities of gubernatorial power. An especially fruitful arena for research in this vein would be to examine whether governors presiding alongside citizen legislatures are more likely to implement key agenda items through administrative action.

Our findings are substantively interesting and practically important, as states regularly consider reforms that stand to affect the relative balance of power between the branches. As a recent example, the state of Maryland is set to increase its base legislative salary by nearly seven thousand dollars. Barring a concomitant increase in executive salary, our estimates indicate that this would mean a decrease in over six rules per year in Maryland. Our empirical analysis cannot speak to which six rules might not be proposed or adopted, but given the scope of agency rulemaking, we might expect

some of these to have constituted major policy change. Our findings regarding the potential effects of stark institutional changes, such as term limits, on rulemaking are mixed, but generally implicate that incremental reforms, such as, for example, a seven thousand dollar increase (or decrease) in legislative compensation, are ultimately more consequential for legislative-executive balance. This should be an interesting and counter-intuitive conclusion for academics as well as potential reformers as they contemplate institutional tweaks to our systems of government.

While the findings presented in this paper are consistent and robust, we believe that they significantly underestimate the true effect of increasing institutional gaps on bureaucratic participation in policymaking. That is, as legislatures become weaker, they become less able to conduct effective oversight of administrative policy (Huber and Shipan 2002; Krause and Woods 2014; Woods and Baranowski 2006). Unburdened by the threat of oversight, state agencies can make decisions more autonomously from the preferences of democratically elected principals. In such circumstances, we would expect the additional rules promulgated and finalized by agencies to be less influenced by state legislatures, and more influenced by internal agency decision-making, or perhaps, interest group pressures.

Future research should thus examine how changes in institutional balance affect legislative oversight of state agencies. State legislatures likely prioritize oversight in areas of high constituent interest, thus mitigating some normative concerns. This is an empirical claim that can be assessed by comparing the distributions of policy areas that are handled in state legislatures and in state bureaucracies, respectively. In addition, we have taken state variation in legislative-executive balance as the result of exogenous changes to state institutional environments. The appearance of inter-institutional gaps in expertise are interesting in themselves and should be problematized in subsequent research. For now, our contribution lies in providing a compelling account of how institutional reform and evolution can shift the locus (and thus, the content) of policymaking from legislatures to bureaucracies.

Finally, this research raises important questions about what this shift in policymaking authority to bureaucracies means for politics in the American states. The growth of bureaucratic influence in state policymaking could represent the legitimization of the post-war administrative state, indicating a growing acceptance by publics and state policymakers that unelected experts play a critical role in developing and administering regulatory policy. Yet, this interpretation seems at odds with the

arguments made by legislative deprofessionalization advocates who claim that citizen legislatures lead to smaller and more democratically responsive governments. Future studies of the politics underlying these reforms may cast important light on whether the growth of administrative power is an unintended consequence, or the unstated purpose, of modern state constitutional reforms.

## References

- Abadie, Alberto, Alexis Diamond and Jens Hainmueller. 2010. "Synthetic Control Methods for Comparative Case Studies: Estimating the Effect of California's Tobacco Control Program." *Journal of the American Statistical Association* 105:493–505.
- Abadie, Alberto, Alexis Diamond and Jens Hainmueller. 2011. "Synth: An R Package for Synthetic Control Methods in Comparative Case Studies." *Journal of Statistical Software* 42(13):1–17.
- Abadie, Alberto and Javier Gardeazabal. 2003. "The Economic Costs of Conflict: A Case Study of the Basque Country." *American Economic Review* 93(1):112–132.
- Angrist, Joshua D. and Jörn-Steffen Pischke. 2008. *Mostly Harmless Econometrics: An Empiricist's Companion*. Princeton, NJ: Princeton University Press.
- Bawn, Kathleen. 1995. "Political Control Versus Expertise: Congressional Choices about Administrative Procedures." *The American Political Science Review* 89(1):62–73.
- Berman, David R. 2004. *Effects of Legislative Term Limits in Arizona*. Final Report for the Joint Project on Term Limits.
- Berry, Frances Stokes and William D. Berry. 1990. "State Lottery Adoptions as Policy Innovations: An Event History Analysis." *American Political Science Review* 84(2):395–415.
- Beyle, Thad and Margaret Ferguson. 2008. "Governors and the Executive Branch". In *Politics in the American States: A Comparative Analysis, Ninth Edition*, ed. Virginia Gray and Russell L. Hanson. Washington, DC: CQ Press.
- Bonfield, Arthur Earl. 1986. *State Administrative Rule Making*. Boston: Little, Brown.
- Boushey, Graeme. 2010. *Policy Diffusion Dynamics in America*. New York, NY: Cambridge University Press.
- Boushey, Graeme and Robert J. McGrath. 2015. "The Gift of Gridlock: Divided Government, Bureaucratic Autonomy, and the Politics of Rulemaking in the American States". Working paper presented at the annual meeting of the American Political Science Association, San Francisco, CA, September 3, 2015.
- Bowen, Daniel C. and Zachary D. Greene. 2014. "Should We Measure Professionalism with an Index? A Note on Theory and Practice in State Legislative Professionalism Research." *State Politics & Policy Quarterly* 14(277-296).
- Cain, Bruce E. and Mark A. Levin. 1999. "Term Limits." *Annual Review of Political Science* 2(1):163–188.
- Campbell, Jon and Joseph Spector. 2015. "Raise legislators' pay, but reform system, Cuomo says.". [Online; posted 19-January-2015].  
**URL:** <http://www.pressconnects.com/story/news/local/new-york/2015/01/19/cuomo-pay-reform-state/22004067/>
- Carey, John M., Richard G. Niemi and Lynda Powell. 2000. *Term Limits in the State Legislatures*. Ann Arbor: University of Michigan Press.

- Carey, John M., Richard G. Niemi and Lynda W. Powell. 1998. "The Effects of Term Limits on State Legislatures." *Legislative Studies Quarterly* 23(2):271–300.
- Carey, John M., Richard G. Niemi, Lynda W. Powell and Gary Moncrief. 2006. "The Effects of Term Limits on State Legislatures: Results from a New Survey of the 50 States." *Legislative Studies Quarterly* 30:105–34.
- Carpenter, Daniel P. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies*. Princeton: Princeton University Press.
- Chi, Keon. 2007. "State Legislator Compensation: A Trend Analysis, 2nd Edition." *The Council of State Governments* .
- Citizens Conference on State Legislatures and John Burns. 1971. *The Sometimes Governments: A Critical Study of the 50 American Legislatures*. Bantam Books.
- Council of State Governments. 1950. *Reorganizing State Government*. Westport, CT: Greenwood Press.
- Elazar, Daniel J. 1974. "The New Federalism: Can the States be Trusted?" *Public Interest* 35:89–102.
- Epstein, David and Sharyn O'Halloran. 1999. *Delegating Powers: A Transaction Cost Politics Approach to Policymaking Under Separate Powers*. Cambridge: Cambridge University Press.
- Farmer, Rick, Christopher Z. Mooney, Richard Powell and John C. Green, eds. 2007. *Legislating without Experience: Case Studies in State Legislative Term Limits*. Lexington Books.
- Farmer, Rick and Thomas H. Little. 2004. *Legislative Power in the Buckeye State: The Revenge of Term Limits*. Final Report for the Joint Project on Term Limits.
- Gailmard, Sean and John W. Patty. 2007. "Slackers and Zealots: Civil Service, Policy Discretion, and Bureaucratic Expertise." *American Journal of Political Science* 51(4):873–889.
- Guryan, Jonathan. 2001. "Desegregation and Black Dropout Rates." NBER Working Paper No. 8345.
- Hammond, Thomas H. and Jack H. Knott. 1996. "Who Controls the Bureaucracy? Presidential Power, Congressional Dominance, Legal Constraints, and Bureaucratic Autonomy in a Model of Multi-Institutional Policy-Making." *Journal of Law, Economics, and Organization* 12(1):119–166.
- Hansen, Ben B. and Jake Bowers. 2009. "Attributing Effects to a Cluster-Randomized Get-Out-the-Vote Campaign." *Journal of the American Statistical Association* 104(487):873–885.
- Hertel-Fernandez, Alexander. 2014. "Who Passes Business's 'Model Bills'? Policy Capacity and Corporate Influence in U.S. State Politics." *Perspectives on Politics* 12(3).
- Huber, John D. and Charles R. Shipan. 2002. *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy*. Cambridge: Cambridge University Press.
- Huber, John D. and Charles R. Shipan. 2008. Politics, Delegation, and Bureaucracy. In *The Oxford Handbook of Political Economy*, ed. Barry R. Weingast and Donald Wittman. Oxford University Press.



- Huber, John D. and Nolan McCarty. 2004. "Bureaucratic Capacity, Delegation, and Political Reform." *American Political Science Review* 98(3):481–494.
- Jensen, Christian B. and Robert J. McGrath. 2011. "Making Rules about Rulemaking: A Comparison of Presidential and Parliamentary Systems." *Political Research Quarterly* 64(3):656–667.
- Keele, Luke, Neil Malhotra and Colin H. McCubbins. 2013. "Do Term Limits Restrain State Fiscal Policy? Approaches for Causal Inference in Assessing the Effects of Legislative Institutions." *Legislative Studies Quarterly* 38:291–326.
- Kellough, J. Edward and Lloyd G. Nigro. 2006. *Civil Service Reform in the States: Personnel Policy and Politics at the Subnational Level*. SUNY Press.
- Kerwin, Cornelius M. and Scott R. Furlong. 2011. *Rulemaking: How Government Agencies Write Law and Make Policy*. 4th ed. Washington, D.C.: CQ Press.
- King, James D. 2000. "Changes in Professionalism in U.S. State Legislatures." *Legislative Studies Quarterly* 25:327–43.
- Kousser, Thad. 2005. *Term Limits and the Dismantling of State Legislative Professionalism*. Cambridge: Cambridge University Press.
- Kousser, Thad and Justin Phillips. 2012. *The Power of American Governors*. Cambridge, UK: Cambridge University Press.
- Krause, George A. and Neal D. Woods. 2014. "Policy Delegation, Comparative Institutional Capacity, and Administrative Politics in the American States". In *Oxford Handbook of State and Local Government*, ed. Donald P. Haider-Markel. New York, NY: Oxford University Press.
- Krupnikov, Yanna and Charles Shipan. 2012. "Measuring Gubernatorial Budgetary Power: A New Approach." *State Politics & Policy Quarterly* 12(4):438–455.
- Kurtz, Karl T., Bruce E. Cain and Richard G. Niemi, eds. 2009. *Institutional Change in American Politics: The Case of Term Limits*. Ann Arbor, MI: University of Michigan Press.
- MacDonald, Jason A. and William W. Franko. 2007. "Bureaucratic Capacity and Bureaucratic Discretion: Does Congress Tie Policy Authority to Performance?" *American Politics Research* 35:790.
- Madison, James. 1788. "Federalist Number 51." from *The Federalist Papers*.
- Malhotra, Neil. 2008. "Disentangling the Relationship between Legislative Professionalism and Government Spending." *Legislative Studies Quarterly* 33(3):387–414.
- McGrath, Robert J. 2013. "Legislatures, Courts, and Statutory Control of the Bureaucracy across the U.S. States." *State Politics & Policy Quarterly* 13(3):373–397.
- McGrath, Robert J., Jon C. Rogowski and Josh M. Ryan. 2015. "Gubernatorial Veto Powers and the Size of Legislative Coalitions ." *Legislative Studies Quarterly* Forthcoming.
- Miller, Susan, Jill Nicholson-Crotty and Sean Nicholson-Crotty. 2011. "Reexamining the Institutional Effects of Term Limits in U.S. State Legislatures." *Legislative Studies Quarterly* 36(1):71–97.

- Moncrief, Gary and Joel A. Thompson. 2001. "On the Outside Looking In: Lobbyists' Perspectives on the Effects of State Legislative Term Limits." *State Politics & Policy Quarterly* 1(4):394–412.
- Mooney, Christopher Z. 1994. "Measuring U.S. State Legislative Professionalism: An Evaluation of Five Indices." *State and Local Government Review* 26(2):70–78.
- Mooney, Christopher Z. 2009. "Term Limits as a Boon to Legislative Scholarship: A Review." *State Politics & Policy Quarterly* 9(2):204–228.
- O'Connell, Anne J. 2008. "Political Cycles of Rulemaking: An Empirical Portrait of the Modern Administrative State." *Virginia Law Review* 94(4):889–986.
- O'Connell, Anne J. 2011. "Agency Rulemaking and Political Transitions." *Northwestern Law Review* 105(2):471–534.
- Office of Management and Budget. 2015. Chapter 8: Improving the Federal Workforce. In *Fiscal Year 2015 Analytical Perspectives*. <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/spec.pdf>.
- Oosting, Jonathan. 2014. "Lt. Gov. Brian Calley reaches out to tea party, backs push for part-time Legislature in Michigan." [Online; posted 24-March-2014].  
**URL:** [http://www.mlive.com/lansing-news/index.ssf/2014/03/lt\\_gov\\_brian\\_calley\\_backs\\_push.html](http://www.mlive.com/lansing-news/index.ssf/2014/03/lt_gov_brian_calley_backs_push.html)
- Potter, Rachel Augustine and Charles R. Shipan. 2011. "Seperation of Powers and Administrative Rulemaking". Working paper presented at the annual meeting of the European Political Science Association, Dublin, Ireland, June 16-18, 2011.
- Rosenthal, Alan. 2009. *Engines of Democracy: Politics and Policymaking in State Legislatures*. Washington, DC: CQ Press.
- Sarbaugh-Thompson, Marjorie, Lyke Thompson, Charles D. Elder, John Strate and Richard C. Elling. 2004. *The Political and Institutional Effects of Term Limits*. New York: Palgrave Macmillon.
- Schwemle, Barbara L. 2008. *Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries*. Congressional Research Service.
- Shipan, Charles R. and Craig Volden. 2008. "The Mechanisms of Policy Diffusion." *American Journal of Political Science* 52(4):840–857.
- Squire, Peverill. 1992. "Legislative Professionalization and Membership Diversity in State Legilstures." *Legislative Studies Quarterly* 17(69-79).
- Squire, Peverill. 2007. "Measuring State Legislative Professionalism: The Squire Index Revisited." *State Politics and Policy Quarterly* 7:211–227.
- Squire, Peverill. 2012. *The Evolution of American Legislatures: Colonies, Territories, and States, 1619-2009*. Ann Arbor, MI: University of Michigan Press.
- Swasey, Benjamin. 2014. "Panel Recommends Big Raises For Governor, Other State Officials." [Online; posted 1-December-2014].  
**URL:** <http://www.wbur.org/2014/12/01/state-pay-recommendations>

- Teodoro, Manuel P. 2009. "Bureaucratic Job Mobility and The Diffusion of Innovations." *American Journal of Political Science* 53(1):175–189.
- Tinsley, Anna M. 2014. "Texas lawmakers worry state agencies are going rogue." [Online; posted 20-December-2014].  
**URL:** <http://www.star-telegram.com/news/politics-government/article4736820.html>
- Utah Elected Official and Judicial Compensation Commission. 2001. "Report of the Utah Elected Official and Judicial Compensation Commission." <http://le.utah.gov/interim/2014/pdf/00005455.pdf>.
- Volden, Craig. 2002. "Delegating Power to Bureaucracies: Evidence from the States." *Journal of Law, Economics, & Organization* 18(1):187–220.
- Walker, Jack L. 1969. "The Diffusion of Innovations among the American States." *American Political Science Review* 63(3):880–899.
- Wiebe, Robert H. 1980. *The Search for Order, 1877-1920*. Westport, CT: Greenwood Press.
- Williams, Laron K. and Guy D. Whitten. 2012. "But Wait, There's More! Maximizing Substantive Inferences from TSCS Models." *The Journal of Politics* 74(3):685–693.
- Woods, Neal D. and Michael Baranowski. 2006. "Legislative Professionalism and Influence on State Agencies: The Effects of Resources and Careerism." *Legislative Studies Quarterly* 31:585–609.
- Yackee, Jason Webb and Susan Webb Yackee. 2009. "Administrative Procedures and Bureaucratic Performance: Is Federal Rule-making "Ossified?"." *Journal of Public Administration Research and Theory* 1:261–282.

# Tables

Table 1: OLS Models of Proposed and Adopted Rules in the States, 1990-2010

	(1) Proposed Rules	(2) Adopted Rules
Difference in Salary (in thousands)	1.121** (0.478)	0.995** (0.425)
Legislative Session Length	0.050 (0.046)	0.056 (0.041)
Legislative Expenditures (per Legislator)	-0.002 (0.033)	0.024 (0.029)
Divided Government	2.708 (9.069)	2.031 (8.340)
Democratic Governor	8.231 (12.256)	5.256 (9.550)
First Year of New Governor	-11.405 (8.543)	-19.546** (7.999)
Number of Bills Enacted (in hundreds)	1.889 (1.938)	0.521 (2.252)
Leg. Out of Session	29.305 (18.520)	37.842 (27.000)
Size of State Workforce (Log)	-22.065 (109.847)	-63.317 (88.323)
State Population (Log)	-224.879 (224.454)	-114.530 (145.760)
State Per Capita Income	-2.774 (3.519)	-1.803 (2.434)
Proposed Rules (Lag)	0.539*** (0.042)	
Adopted Rules (Lag)		0.490*** (0.056)
(Constant)	3747.240 (3245.354)	2511.009 (2197.381)
Year FE	Yes	Yes
State FE	Yes	Yes
Observations	861	861
R2	0.894	0.905
rMSE	86.071	80.840
Clusters	48	48

\* $p < 0.10$ , \*\* $p < 0.05$ , \*\*\* $p < 0.01$

Note: Entries are linear regression coefficient estimates and standard errors, clustered by state. The dependent variable in model (1) is the total number of administrative rules proposed in each state-year, the dependent variable in model (2) is the total number of administrative rules adopted in each state-year. State and year fixed effects are included where indicated but not reported. Nebraska and Texas are excluded from all models. Legislative and executive salaries adjusted for inflation (to year 2000 dollars) before creating the *Difference in Salary* measure.

Table 2: OLS Models of Proposed and Adopted Rules in the States, 1990-2010

	Proposed Rules			Adopted Rules		
	(1) Executive Sal.	(2) Legislative Sal.	(3) Both	(4) Executive Sal.	(5) Legislative Sal.	(6) Both
Executive Salary (in thousands)	1.250* (0.714)		1.311* (0.712)	0.896* (0.518)		0.980* (0.514)
Legislative Salary (in thousands)		-0.727 (0.459)	-0.813* (0.462)		-1.059** (0.486)	-1.123** (0.485)
Legislative Session Length	0.056 (0.047)	0.052 (0.050)	0.052 (0.050)	0.062 (0.040)	0.056 (0.045)	0.056 (0.046)
Legislative Expenditures (per Legislator)	-0.014 (0.035)	0.003 (0.034)	-0.003 (0.036)	0.016 (0.032)	0.035 (0.030)	0.030 (0.030)
Divided Government	2.380 (9.100)	2.943 (9.020)	2.819 (9.049)	1.753 (8.467)	2.466 (8.419)	2.357 (8.335)
Democratic Governor	6.844 (11.994)	9.069 (12.807)	8.273 (12.331)	4.171 (9.619)	6.731 (9.940)	6.112 (9.698)
First Year of New Governor	-11.541 (8.645)	-11.845 (8.606)	-11.131 (8.620)	-19.776** (8.023)	-19.745** (8.059)	-19.213** (7.989)
Number of Bills Enacted (in hundreds)	1.857 (1.934)	2.056 (1.928)	1.910 (1.928)	0.517 (2.256)	0.704 (2.250)	0.598 (2.218)
Leg. Out of Session	30.445 (19.524)	31.136 (18.578)	29.935 (19.065)	39.039 (26.521)	39.258 (27.197)	38.375 (26.406)
Size of State Workforce (Log)	-26.866 (109.110)	-23.806 (111.116)	-22.680 (108.540)	-67.681 (88.278)	-62.623 (88.148)	-61.694 (86.643)
State Population (Log)	-207.555 (225.499)	-244.330 (235.836)	-240.825 (231.639)	-100.261 (147.003)	-148.770 (156.302)	-145.982 (154.428)
State Per Capita Income	-2.407 (3.504)	-2.867 (3.610)	-3.325 (3.602)	-1.416 (2.420)	-2.338 (2.638)	-2.672 (2.568)
Proposed Rules (Lag)	0.539*** (0.042)	0.538*** (0.042)	0.537*** (0.042)			
Adopted Rules (Lag)				0.490*** (0.056)	0.488*** (0.055)	0.488*** (0.055)
(Constant)	3504.598 (3274.479)	4352.613 (3352.696)	4005.341 (3343.378)	2330.864 (2237.282)	3280.019 (2322.275)	3165.898 (2292.458)
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
State FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	861	861	861	861	861	861
R2	0.894	0.893	0.894	0.904	0.905	0.905
rMSE	86.154	86.342	86.061	80.999	80.898	80.750
Clusters	48	48	48	48	48	48

\* $p < 0.10$ , \*\* $p < 0.05$ , \*\*\* $p < 0.01$

Note: Entries are linear regression coefficient estimates and standard errors, clustered by state. The dependent variable in models (1), (2), and (3) is the total number of administrative rules proposed in each state-year, the dependent variable in models (4), (5), and (6) is the total number of administrative rules adopted in each state-year. State and year fixed effects are included where indicated but not reported. Nebraska and Texas are excluded from all models. Legislative and executive salaries adjusted for inflation (to year 2000 dollars).

Table 3: OLS Models of Proposed and Adopted Rules in the States, 1990-2010

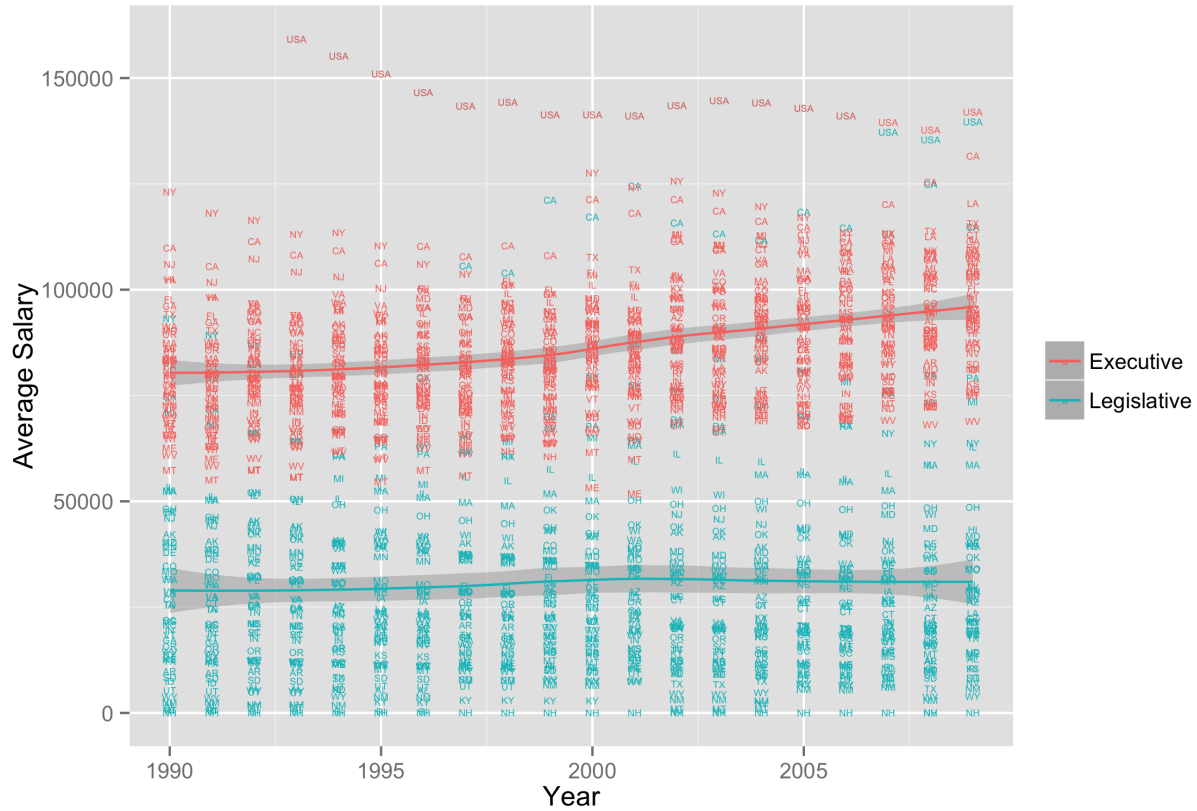
	Proposed Rules		Adopted Rules	
	(1) TL Enacted	(2) TL Impact	(3) TL Enacted	(4) TL Impact
Difference in Salary (in thousands)	1.139** (0.477)	1.053** (0.451)	0.993** (0.426)	0.937** (0.420)
Term Limits Enacted	-21.160 (24.296)		1.935 (20.062)	
Term Limits Impact		-13.563 (23.086)		-11.621 (15.701)
Legislative Session Length	0.041 (0.047)	0.047 (0.046)	0.057 (0.041)	0.053 (0.041)
Legislative Expenditures (per Legislator)	0.001 (0.032)	-0.003 (0.034)	0.024 (0.030)	0.024 (0.029)
Divided Government	2.408 (9.064)	2.628 (8.995)	2.055 (8.413)	1.970 (8.215)
Democratic Governor	7.810 (12.082)	8.267 (12.187)	5.289 (9.601)	5.282 (9.531)
First Year of New Governor	-11.750 (8.674)	-11.600 (8.466)	-19.515** (7.864)	-19.714** (8.062)
Number of Bills Enacted (in hundreds)	1.855 (1.928)	1.994 (1.850)	0.525 (2.249)	0.614 (2.197)
Leg. Out of Session	29.236 (18.297)	31.087* (17.598)	37.852 (27.006)	39.382 (26.533)
Size of State Workforce (Log)	-32.642 (108.244)	-29.612 (108.156)	-62.328 (89.828)	-69.728 (92.225)
State Population (Log)	-235.387 (234.407)	-209.239 (209.810)	-113.532 (147.873)	-101.078 (140.768)
State Per Capita Income	-2.520 (3.267)	-2.370 (2.992)	-1.824 (2.500)	-1.455 (2.203)
Proposed Rules (Lag)	0.542*** (0.042)	0.538*** (0.042)		
Adopted Rules (Lag)			0.490*** (0.055)	0.489*** (0.055)
(Constant)	4015.957 (3513.536)	3800.035 (3100.911)	2485.511 (2262.884)	2549.204 (2116.248)
Year FE	Yes	Yes	Yes	Yes
State FE	Yes	Yes	Yes	Yes
Observations	861	861	861	861
R2	0.894	0.894	0.905	0.905
rMSE	86.031	86.070	80.891	80.848
Clusters	48	48	48	48

\* $p < 0.10$ , \*\* $p < 0.05$ , \*\*\* $p < 0.01$

Note: Entries are linear regression coefficient estimates and standard errors, clustered by state. The dependent variable in models (1) and (2) is the total number of administrative rules proposed in each state-year, the dependent variable in models (3) and (4) is the total number of administrative rules adopted in each state-year. State and year fixed effects are included where indicated but not reported. Nebraska and Texas are excluded from all models. Legislative and executive salaries adjusted for inflation (to year 2000 dollars) before creating the *Difference in Salary* measure.

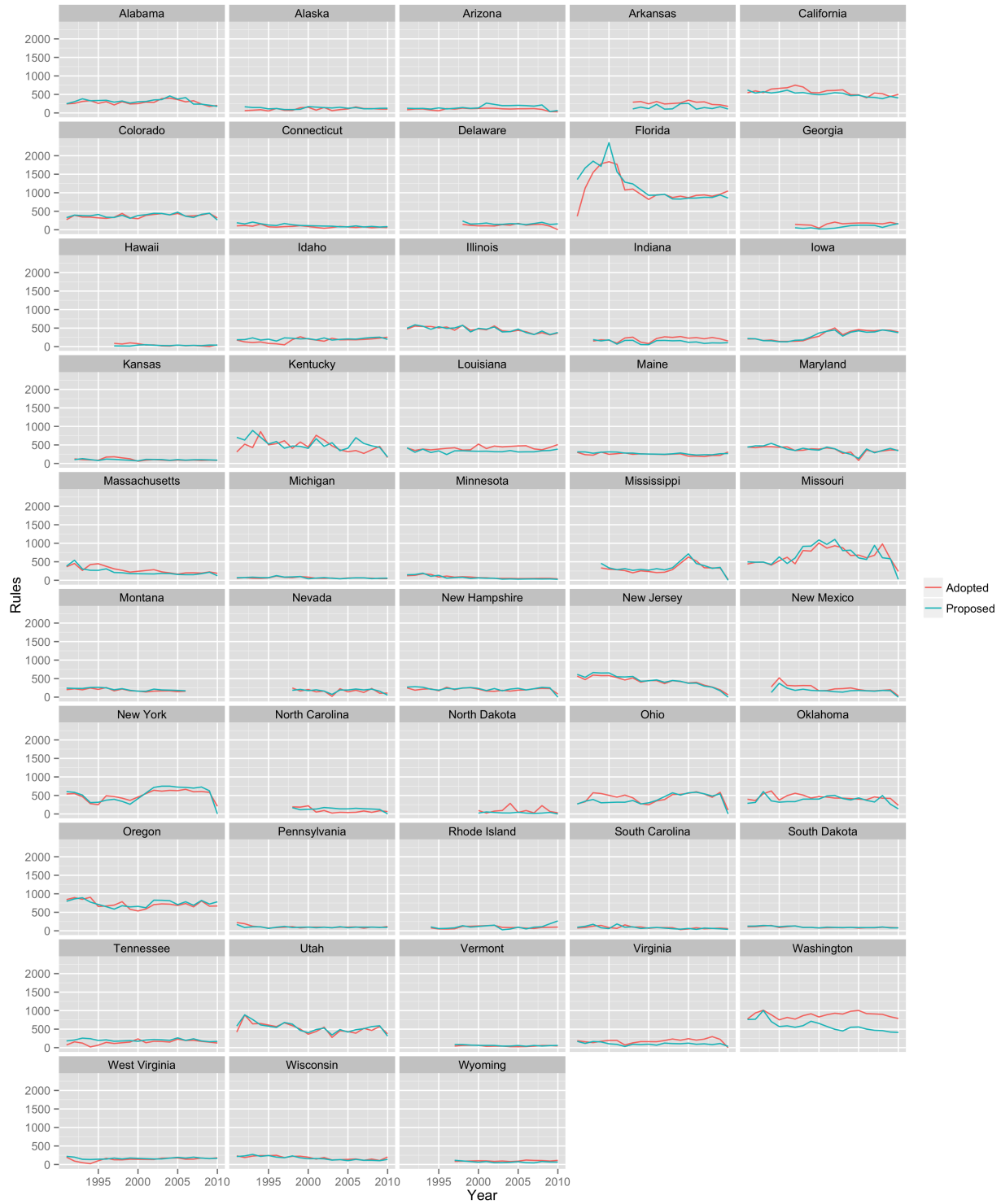
# Figures

Figure 1: Average State Executive and Legislative Compensation, 1990-2010



Note: Legislative and executive salaries adjusted for inflation (to year 2000 dollars). Executive compensation is an average across 55 high-level state executives for each state. This includes the governor, lieutenant governor, secretary of state, etc., along with individual agency heads. Legislative salaries are for rank and file members and include per diem allotments multiplied by the number of days in session.

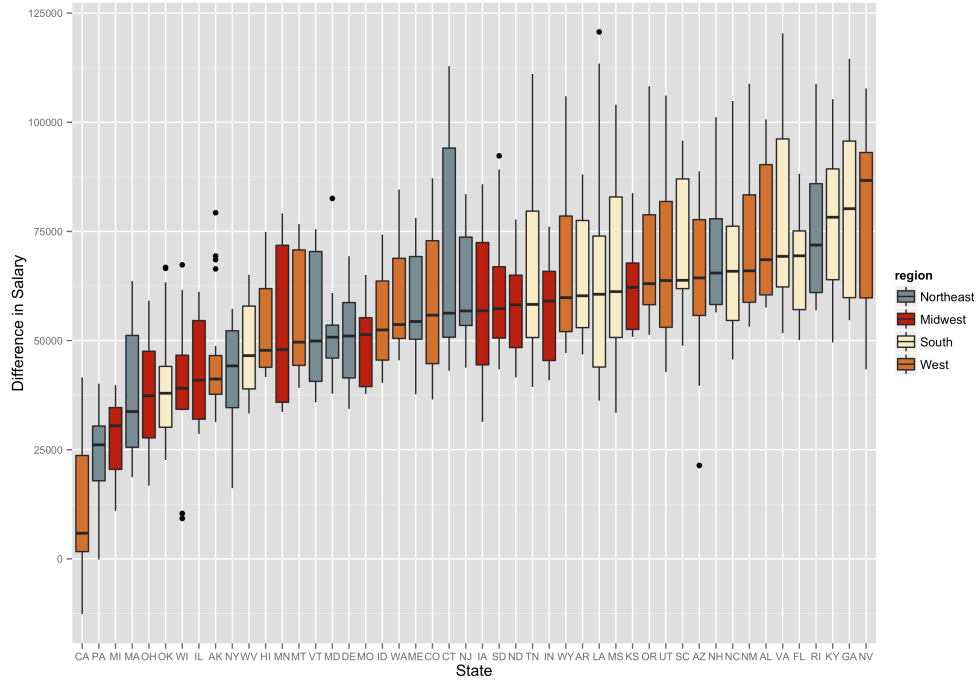
Figure 2: Proposed and Adopted Rules over Time, by State



Note: Figure includes only state-years included in analyses. See Appendix C for a description of data quality. Texas omitted, due to unreliable data. See text for details.



Figure 3: State Distributions of *Difference in Salary*, 1990-2010



Note: Horizontal lines give the median for each state, boxes give the bounds of the interquartile range, and dots show outliers. See Figure A1 for within state (over time) variation.